



Dispute Settlement Body
20 October 2014

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD
ON 20 OCTOBER 2014

Chairman: Mr. Fernando De Mateo (Mexico)

Table of Contents

1 SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB.....	2
A. United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States.....	2
B. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States	6
C. United States – Section 110(5) of the US Copyright Act: Status report by the United States	6
D. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union	7
E. United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States	7
2 UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB	8
A. Statements by the European Union and Japan	8
3 CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES	9
A. Statement by the United States	9
4 THAILAND - CUSTOMS AND FISCAL MEASURES ON CIGARETTES FROM THE PHILIPPINES	10
A. Statement by the Philippines	10
5 RUSSIA – ANTI-DUMPING DUTIES ON LIGHT COMMERCIAL VEHICLES FROM GERMANY AND ITALY.....	11
A. Request for the establishment of a panel by the European Union.....	11
6 PROPOSED NOMINATION FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS.....	11
7 UNITED STATES – SUBSIDIES ON UPLAND COTTON.....	11
A. Statements by the United States and Brazil	11
8 UNITED STATES – MEASURES AFFECTING THE PRODUCTION AND SALE OF CLOVE CIGARETTES.....	12
A. Statement by the United States	12

1 SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

A. United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.142)

B. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.142)

C. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.117)

D. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.80)

E. United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States (WT/DS404/11/Add.28)

1.1. The Chairman noted that there were five sub-items under this Agenda item concerning status reports submitted by delegations pursuant to Article 21.6 of the DSU. He recalled that Article 21.6 of the DSU required that: "Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the Agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time and shall remain on the DSB's Agenda until the issue is resolved". Under this Agenda item, he invited delegations to provide up-to-date information about compliance efforts and to focus on new developments, suggestions and ideas on progress towards the resolution of disputes. In the context of this Agenda item, he also wished to remind delegations that, as provided for in Rule 27 of the Rules of Procedure for DSB meetings: "Representatives should make every effort to avoid the repetition of a full debate at each meeting on any issue that has already been fully debated in the past and on which there appears to have been no change in Members' positions already on record." With these introductory remarks the Chairman turned to the first status report under this Agenda item.

A. United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.142)

1.2. The Chairman drew attention to document WT/DS176/11/Add.142, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US Section 211 Omnibus Appropriations Act of 1998.

1.3. The representative of the United States said that his country had provided a status report in this dispute on 9 October 2014, in accordance with Article 21.6 of the DSU. Several Bills had been introduced in the current Congress in relation to the DSB's recommendations and rulings in this dispute, some of which would repeal Section 211 while others would modify it. In prior meetings of the DSB, the United States had described the status of each of these bills. The US Administration would continue to work on solutions to implement the DSB's recommendations and rulings.

1.4. The representative of the European Union said that the EU thanked the United States for its most recent status report and statement made at the present meeting. The EU hoped that the US authorities would resolve this matter very soon.

1.5. The representative of Cuba noted that, at the beginning of each DSB meeting, the Chairman drew Members' attention to the provisions of Article 21.6 of the DSU and Rule 27 of the Rules of Procedure for DSB meetings in order to urge Members to avoid repetitive reports under Agenda item 1. Cuba noted that the 142nd US status report on Section 211 not only lacked relevant information but had remained unchanged since January 2014. Far from providing new information, the United States had, as of status report No. 133 (submitted on 10 January 2014), reduced even further the content of its status reports. It had eliminated the reference to legislative texts H.R. 214, H.R. 778, H.R. 872, H.R. 873 and S. 647, which until then had been the only actions that, even without results, the United States had stated it was taking with a view to ensuring compliance. At the same time, the United States, at every meeting, made a statement that was not consistent with its status report submitted before the DSB. Cuba drew attention to the last sentence of Article 21.6 of the DSU, which explicitly established the obligation for the Member

concerned, in this case the United States, to provide the DSB with a status report "in writing" of its "progress in the implementation of the recommendations or rulings". The status reports submitted each month by the United States were inconsistent with this provision. As a result, the objectives of Article 21 of the DSU were being violated. The "prompt compliance" stipulated in Article 21.1 of the DSU became an empty phrase considering that February 2014 marked 12 years since the DSB had adopted the Appellate Body Report in this dispute and had requested the United States to bring this inconsistent measure into conformity with the TRIPS Agreement and the Paris Convention. Article 21.2 of the DSU was also being violated. This Article reaffirmed that the principle of special and differential treatment applied to the settlement of disputes by establishing that "particular attention should be paid to matters affecting the interests of developing-country Members with respect to measures which have been subject to dispute settlement". Article 21.3 of the DSU was of special importance. It stated clearly that "the Member concerned shall inform the DSB of its intentions in respect of implementation of the recommendations and rulings of the DSB". However, the United States simply stated that "relevant legislation has been introduced in the [...] 113th session of the United States Congress". Cuba interpreted the phrase "relevant legislation" to mean the same bills that had been mentioned until November 2013, which never proceeded through legislative channels nor offered a real solution to this dispute. The fact that these had no longer been mentioned in the US status reports confirmed that the United States did not intend to adopt these legislations in order to settle this dispute. The fact that the DSU did not contain any provisions to ensure effective compliance with the DSB's rulings was an incentive for the United States to continue to ignore the DSB's rulings. As a result, Section 211, passed by the US Congress to invalidate the intellectual property rights of Cuban right holders in the United States, unlawfully remained in force. The laws governing the economic, commercial and financial blockade imposed by the United States on Cuba were reinforced through Section 211, which affected the area of intellectual property and provided a legal justification of the theft of recognised Cuban trademarks such as "Havana Club". In that respect, Cuba reiterated that the obsolete and hostile embargo policy against Cuba, which underpinned the failure to comply did not give the United States the right to ignore its obligations. On 28 October 2014, the UN General Assembly resolution entitled: "Necessity of Ending the Economic, Commercial and Financial Blockade Imposed by the United States of America Against Cuba" would be put to vote for the 23rd consecutive year. As Cuba had stated before, most recently in 2013, 188 UN Members, almost all of which were also WTO Members, had voted in favour of this resolution. Cuba urged the United States to meet its legal and moral obligations towards the international community, which supported the end of the embargo against Cuba, and to take appropriate measures to put an end to this policy.

1.6. The representative of Brazil said that his country remained concerned about the lack of progress in this matter. Brazil encouraged the United States to engage constructively in an effort to resolve this dispute.

1.7. The representative of Mexico said that his country urged the parties to this dispute to adopt the necessary measures to comply with the DSB's recommendations and rulings, as provided for in Article 21.1 of the DSU.

1.8. The representative of China said that his country thanked the United States for its status report and its statement made at the present meeting. China noted that the United States reported no substantial progress. This situation of non-compliance was highly incompatible with the principle of prompt implementation required under the DSU provisions, in particular since the interests of a developing-country Member were affected. China urged the United States to implement the DSB's rulings and recommendations without any further delay.

1.9. The representative of Trinidad and Tobago said that her country thanked the United States for its status report and Cuba for its update under this Agenda item. She recalled that at the 26 September DSB meeting, Trinidad and Tobago had made a statement to support Cuba and had urged the United States to promptly comply with the DSB's rulings and recommendations in this dispute. Once again, Trinidad and Tobago noted that such non-compliance placed at risk the integrity of the dispute settlement system and the WTO system. Trinidad and Tobago further noted that small developing countries like Trinidad and Tobago and Cuba sought the protection and predictability guaranteed by the dispute settlement system. In that context, Trinidad and Tobago reiterated its call for the prompt compliance with the DSB's rulings and recommendations in order to preserve the integrity of the WTO system.

1.10. The representative of Argentina said that his country wished to reiterate its concerns about the lack of progress in this dispute. As Argentina had stated many times, this lack of progress was inconsistent with the principle of prompt and effective compliance with the DSB's recommendations and rulings, in particular since the interests of a developing-country Member were concerned. Argentina supported Cuba and the previous speakers who urged the parties to the dispute, in particular the United States, to take the necessary steps to resolve this matter and to remove this item from the DSB Agenda.

1.11. The representative of Viet Nam said that his country thanked the United States for its status report and the statement made at the present meeting. Viet Nam, once again, noted that the US status report did not contain any progress regarding the implementation of the DSB's recommendations and rulings in this dispute. Viet Nam urged the United States to implement, without any further delay, the DSB's recommendations and rulings so as to preserve the multilateral trading disciplines and to benefit Cuba, a developing-country Member.

1.12. The representative of the Plurinational State of Bolivia said that his country noted that, for the past 12 years, the US status reports did not contain any information on progress in this dispute. Bolivia, once again, reiterated its concern about the systemic implications of the US failure to comply with the DSB's rulings and the lack of political will to resolve this dispute. Such non-compliance undermined the credibility of the multilateral trading system and affected the interests of a developing-country Member. Bolivia called on the United States to fully comply with the DSU provisions and to make progress with regard to the Section 211 dispute. Bolivia supported the concerns expressed by Cuba at the present meeting.

1.13. The representative of Nicaragua said that his country thanked the United States for its status report. Nicaragua, once again, supported the request made by Cuba with regard to Section 211 and the right of the Cuban owners of the Havana Club rum. The continued non-compliance affected the credibility of the DSB and the multilateral trading system. This could set a precedent, which would affect developing-country Members and Members with small economies. Nicaragua hoped that the United States would adopt, as soon as possible, the necessary modifications in its legislation, which would enable the United States to comply with the DSB's recommendations and rulings.

1.14. The representative of the Bolivarian Republic of Venezuela said that her country supported Cuba's statement. Venezuela noted that the WTO dispute settlement system depended on the timely implementation of the DSB's recommendations and rulings. In order to allow all Members to benefit from the multilateral trading system, Members must comply with the DSB's rulings. Venezuela was concerned about the prolonged situation of non-compliance in this dispute and urged the United States to comply with the DSB's rulings. Venezuela noted that the 142nd US status report did not contain any information on progress towards compliance with the DSB's recommendations of 2002. In Venezuela's view, such non-compliance seriously affected the interests of a WTO Member and created a negative precedent for the WTO, the DSB and the dispute settlement system. Furthermore, the lack of political will on the part of the US Administration to resolve this dispute undermined the credibility of the DSB. Venezuela supported Cuba and condemned the US behaviour. Venezuela urged the United States to repeal Section 211.

1.15. The representative of Jamaica said that her country thanked both Cuba and the United States for the updates and the status report under this Agenda item. Jamaica noted that the circumstances of this dispute had not changed and that no progress had been reported since the previous DSB meeting. Jamaica expressed its deep concern about the continued US failure to implement the DSB's recommendations adopted on 2 February 2002 with respect to this dispute. The protracted US failure to take the steps necessary to comply with its obligations under the DSU was incompatible with its requirement for prompt and effective implementation of decisions. This was of particular concern in cases such as this where the failure to meet a binding obligation had a negative impact on the economic interest of a small developing-country Member. Jamaica reiterated its deep concern about the systemic implications of any disregard for DSB decisions. Such disregard could undermine the overall integrity of the dispute settlement system, which remained a key pillar of the WTO. Jamaica, once more, joined other Members in urging the United States to take the required steps to promptly implement the relevant DSB decisions. After more than 12 years since the adoption of the DSB's recommendations in this dispute, it was more

than reasonable for Members to expect that this matter be resolved and removed from the DSB's Agenda.

1.16. The representative of India said that his country noted the US status report. India shared the concern expressed by other Members about the lack of progress in the implementation of the DSB's recommendations in this dispute. India renewed its systemic concerns about the continuation of non-compliance as this undermined the confidence that Members placed in a rules-based multilateral trading system, especially in the context of a developing-country Member seeking compliance. India urged the United States to report compliance.

1.17. The representative of Uruguay said that his country thanked the United States for its status report. However, Uruguay, once again, was disappointed that there had been no significant progress in this matter. This situation had a negative impact on the dispute settlement system.

1.18. The representative of the Russian Federation said that her country regretted that, once again, it had to express its concern about the lack of progress in this long-standing dispute. As other Members had noted, this dispute was an example of non-compliance with, and disregard of, the DSB's recommendations and decisions and, as such, it attracted the attention of many Members. Russia believed that due and timely implementation of the DSB's recommendations and rulings by all Members was essential to maintaining mutual trust and credibility within the WTO system. As it had previously stated, Russia urged the parties to this dispute to address their outstanding issues and to resolve this dispute as soon as possible.

1.19. The representative of the Dominican Republic said that his country thanked the United States for its status report on compliance with the DSB's recommendations and rulings regarding the inconsistency of Section 211 with the TRIPS Agreement. The Dominican Republic urged the United States to step up its internal procedures in order to comply with the DSB's recommendations and rulings. The length of time that had passed since the DSB had adopted its recommendations and rulings in this dispute had a negative impact on the WTO.

1.20. The representative of El Salvador said that her country thanked the United States for its status report and update. El Salvador also thanked Cuba for its statement. El Salvador noted with concern that the lack of compliance with the DSB's recommendations in this dispute undermined the multilateral trading system. In order to conclude this prolonged dispute, El Salvador urged the parties to this dispute to find a solution in order to comply with the DSB's recommendations and rulings.

1.21. The representative of South Africa said that her country wished to refer to its previous statements regarding its systemic concerns that this non-compliance with the DSB's rulings undermined the integrity of the enforcement pillar of the WTO. South Africa was concerned that protracted non-compliance with the DSB's recommendations and rulings would compromise the perceived value of the dispute settlement system for new Members and lesser-resourced developing-country Members and may affect the credibility and legitimacy of the WTO as a whole. South Africa remained particularly concerned that non-compliance with the DSB's recommendations and rulings may perpetuate serious, negative economic consequences for a particular developing-country Member. Therefore, South Africa urged the United States to bring its legislation into compliance with the DSB's ruling and recommendations in this dispute.

1.22. The representative of the United States said that, in response to the comments about systemic concerns about the dispute settlement system, the facts simply did not support Members' assertions or justify such systemic concerns. The record was clear: the United States had come into compliance, fully and promptly, in the vast majority of its disputes. As for the remaining few instances where its efforts to do so had not yet been entirely successful, the United States had been working actively towards resolving such matters. Indeed, these efforts were illustrated by the steps taken by the United States in the "Upland Cotton" and "Clove Cigarettes" disputes. As the United States would describe more fully at the present meeting in its statements under "Other Business", the United States had successfully resolved these outstanding disputes. Accordingly, contrary to the statements it had just heard, the record showed that the United States had a strong record of support for the dispute settlement system, including through implementation actions and working with other Members to resolve disputes. Similarly, the United States would continue to work to implement the DSB's recommendations and rulings in this dispute.

1.23. The representative of Cuba said that since the United States had intervened for a second time under this Agenda item, her country had no choice but to respond to the US statement. Cuba underlined that Members had to comply with all their obligations to which they had committed themselves. Thus, it was not enough that Members complied with the majority of their obligations. The United States must not only comply with some of the DSB's recommendations and rulings while other disputes remained unresolved. Cuba noted that Agenda item 1 of the present meeting contained four outstanding disputes that involved the United States. Members were waiting for the United States to implement the DSB's recommendations and rulings in these disputes. One of these disputes concerned Section 211, which had been on the DSB's Agenda for the past 12 years. In Cuba's view, the United States had no political will to comply with the DSB's rulings, and this undermined the image of the United States in the WTO. Cuba considered that it was not only important that Members complied with the DSB's recommendations and rulings. Members should also comply with the Decisions adopted by the WTO Ministerial Conferences. The United States had been encouraging Members to implement decisions taken at the Bali Ministerial Conference. Implementation of decisions should also include the DSB's recommendations and rulings with regard to Section 211. As it had stated in its first statement made under this Agenda item, Cuba regretted that no concrete measures had been taken to comply with the DSB's recommendations and rulings in this dispute as required under Article 21.1 of the DSU.

1.24. The DSB took note of the statements and agreed to revert to this matter at its next regular meeting.

B. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.142)

1.25. The Chairman drew attention to document WT/DS184/15/Add.142, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US anti-dumping measures on certain hot-rolled steel products from Japan.

1.26. The representative of the United States said that his country had provided a status report in this dispute on 9 October 2014, in accordance with Article 21.6 of the DSU. The United States had addressed the DSB's recommendations and rulings with respect to the calculation of anti-dumping margins in the hot-rolled steel anti-dumping duty investigation at issue. With respect to the recommendations and rulings of the DSB that had yet to be addressed, the US Administration would work with the US Congress with respect to appropriate statutory measures that would resolve this matter.

1.27. The representative of Japan said that his country thanked the United States for its statement and the status report. Japan referred to its previous statements in which it had indicated its desire that this dispute be resolved as soon as possible.

1.28. The DSB took note of the statements and agreed to revert to this matter at its next regular meeting.

C. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.117)

1.29. The Chairman drew attention to document WT/DS160/24/Add.117, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning Section 110(5) of the US Copyright Act.

1.30. The representative of the United States said that his country had provided a status report in this dispute on 9 October 2014, in accordance with Article 21.6 of the DSU. The US Administration would continue to confer with the European Union, and to work closely with the US Congress, in order to reach a mutually satisfactory resolution of this matter.

1.31. The representative of the European Union said that the EU thanked the United States for its status report and its statement made at the present meeting. The EU referred to its previous

statements made under this Agenda item. The EU wished to resolve this case as soon as possible.

1.32. The DSB took note of the statements and agreed to revert to this matter at its next regular meeting.

D. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.80)

1.33. The Chairman drew attention to document WT/DS291/37/Add.80, which contained the status report by the European Union on progress in the implementation of the DSB's recommendations in the case concerning measures affecting the approval and marketing of biotech products.

1.34. The representative of the European Union said that, in recent DSB meetings, the EU had already reported on authorization decisions and other actions towards approval decisions taken up to August 2014. The EU Standing Committee on the food chain and animal health of 24 October 2014 would vote on a draft decision for authorization of two cotton products¹, one soybean² and one oilseed rape³ for food and feed uses. As stated many times before, the EU recalled that the EU approval system was not covered by the DSB's recommendations and rulings. The GMO regulatory regime was working normally as evidenced by the approval decisions and other actions towards approval decisions just mentioned. The details on the relevant products were set out in the EU's written statement.

1.35. The representative of the United States said that his country thanked the EU for its status report and its statement made at the present meeting. At recent meetings of the DSB and in bilateral discussions, the United States had noted, with increasing concern, that the EU had not approved a single new biotech product in 2014. Under the EU system, biotech approvals should be made by EU regulatory committees, consisting of EU member State representatives. The EU system provided that the regulatory committees should act in accordance with the scientific recommendations of the EU's scientific authority (the European Food Safety Authority, or EFSA). However, not once in at least 10 years had these EU regulatory committees performed their role of taking decisions based on the science-based recommendations. Instead, all biotech approval decisions had been left to the political level of the EU Commission. The United States understood that the current EU College of Commissioners was scheduled to meet on Wednesday 22 October 2014, and Wednesday 29 October 2014. These were the last meetings before the establishment of a new Commission on 1 November 2014. The current Commission would therefore have an opportunity to act in accordance with the EFSA recommendations by approving long-pending biotech product applications. The United States noted that despite positive EFSA recommendations, some of these applications had been pending before the Commission for years. Should the current Commission choose not to act on the pending applications, the strong implication would be that the EU authorization process had become purely political, with no connection to science-based decision-making. Further, the United States was concerned that if the current Commission did not act, all pending applications would face additional and significant delays pending action by a new set of Commissioners. In fact, the EU was already announcing that the new Commission may conduct yet another re-examination of the EU biotech approval process. In closing, the United States again recalled that the ongoing delays were causing serious disruption of trade in agricultural products. The United States urged the EU to take steps to address these matters.

1.36. The DSB took note of the statements and agreed to revert to this matter at its next regular meeting.

E. United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States (WT/DS404/11/Add.28)

1.37. The Chairman drew attention to document WT/DS404/11/Add.28, which contained the status report by the United States on progress in the implementation of the DSB's

¹ MON15985 cotton, LLcotton25xGHB614 cotton.

² MON87769 soybean.

³ MON88302 oilseed rape.

recommendations in the case concerning US anti-dumping measures on certain shrimp from Viet Nam.

1.38. The representative of the United States said that his country had provided a status report in this dispute on 9 October 2014, in accordance with Article 21.6 of the DSU. As the United States had noted at past DSB meetings, in February 2012 the US Department of Commerce had modified its procedures in a manner that addressed certain findings in this dispute. The United States would continue to consult with interested parties as it worked to address the other recommendations and rulings of the DSB.

1.39. The representative of Viet Nam said that his country thanked the United States for its status report and the statement made at the present meeting. Viet Nam noted that the reasonable period of time mutually agreed by the parties to this dispute had expired 14 months ago. However, the US Administration had not taken any action to recalculate the anti-dumping duty for the second and third administrative review that was inconsistent with the DSB's recommendation. Viet Nam, once again, requested that the United States fully comply without any further delay, so as to preserve the multilateral trading system discipline and to benefit Viet Nam's exporters.

1.40. The representative of Cuba said that her country supported developing-country Members and small economies that were affected by the US non-compliance with the DSB's recommendations and rulings. The United States had presented several status reports on this dispute for the past number of years. In Cuba's view, it was difficult to understand that a country with a strong economy like the United States could have difficulties to recalculate the anti-dumping duty and resolve this dispute which affected Viet Nam, a country with a small economy. Cuba urged the United States to take the necessary steps to comply with the DSB's recommendations and rulings in this dispute.

1.41. The representative of the Bolivarian Republic of Venezuela said that her country supported the statement made by Viet Nam. Venezuela shared the concerns expressed by Cuba regarding the importance of effective compliance with the DSB's recommendations and rulings. Venezuela urged the United States to take the necessary measures to resolve this dispute.

1.42. The DSB took note of the statements and agreed to revert to this matter at its next regular meeting.

2 UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB

A. Statements by the European Union and Japan

2.1. The Chairman said that this item was on the Agenda of the present meeting at the request of the European Union and Japan. He invited the respective representatives to speak.

2.2. The representative of the European Union said that, once again, the EU requested that the United States stop transferring antidumping and countervailing duties to the US industry. Every disbursement that still took place was clearly an act of non-compliance with the DSB's recommendations and rulings. The EU renewed its call on the United States to abide by its clear obligation under Article 21.6 of the DSU and to submit status reports in this dispute.

2.3. The representative of Japan said that, since the distributions under the CDSOA had continued, Japan, once again, urged the United States to stop the illegal distributions in order to resolve this long-standing dispute. As it had stated in previous meetings, Japan was of the view that the United States was under obligation to provide the DSB with a status report in this dispute in accordance with Article 21.6 of the DSU.

2.4. The representative of India said that his country shared the concern of the EU and Japan. The WTO inconsistent disbursements continued unabated to the US domestic industry. India was concerned that non-compliance by Members led to a growing lack of credibility of the WTO dispute settlement system as well as the multilateral trading system. In India's view, this item should continue to remain on the DSB's Agenda until such time as full compliance was achieved in this dispute.

2.5. The representative of Brazil said that his country was of the view that the United States had an obligation to provide status reports in this dispute until the matter was resolved, in accordance with Article 21.6 of the DSU. Brazil also believed that disbursements made after the repeal of the Byrd Amendment, but related to investigations initiated before it, were not in accordance with the DSB's recommendations and rulings in this dispute.

2.6. The representative of Canada said that his country wished to make reference to its statements regarding this matter made at previous DSB meetings. Canada's position had not changed since then.

2.7. The representative of the United States said that, as his country had noted at previous DSB meetings, the Deficit Reduction Act, which included a provision repealing the Continued Dumping and Subsidy Offset Act of 2000, had been enacted into law in February 2006. Accordingly, the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. Furthermore, the United States recalled that the EU, Japan, and other Members had acknowledged that the Deficit Reduction Act did not permit the distribution of duties collected on goods entered after 1 October 2007, which was over seven years ago. The United States therefore, did not understand the purpose for which the EU and Japan had inscribed this item on the Agenda of the present meeting. With respect to comments regarding further status reports in this matter, as it had already explained at previous DSB meetings, the United States failed to see what purpose would be served by further submission of status reports which would repeat, again, that the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. Indeed, there was no obligation under the DSU to provide further status reports once a Member announced that it had implemented those DSB recommendations and rulings, regardless of whether the complaining party disagreed about compliance.

2.8. The DSB took note of the statements.

3 CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

A. Statement by the United States

3.1. The Chairman said that this item was on the Agenda of the present meeting at the request of the United States. He then invited the representative of the United States to speak.

3.2. The representative of the United States said that his country continued to have serious concerns that China had failed to bring its measures into conformity with its WTO obligations. The situation unfortunately had not changed since the United States had first begun raising this matter in the DSB, and despite repeated interactions between the United States and China. China continued to maintain a ban on foreign suppliers of electronic payment services ("EPS"). China maintained this ban by imposing a licensing requirement on EPS suppliers, while at the same time providing no procedures for foreign suppliers to obtain that license. As a result, an enterprise located in China remained the only EPS supplier that could operate in China's domestic market. As required for consistency with China's WTO obligations, the United States called on China to adopt the regulations necessary for allowing foreign EPS suppliers to operate in China.

3.3. The representative of China said that his country regretted that the United States had, once again, brought this matter before the DSB. China referred to its statements made at previous DSB meetings on this matter. China had taken all necessary actions and had fully implemented the DSB's recommendations and rulings in this dispute. China had also further explained that the actions being sought by the United States were beyond the scope of China's compliance obligations. China hoped that the United States would reconsider the systemic implications of its position.

3.4. The representative of the United States said that as his country had stated before, the United States strongly disagreed with China's statement. The DSB's rulings and recommendations clearly stated that "China has made a commitment on market access concerning mode 3"⁴ and

⁴ "China – Certain Measures Affecting Electronic Payment Services", WT/DS413/R (adopted on 31 August 2012), at paragraph No 7.575.

that "China has made a commitment on national treatment concerning mode 3."⁵ Indeed, China itself had noted that it was working on regulations that would provide access to foreign EPS suppliers. The United States urged China to move forward with these regulations and to allow the licensing of foreign EPS suppliers in China, consistent with China's WTO obligations.

3.5. The representative of China said that, in the present dispute, the Panel had rejected the US claims under Article XVI in respect of all but one of the measures identified by the United States. The one measure that the Panel had found to be inconsistent with Article XVI:2(a) of the GATS was a measure that concerned the provision of certain services in Hong Kong, China and Macao, China. China had brought that measure into conformity with the DSB's recommendations and rulings. With respect to the regulation that the United States had mentioned, China wished to reiterate that it was not relevant to the implementation of the DSB's recommendations and rulings in this dispute.

3.6. The DSB took note of the statements.

4 THAILAND - CUSTOMS AND FISCAL MEASURES ON CIGARETTES FROM THE PHILIPPINES

A. Statement by the Philippines

4.1. The Chairman said that this item was on the Agenda of the present meeting at the request of the Philippines. He then invited the representative of the Philippines to speak.

4.2. The representative of the Philippines said that her country's concerns regarding Thailand's compliance with the DSB's recommendations and rulings in this dispute were well known. Among the most important outstanding issues was the Thai Attorney General's decision to prosecute an importer of Philippine cigarettes for allegedly under-declaring customs value. As the Philippines had repeatedly pointed out, the WTO Panel had ruled in respect of the customs values at issue that Thailand enjoyed no legitimate grounds to reject them. In addition, Thai Customs' Board of Appeals had explicitly accepted the customs values in a separate ruling heralded by Thailand itself as a measure taken to comply. The Attorney General had adopted this decision over a year ago, but the matter had been pending ever since, hanging like "Damocles' sword" over the importer. Further, the Philippines' efforts to obtain more information, especially an explanation on the grounds that had motivated the Attorney General to prosecute the importer, remained unanswered. The second concern that the Philippines had consistently raised addressed the WTO-consistency of another ruling by the Thai Board of Appeals regarding entries subject to the DSB's recommendations and rulings. The Philippines wished to highlight the systemic impact of this situation from a point of view of the WTO's dispute settlement system. In the Philippines' view, the credibility of the DSB and its proper functioning was affected if Members did not comply with the DSB's rulings and recommendations for many years. The Philippines had had its own experience of implementation and had made every effort and sacrifice to implement in time, indeed, even ahead of time. The DSB's credibility was even more undermined when a Member carried out actions that nullified the very measures it had declared to have taken to comply. In the Philippines' view, Members' good faith and their respect to observe the DSU rules and procedures ensured the authority and credibility of the dispute settlement system.

4.3. The representative of Thailand said that her country took note of the statement made by the Philippines at the present meeting. As it had stated repeatedly in its previous status reports and at the DSB meetings, Thailand had taken all the actions necessary to implement the DSB's recommendations and rulings in this dispute. This was of course, without prejudice to any other rights of the Philippines under the DSU provisions. Thailand had been, and remained, available to discuss the specific concerns of the Philippines on a bilateral basis, including those not addressed in the DSB's recommendations and rulings.

4.4. The DSB took note of the statements.

⁵ Idem, at paragraph 7.678.

5 RUSSIA – ANTI-DUMPING DUTIES ON LIGHT COMMERCIAL VEHICLES FROM GERMANY AND ITALY

A. Request for the establishment of a panel by the European Union (WT/DS479/2)

5.1. The Chairman recalled that the DSB had considered this matter at its meeting on 26 September 2014. He drew attention to the communication from the European Union contained in document WT/DS479/2, and invited the representative of the European Union to speak.

5.2. The representative of the European Union said that, at the previous DSB meeting, the EU had requested the establishment of a panel to examine this dispute. At the present meeting, the EU was repeating its request, as Russia had not signalled any intentions to remove the measures. The EU continued to believe that the anti-dumping duties imposed on imports of light commercial vehicles from Germany and Italy were inconsistent with the WTO Anti-Dumping Agreement.

5.3. The representative of the Russian Federation said that, as his country had informed the DSB at the previous meeting, there had been only one round of consultations on this matter requested by the EU, which had been held in June 2014. Russia was deeply disappointed that there had been no efforts from the EU to find a mutually agreed solution in the course of the consultations. It appeared that the EU had treated consultations as a formality despite Russia's efforts to clarify the matter. Russia regretted the EU's decision. Russia was convinced that the measures at issue were in full conformity with the WTO Agreement and it would defend them accordingly.

5.4. The DSB took note of the statements and agreed to establish a panel in accordance with the provisions of Article 6 of the DSU with standard terms of reference.

5.5. The representatives of China, India, Japan, Korea and the United States reserved their third-party rights to participate in the Panel's proceedings.

6 PROPOSED NOMINATION FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS (WT/DSB/W/530)

6.1. The Chairman drew attention to document WT/DSB/W/530, which contained one new name proposed by China for inclusion on the indicative list of governmental and non-governmental panelists, in accordance with Article 8.4 of the DSU. He proposed that the DSB approve the name contained in document WT/DSB/W/530.

6.2. The DSB so agreed.

7 UNITED STATES – SUBSIDIES ON UPLAND COTTON

A. Statements by the United States and Brazil

7.1. The representative of the United States, speaking under "Other Business", said that his country was pleased to inform the DSB that the United States and Brazil had reached a negotiated solution to the long-standing dispute: "United States - Subsidies on Upland Cotton". As indicated in a notification submitted on 16 October 2014 under Article 3.6 of the DSU, the dispute was terminated (WT/DS267/46). Accordingly, there would be no countermeasures applied or further Article 21.5 proceedings in this dispute. The United States understood that the notification was being processed by the Secretariat and would shortly be circulated to Members. Attached to the notification was a Memorandum of Understanding between Brazil and the United States. This Understanding, along with changes to US farm programmes in the 2014 Farm Bill, provided a basis for Brazil and the United States to conclude the dispute. This outcome was the result of more than four years of work by the United States and Brazil under a framework agreed to in 2010. The United States was pleased that the parties had been able to put this dispute behind them. The parties looked forward to building on this success and deepening the trade relationship between the United States and Brazil.

7.2. The representative of Brazil said that his country wished to inform the DSB that, on 1 October 2014, Brazil and the United States had signed a new Memorandum of Understanding related to the Cotton dispute (WT/DS267). This Understanding concluded a dispute brought by

Brazil against the United States before the WTO dispute settlement system in 2002 regarding export credit guarantees and domestic support programmes to upland cotton. In 2010, Brazil and the United States had reached a provisional understanding, pursuant to which the United States had committed to change its cotton support programmes, and to provide compensation while the domestic modifications to permit full compliance were being implemented under the 2014 Memorandum, signed two weeks ago, the United States had agreed to make additional adjustments in the export credit guarantees programme, the GSM-102, which shall operate according to the bilaterally negotiated parameters. This agreement would also contribute to the mitigation of damage caused to Brazilian cotton producers due to the negative effects of the US cotton support programmes. Therefore, by signing this Memorandum, Brazil and the United States had agreed to put this dispute behind them and to focus on other important issues in the WTO and on the bilateral trade agenda. Moreover, this new Memorandum showed the importance of the dispute settlement system for all WTO Members, especially developing-country Members, by providing them with the necessary tools to protect and enforce their rights before the multilateral trading system. This Understanding was without prejudice to the rights and obligations of Brazil and the United States under the Marrakesh Agreement. It also did not imply recognition of the consistency with the covered agreements of the measures discussed in the Cotton dispute and other programmes enacted in accordance with the US Agricultural Act of 2014, nor did it prejudge whether the DSB's recommendations and rulings in the Cotton dispute had been implemented. Brazil would continue to monitor, with special attention, over the next years, the impact of the US Agricultural Act current programmes, and its effects on the Brazilian agricultural interests.

7.3. The DSB took note of the statements.

8 UNITED STATES – MEASURES AFFECTING THE PRODUCTION AND SALE OF CLOVE CIGARETTES

A. Statement by the United States

8.1. The representative of the United States, speaking under "Other Business", said that his country was similarly pleased to inform the DSB of the notification submitted by the United States and Indonesia under Article 3.6 of the DSU, circulated as WT/DS406/17, regarding the termination of the dispute: "United States - Measures Affecting the Production and Sale of Clove Cigarettes". In light of the mutually agreed solution, Indonesia had withdrawn its request under Article 22.2 of the DSU for authorization to suspend concessions or other obligations, and the United States had withdrawn its objection to that request. As a result of these actions, and in response to the joint request of the parties, the Article 22.6 Arbitrator had notified the DSB that it was not necessary for it to issue a decision on the matter referred to it, and that it had completed its work. This document had been circulated as WT/DS406/18. The United States welcomed the resolution of this dispute, and looked forward to the ongoing enhancement of the overall trade relationship between Indonesia and the United States.

8.2. The DSB took note of the statement.
