

**Dispute Settlement Body
14 March 2008**

MINUTES OF MEETING

Held in the Centre William Rappard
on 14 March 2008

Chairman: Mr. Mario Matus (Chile)

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Prior to the adoption of the Agenda

Amb. Mario Matus, as new Chairman of the DSB, said that, prior to the opening of the present meeting, he wished to thank the previous Chairman of the DSB, Amb. Bruce Gosper, for his statement made at the 19 February DSB meeting following the election of the new Chairman of the DSB (Item 4). Amb. Matus also wished to take this opportunity to acknowledge the work done by Amb. Gosper in the course of the past year. He said that Amb. Gosper was a professional with recognized skills and experience who had recently been appointed by acclamation as new Chairman of the General Council for 2008. Amb. Matus recalled that, during his term of office as 2007 Chairman of the DSB, Amb. Gosper had had to seek solutions to sensitive matters. To this effect, Amb. Gosper had carried out a series of consultations on how best to proceed to find a way forward, bearing in mind that no negative consequences be imposed on the system. He wished to recognize Amb. Gosper's efforts in this regard. Finally, Amb. Matus stated that he also wished to thank those delegations who, at the 19 February DSB meeting upon his election as new Chairman of the DSB, had paid tribute to him and had welcomed him as new Chairman of the DSB. He said that he counted on Members' support in the course of the year.²

The DSB took note of the statement.

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.64)
- (b) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.64)
- (c) United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.39)
- (d) European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Communities (WT/DS291/37/Add.2–WT/DS292/31/Add.2–WT/DS293/31/Add.2)

1. The Chairman 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 pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved". He proposed that the four sub-items to which he had just referred be considered separately.

- (a) United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.64)

2. The Chairman drew attention to document WT/DS176/11/Add.64, 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.

² Subsequently, in the course of the meeting (under various Agenda items), the following delegations made brief statements to welcome Amb. Matus as new Chairman of the DSB: Mexico, the United States, the EC, Cuba, Venezuela, India, Brazil, China, Thailand, Nicaragua, Viet Nam, Japan, Argentina, Canada and Guatemala.

3. The representative of the United States said that his country had provided a status report in this dispute on 3 March 2008, in accordance with Article 21.6 of the DSU. As noted in that status report, a number of legislative proposals that would implement the DSB's recommendations and rulings in this dispute had been introduced in the current Congress, in both the US Senate and the US House of Representatives. The US administration continued to work with the Congress to implement the DSB's recommendations and rulings.

4. The representative of the European Communities said that the previous month had marked the sixth anniversary of the condemnation of Section 211 as WTO-incompatible. However, the EC was still waiting for the United States to comply with the DSB's ruling. The EC hoped that the bipartisan bills introduced to repeal Section 211 would finally progress and would bring the United States into compliance with its TRIPS obligations.

5. The representative of Cuba noted that, in February 2008, six years had passed since the adoption by the DSB of the recommendations and rulings in this dispute. At that time, the DSB had endorsed the finding that Section 211 of the Omnibus Appropriations Act of 1998 violated the national and most-favoured-nation treatment obligations under the TRIPS Agreement and the Paris Convention for the Protection of Industrial Property. Thus, the United States had been requested to bring its WTO-inconsistent measure into conformity with its obligations under the TRIPS Agreement. It would soon be three years since the expiry of the last deadline, on 30 June 2005, for the US implementation of the DSB's recommendations and rulings, which required the US Congress to take legislative measures. In accordance with Article 21.6 of the DSU, the United States continued to provide a status report each month. Those status reports were repetitive and merely stated that several legislative proposals relating to Section 211 which would implement the DSB's recommendations and rulings in this dispute had been introduced in both the US Senate and the US House of Representatives. At the 19 February 2008 DSB meeting, in response to requests made by Members to resolve this dispute once and for all, the US delegation had proclaimed the United States to be a compliant Member in the system. However, the facts contradicted the US assertion. Hearing month after month that the US administration was working with the current Congress to resolve this dispute was even more outrageous. The review of what had happened in 2007 demonstrated that what was being indicated in those status reports was very far from the truth. In 2007, five bipartisan legislative proposals relating to Section 211, based on previous drafts, had been introduced to the US Congress. Two of those proposals were aimed at maintaining Section 211 and making only misleading cosmetic changes. The other three proposals, which had not been promoted by the US administration – responsible for compliance with the DSB's decision – proposed the repeal of Section 211. None of those proposals had been successful and some had not even been discussed.

6. All were aware that Section 211 pursued a strategic objective. The draft provision had been submitted in 1998 by one of the lawyers and advisers of the Bacardi company. The intention had always been to usurp Cuban trademarks of recognized international prestige that were duly registered in the US territory and protected under international treaties and agreements to which the United States was also a party. This was the case of the Havana Club trademark, owned by the Cuban-French joint venture, Havana Club Holding. Bacardi-Martini had been marketing rum under the Havana Club brand since 1995. After the US Patent and Trademark Office had arbitrarily denied the renewal of the Havana Club trademark in August 2006, Bacardi had suspiciously been quick to reintroduce on the market a supposedly "genuinely Cuban" rum made in Puerto Rico. He noted that the US Patent and Trademark Office had a vast database, and invited delegations to take a look at it – Bacardi's applications and registrations were listed there. In two of those applications, the Havana Club trademark was claimed once for distinguishing rum and once for clothing, in 1994 and 1999 respectively. Whichever way one looked at it, the objective was clear. Cuba, on the other hand, had scrupulously respected the more than 4,930 US trademarks registered and protected by Cuba, including the 15 trademarks owned by Bacardi. This demonstrated Cuba's strict adherence to the rules of international law.

7. According to the 2007 report of the US National Intellectual Property Law Enforcement Coordination Council, in 2008 the United States would continue to help developing countries establish effective protection regimes. Cuba wondered how such concern for the enforcement regimes of third parties could be taken seriously, when Section 211, which ran counter to the WTO Agreements and the WIPO Conventions, remained in force.

8. In conclusion, Cuba reiterated that the indefinite delay in the settlement of this dispute made a mockery of the principle of prompt compliance set forth in the DSU provisions. Furthermore, it cast doubt on the effective functioning of the dispute settlement mechanism and both the credibility of the DSB and the multilateral trading system, in particular the principles of national and most-favoured-nation treatment, which were the cornerstones of the WTO. It also affected the balance between the rights and obligations of Members as well as the equality of Members. It set a dangerous systemic precedent, which could have implications for other Members in future, in particular developing countries. Cuba requested, once again, the immediate repeal of Section 211. Cuba wondered how long the economic power of the United States would allow that country to maintain its irrational force in international institutions and make a mockery of the agreed legal framework.

9. The representative of the Bolivarian Republic of Venezuela said that her country supported Cuba's statement. She noted that it had been six years since the adoption of the recommendations and rulings adopted by the DSB, but no implementation had taken place. This continued non-compliance called into question the effective functioning of the dispute settlement mechanism. Under the DSU provisions, prompt compliance with the recommendations and rulings was required, in particular with regard to the matters affecting the interests of developing countries. Her country regretted that no implementation had taken place in this dispute. The dispute settlement mechanism was one of the main achievements of the Uruguay Round and, for that reason, her country requested that the United States take appropriate measures to ensure that this dispute be resolved.

10. The representative of India said that his country thanked the United States for the status report and the statement made at the present meeting. India wished to renew its systemic concerns about the situation arising out of non-compliance in this dispute. Despite the adoption of the Panel and the Appellate Body Reports by the DSB in this case several years ago, Members were still waiting for implementation and compliance by the United States. India reiterated that non-compliance with the DSB's recommendations and rulings by any Member undermined the dispute settlement system, which was one of the main achievements of the Uruguay Round.

11. The representative of Brazil said that his country called the attention of all Members to the continued non-compliance in this dispute. Brazil urged the United States to take immediate action to ensure the implementation of the DSB's recommendations. Apart from providing the necessary relief to the complainant, the full implementation in the dispute under discussion as well as in other disputes considered under Item 1 of the DSB's Agenda, would have a positive effect on the overall effectiveness of the WTO dispute settlement system.

12. 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, once again, wished to reiterate its systemic concerns with the protracted implementation process in this dispute. The prompt and full implementation of the DSB's rulings and recommendations was one of the major cornerstones of the WTO dispute settlement system. China hoped that the current US Congress would realize that it was in the interest of not only other Members, but also in the interest of the United States, to put an end to this situation, which undermined the authority of the TRIPS Agreement and the creditability of the WTO dispute settlement system. Therefore, China urged the United States to make an extra effort to bring itself promptly into conformity with the decision of the DSB.

13. The representative of Thailand said that his country thanked the United States for its status report and the statement made at the present meeting. Like previous speakers, Thailand wished to express its concern over the systemic implications of this dispute. Non-implementation of the DSB's rulings and recommendations undermined the rules-based multilateral trading system. Thailand, therefore, urged the United States to take the necessary and urgent steps to comply with its obligations under the TRIPS Agreement.

14. The representative of Nicaragua said that her country wished to reiterate certain concerns with regard to this dispute, and thanked the United States and Cuba for their respective statements. In particular, Nicaragua wished to thank Cuba for its statement, in which Cuba had provided relevant information on the status of this dispute. In light of trade implications for the parties concerned, the delay in complying with the DSB's recommendations undermined the efficient functioning of the dispute settlement mechanism. Therefore, Nicaragua reiterated, once again, its call on the United States to make every possible effort to fully comply with the DSB's recommendations in this dispute.

15. The representative of Viet Nam said that, like previous speakers, his country wished to express its concern over the delay in the implementation of the DSB's recommendations and rulings. Viet Nam, once again, called on the United States to take urgent steps to comply with its obligations under the TRIPS Agreement.

16. The representative of the United States said that, in response to the systemic concerns regarding compliance expressed by some Members, the United States would note that the record showed that the United States had fully complied in the vast majority of the disputes in which it had been involved. As for the remaining few, including the dispute under discussion, the United States was actively working towards compliance.

17. 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.64)

18. The Chairman drew attention to document WT/DS184/15/Add.64, 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.

19. The representative of the United States said that his country had provided a status report in this dispute on 3 March 2008, in accordance with Article 21.6 of the DSU. As of 23 November 2002, the US authorities 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 in this dispute. Details were provided in document WT/DS184/15/Add.3. The US administration would work with Congress with respect to the recommendations and rulings of the DSB that had not already been addressed by the US authorities by 23 November 2002.

20. The representative of Japan said that her country thanked the United States for its statement and the status report. Japan acknowledged that, in November 2002, the United States had taken certain measures to implement part of the DSB's recommendations, as reported by the United States. The fact remained, however, that the remaining part of the recommendations had not yet been implemented, and the issue of implementation in this case was still on the DSB's agenda. Japan strongly hoped that the United States would soon be in a position to report to the DSB on more tangible progress in this long-standing dispute. A full and prompt implementation of the DSB's

recommendations and rulings was essential for maintaining the credibility of the WTO dispute settlement system. Japan urged the United States to come into full compliance without further delay.

21. 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.39)

22. The Chairman drew attention to document WT/DS160/24/Add.39, 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.

23. The representative of the United States said that his country had provided a status report in this dispute on 3 March 2008, in accordance with Article 21.6 of the DSU. The US administration would work closely with the US Congress and would continue to confer with the EC, in order to reach a mutually satisfactory resolution of this matter. In this regard, the United States appreciated the EC's recent statements that the EC remained prepared to work with the United States to seek a resolution to this dispute. The United States shared the EC's goal of discussing how such a mutually satisfactory solution could be achieved.

24. The representative of the European Communities said that there was nothing much to say. The US status report was static – it had been a copy and paste exercise for a long time now. The EC was still waiting.

25. 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 Communities (WT/DS291/37/Add.2–WT/DS292/31/Add.2–WT/DS293/31/Add.2)

26. The Chairman drew attention to document WT/DS291/37/Add.2–WT/DS292/31/Add.2–WT/DS293/31/Add.2, which contained the status report by the European Communities on progress in the implementation of the DSB's recommendations in the case concerning the EC's measures affecting the approval and marketing of biotech products.

27. The representative of the European Communities said that this case was an example of good faith cooperation between the complainants and the defendant in relation to compliance with a WTO panel report. The EC had been holding regular technical discussions with the three complainants, which had addressed all relevant biotech-related issues of their concern. In recognition of the usefulness of this dialogue and progress made in the processing of pending applications, the three complainants had agreed to further extend the initial 12-month reasonable period of time for implementation (RPT) until 11 January 2008. Two of the complainants (Argentina and Canada) had agreed to a second extension of the RPT of five and one months respectively. Canada had even agreed to a third extension of 20 weeks (i.e. until 30 June 2008), which clearly showed recognition of progress being made.

28. According to the sequencing agreement reached by the United States and the EC, both parties had requested the suspension of Article 22.6 arbitration proceedings, suspension which had been effective from 18 February 2008. The United States had agreed not to resume those proceedings until compliance procedures under Article 21.5 were concluded. She noted that numbers might be illustrative in assessing progress. Fifteen applications had been approved since the WTO panel had

been established in August 2003. Only in 2007, seven new GM products had been authorized and five other products would likely be approved in early 2008. The EC believed that given the inevitably sensitive nature of biotech issues, dialogue was the appropriate way forward and remained open to continue discussions with the three complainants.

29. The representative of the United States said that his country thanked the EC for its written status report and for its statement made at the present meeting. The reasonable period of time for the EC's compliance in this dispute had expired on 11 January 2008. The issues covered in the dispute remained unresolved, even though nearly five years had passed since the United States had filed its consultation request in May 2003. The EC, as it had done at the February DSB meeting, had cited progress in making approvals. Accordingly, the United States – as it had done at the February DSB meeting – had to respond in order to provide the DSB with a more complete understanding of this matter. In a nutshell, the supposed progress claimed by the EC had not come close to resolving the problems with the EC's biotech approval procedures. The number of biotech applications currently pending in the EC approval system – over 40 in number – was even greater than the number of applications pending when the complainants first brought this dispute in 2003. Many of the products covered by the pending applications were currently approved, grown, and marketed around the world. One pending application had been filed nearly twelve years ago. The Commission was not even following its own mandated timetables. The EC's ongoing failure to make timely decisions had resulted in a serious barrier to trade.

30. And, even when the EC approved a biotech product, the EC member States apparently felt free to ignore the EC's own positive scientific assessments and to adopt national bans on products approved at the EC level. The DSB had found such bans to be in breach of the EC's obligations under the SPS Agreement. Yet some of the bans identified in the DSB's recommendations and rulings remained in force. In addition, certain EC member States – including France, Hungary, and Greece – had adopted new bans on some of the same biotech products covered by the EC member State measures found to be in breach of SPS obligations. Having said that, the United States looked forward to continuing its dialogue with the EC. The United States continued to hope that the EC would take the steps necessary to resolve this dispute so that there would be no need for the United States to resort to the withdrawal of concessions or other obligations.

31. The representative of Argentina said that his country welcomed the status report submitted by the EC. As his delegation had stated at the 19 February DSB meeting, and as had been mentioned by the EC at the present meeting, Argentina wished to emphasize its satisfaction at the cooperative nature of the dispute proceedings thus far. The efforts made had enabled the parties to progress in resolving a number of aspects relating to this dispute, and had made it possible to deal with the problems that had arisen thus far. Argentina hoped that these efforts would continue until a definitive solution was found to the matter brought before the DSB.

32. The representative of Canada said that his country thanked the EC for its status report. Canada continued to monitor the progress made on this file closely. It was Canada's expectation that the EC would complete all steps necessary to achieve a mutually satisfactory resolution of this dispute before the expiry of the reasonable period of time for implementation on 30 June 2008.

33. The representative of the European Communities said the GMO regulatory regime was working normally, as could be demonstrated by the seven authorizations granted in 2007 (15 since the establishment of the WTO panel in August 2003). Five more applications were in the final stage of the authorization procedure. The EC had acted upon all the various national measures covered by the ruling of the WTO Panel Report. All those measures had become obsolete, with the only exception being the Austrian measures on GM maize MON810 and T-25. Concerning the Austrian measures, the Commission had tabled revised proposals to the Environment Council held on 30 October 2007, requesting Austria to lift the ban on import and processing of these GM events. The Commission had

also requested Austria to provide scientific information supporting the ban on cultivation of these GMO events. The Commission was currently examining the information provided by Austria. The EC member States could adopt safeguard measures provided that they complied with the conditions established by the EC legislation, notably scientific information supporting the need for such measures. The Commission was determined to act upon any measure of the EC member States that was in violation of that legislation.

34. 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 Communities and Japan

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

36. The representative of the European Communities said that the EC reiterated its position that the United States had not taken all steps necessary to bring itself into compliance with its WTO obligations as WTO-incompatible distributions of anti-dumping and countervailing duties continued and would continue for a number of years. The United States had distributed in November 2007 more than US\$262 million to US companies, which had put the total amount disbursed, thus far, under the CDSOA close to US\$2 billion. The EC wished to ask again the United States if and what steps it intended to take to stop the transfer of anti-dumping and countervailing duties to its industry. The EC also renewed its call on the United States to abide by its clear obligation under Article 21.6 of the DSU and to submit implementation reports in this dispute.

37. The representative of Japan said that the latest distributions under the CDSOA, which had been announced in December 2007³, amounted to some US\$262 million. This US action demonstrated that the CDSOA was still operational. The CDSOA continued to cause negative trade impacts on Japan and other WTO Members. Japan, once again, urged the United States to immediately terminate the illegal distributions and to repeal the CDSOA not just in form, but in substance so as to resolve this dispute once and for all. According to Article 21.6 of the DSU, the United States was under obligation to provide the DSB with a status report in this dispute "until the issue is resolved". Japan reserved all its rights under the DSU until the United States came into full compliance

38. The representative of Brazil said that his country thanked the EC and Japan for raising this important issue, once more, before the DSB, and joined them in urging the United States to take the necessary actions to fully implement the DSB's recommendations and rulings. Brazil recognized that the proceeds from duties collected under the Byrd Amendment after October 2007 had not been directed to the domestic industry anymore. However, it was true that disbursements under the CDSOA were still being made, to the detriment of Members' rights, and in contradiction with the US obligations under the DSU. It was Brazil's understanding that the United States must completely discontinue all disbursements under the Byrd Amendment as a way of implementing the DSB's recommendations and rulings. Furthermore, any rights of WTO Members arising in relation to this dispute shall be preserved.

³ "FY2007 Annual Disbursements Report" issued by the "US – Customs and Border Protection" on 5 December 2007.

39. The representative of Canada said that her country thanked the EC and Japan for continuing to put this matter on the DSB's Agenda. Canada agreed with the EC and Japan that the Byrd Amendment should remain subject to the surveillance of the DSB until the United States ceased to administer it.

40. The representative of China said that his country thanked the EC and Japan for, once again, raising this item at the DSB meeting. China supported the views expressed by previous speakers and wished to join them in urging the United States to comply fully with the DSB's rulings.

41. The representative of India said that her country thanked the EC and Japan for maintaining this issue on the DSB's agenda and joined those delegations in urging the United States to eliminate the trade-distorting effects of the disbursements under the Byrd Amendment. The United States was still distributing disbursements under the CDSOA to the US domestic industry as a result of this WTO-inconsistent measure at the expense of foreign producers and exporters and of WTO Member's rights. India, therefore, urged the United States to cease its WTO-inconsistent disbursements. India supported the view that continued surveillance by the DSB was needed.

42. The representative of Thailand said that his country wished to join previous speakers in thanking the EC and Japan for continuing to bring this item before the DSB. Thailand appreciated the positive steps taken by the United States to stop disbursing to its industries AD/CVD duties collected on goods entering the United States from 1 October 2007. However, AD/CVD duties collected on goods that entered the United States prior to 1 October 2007 continued to be disbursed to the domestic industry under the Byrd Amendment. Thailand, therefore, urged the United States to cease its WTO-inconsistent disbursements, to repeal the Byrd Amendment with immediate practical effect, and to resume providing status reports until such actions were taken and this matter had been fully resolved.

43. The representative of the United States said that, as his country had explained at prior DSB meetings, the US President had signed the Deficit Reduction Act into law on 8 February 2006. That Act included a provision repealing the Continued Dumping and Subsidy Offset Act of 2000. Thus, the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. The United States welcomed the EC's and Japan's recognition that the 2006 Deficit Reduction Act did not permit the distribution of duties collected on goods entered after 1 October 2007. The United States, therefore, remained surprised to hear the statements made by the EC and Japan at the present meeting. With respect to comments regarding further status reports and the DSB's surveillance in this matter, as the United States had already explained at previous DSB meetings, the United States had taken all steps necessary to implement the DSB's recommendations and rulings in these disputes. In this light, the United States failed to see what purpose would be served by further submission of status reports repeating the progress the United States made in the implementation of the DSB's recommendations and rulings.

44. Finally, the United States wished to comment on Members' statements made at the present meeting that this legislation – although repealed – continued to cause trade distortions. Frankly, the United States found this statement surprising. The United States recalled that, with one exception, none of the complaining parties in this dispute had claimed that the CDSOA caused trade-distorting effects under the SCM Agreement. Indeed, none of the Members speaking at the present meeting had made such a claim. Furthermore, though one Member had claimed that the CDSOA caused trade-distorting effects under the SCM Agreement, those adverse effects claims had been rejected by the Panel. Members' comments alleging any trade-distorting effects were, thus, not based on any DSB recommendations and rulings. The United States, therefore, failed to understand the basis for Members' continuing statements that their trade with the United States was being distorted by virtue of the now-repealed CDSOA.

45. The DSB took note of the statements.

3. United States – Measures relating to zeroing and sunset reviews

(a) Statement by Japan

46. The Chairman said that this item was on the agenda of the present meeting at the request of Japan, and invited the representative of Japan to speak.

47. The representative of Japan said that her country had proposed that this item be placed on the Agenda of the present meeting in accordance with Article 21.6 of the DSU. First, Japan wished to inform the DSB that, on 10 March 2008, Japan and the United States had concluded *ad hoc* procedures under Articles 21 and 22 of the DSU, or so-called "sequencing agreement", which had been circulated in document WT/DS322/26. In accordance with those procedures, Japan would initiate the compliance proceedings, pursuant to Article 21.5 of the DSU, to resolve the disagreement between Japan and the United States regarding the US implementations in this dispute. The parties would also request the Article 22.6 Arbitrator to suspend its work. Japan considered that these procedural arrangements would serve to facilitate the orderly resolution of this dispute without unnecessary complications.

48. Second, at the previous regular DSB meeting held on 19 February 2008, Japan had asked the United States to clarify its position on the status of implementation of the DSB's recommendations regarding the two sunset reviews, which had been challenged and found to be WTO-inconsistent. In response, the United States had observed that for both of those sunset reviews it had conducted subsequent sunset reviews and, as a result, it had revoked the anti-dumping duty order regarding corrosion-resistant carbon steel flat products, but had made a "determination continuing the anti-dumping duty order" regarding antifriction bearings. Japan appreciated the information provided by the United States in its statement. However, Japan was still not sure whether the US "observations" explained the US position on implementations regarding the sunset reviews, especially the one for the anti-dumping duty order on antifriction bearings which were still in place. Therefore, Japan, once again, wished to invite the United States to further elaborate on its position regarding this matter.

49. The representative of the United States said that, regarding Japan's reference to the conclusion of a sequencing agreement, the United States appreciated Japan's willingness to work with the United States in reaching a sequencing agreement. The sequencing agreement would be circulated to Members. Regarding Japan's statement that it intended to invoke Article 21.5 of the DSU, the United States would refer to capital the information provided by Japan. The United States very much regretted hearing that Japan would be pursuing this matter and urged Japan to reconsider its position. Finally, regarding Japan's reference to the two sunset reviews, the United States had heard the statement made by Japan and would relay that to capital. With respect to Japan's inquiries regarding the status of US implementation on various measures, the United States noted that this issue was currently the subject of a dispute settlement proceeding, and these issues would be taken up there.

50. The DSB took note of the statements.

4. Proposed nominations for the indicative list of governmental and non-governmental panelists (WT/DSB/W/372)

51. The Chairman drew attention to document WT/DSB/W/372, which contained additional names proposed for inclusion on the indicative list of governmental and non-governmental panelists, in accordance with Article 8.4 of the DSU. Unless there was any objection, he wished to propose that the DSB approve the names contained in document WT/DSB/W/372.

52. The DSB so agreed.

5. Mexico – Anti-dumping measures on steel tubes and pipes originating from Guatemala

(a) Statement by Mexico

53. The representative of Mexico, speaking under "Other Business", said that in compliance with the recommendations and rulings of the Panel Report in the dispute: "Mexico – Anti-Dumping Duties on Steel Pipes and Tubes from Guatemala" (DS331/R) and, within the reasonable period of time agreed between Mexico and Guatemala, his country, in accordance with the administrative procedures, had published, in the *Diario Oficial de la Federación* (Official Journal) of 24 January 2008, the results of the preliminary resolution concluding the review of the countervailing duty imposed on imports of standard tubes from Guatemala, thereby eliminating the anti-dumping duties at issue. With the entry into force of the measure in question, Mexico considered that it had complied with the recommendations and rulings of the Panel.

54. The representative of Guatemala said that his country welcomed the fact that Mexico, in implementing the rulings and recommendations of the Panel, had chosen to eliminate the anti-dumping measure in question. As a developing country with a small and vulnerable economy, Guatemala believed that the resolution of this dispute contributed to the strengthening of the multilateral trading system and renewed its confidence in the dispute settlement mechanism.

55. The DSB took note of the statements.
