



Dispute Settlement Body  
25 March 2015

## MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD  
ON 25 MARCH 2015

*Chairman: Mr. Harald Neple (Norway)*

Prior to the adoption of the Agenda, the item concerning the adoption of the Panel Report in the dispute on: "Peru – Additional Duty on Imports of Certain Agricultural Products" (DS457) was removed from the proposed Agenda, following Peru's decision to appeal the Report.

### Table of Contents

<b>1 SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB.....</b>	<b>2</b>
A. United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States.....	3
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 .....	6
E. United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States .....	7
F. European Communities – Measures prohibiting the importation and marketing of seal products: Status report by the European Union .....	9
<b>2 UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB .....</b>	<b>10</b>
A. Statements by the European Union and Japan.....	10
<b>3 CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES .....</b>	<b>11</b>
A. Statement by the United States .....	11
<b>4 THAILAND – CUSTOMS AND FISCAL MEASURES ON CIGARETTES FROM THE PHILIPPINES .....</b>	<b>11</b>
A. Statement by the Philippines .....	11
<b>5 EUROPEAN UNION – COUNTERVAILING MEASURES ON CERTAIN POLYETHYLENE TEREPHTHALATE FROM PAKISTAN.....</b>	<b>12</b>
A. Request for the establishment of a panel by Pakistan .....	12
<b>6 RUSSIA - TARIFF TREATMENT OF CERTAIN AGRICULTURAL AND MANUFACTURING PRODUCTS.....</b>	<b>13</b>
A. Request for the establishment of a panel by the European Union.....	13

<b>7 UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN OIL COUNTRY TUBULAR GOODS FROM KOREA .....</b>	<b>13</b>
A. Request for the establishment of a panel by Korea .....	13
<b>8 CHINA – MEASURES IMPOSING ANTI-DUMPING DUTIES ON HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES ("HP-SSST") FROM JAPAN .....</b>	<b>14</b>
A. Joint request by Japan and China for a decision by the DSB .....	14
<b>9 CHINA – MEASURES IMPOSING ANTI-DUMPING DUTIES ON HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES ("HP-SSST") FROM THE EUROPEAN UNION .....</b>	<b>15</b>
A. Joint request by the European Union and China for a decision by the DSB .....	15
<b>10 PROPOSED NOMINATION FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS .....</b>	<b>16</b>
<b>11 STATEMENT BY THE CHAIRMAN REGARDING A COMMUNICATION FROM THE APPELLATE BODY CONCERNING GUIDELINES FOR WTO MEMBERS IN CONNECTION WITH THE SUBMISSION OF EXECUTIVE SUMMARIES OF WRITTEN SUBMISSIONS IN APPELLATE PROCEEDINGS.....</b>	<b>16</b>
<b>12 STATEMENT BY THE CHAIRMAN REGARDING THE WORKLOAD BEFORE THE APPELLATE BODY AND THE DELAYS AT THE PANEL STAGE.....</b>	<b>16</b>

## **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.147)

B. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.147)

C. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.122)

D. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.85)

E. United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States (WT/DS404/11/Add.33)

F. European Communities – Measures prohibiting the importation and marketing of seal products: Status report by the European Union (WT/DS400/16 – WT/DS401/17)

1.1. The Chairman said that there were six 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 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". 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. He reminded 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".

---

**A. United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.147)**

1.2. The Chairman drew attention to document WT/DS176/11/Add.147, 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 12 March 2015 in accordance with Article 21.6 of the DSU. Several bills that had been introduced in the current US Congress would repeal Section 211. Other previously introduced legislation would modify Section 211. The US Administration would continue to work on solutions to implement the DSB's recommendations and rulings and resolve this matter with the EU.

1.4. The representative of the European Union said that the EU thanked the United States for its most recent status report and the 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 said that the 147th status report by the United States merely noted that "relevant legislation has been introduced in the current 114th session of the US Congress" and that "the United States will continue to work on a solution that would resolve this matter". In addition, the United States had orally referred to a set of bills supposedly aimed at resolving this dispute. In that regard, at the 23 February 2015 DSB meeting, the United States had stated that bills H.R.274, H.R.A03, H.R.635 and H.R.735 "could repeal" Section 211. Cuba requested that any reference to bills relating to the possible settlement of this dispute be addressed by the United States in its status report, as stipulated in the DSU provisions. Pursuant to Article 21.6 of the DSU, status reports must inform, "in writing", of the "progress in the implementation of the recommendations or rulings" at least "10 days prior to each [...] meeting". Article 21.3 of the DSU was also relevant, as it precisely stated that "the Member concerned shall inform the DSB of its intentions in respect of implementation of the recommendations and rulings of the DSB". In this dispute, both requirements were not met and constituted violations in addition to the long-standing failure to comply. Cuba reiterated that simply referring to draft legislations that had never been adopted could not be considered as relevant information for the purposes of the surveillance requirements, nor could it be seen as a step towards compliance with the US WTO obligations. Cuba urged the United States to submit a status report that would address the real actions in order to resolve this dispute. Cuba reiterated that the US Administration had the institutional capacity and the ability to urge Congress to repeal Section 211 and to end this non-compliance, which defied and undermined the fairness of the WTO dispute settlement system.

1.6. The representative of the Bolivarian Republic of Venezuela said that his country supported the statement made by Cuba at the present meeting. Venezuela, like many other delegations, noted with concern that the US status report did not provide any information on progress in implementing the DSB's recommendations and rulings in this dispute. Therefore, Venezuela wished to join the previous speakers urging the United States to implement the DSB's recommendations and rulings. The US non-compliance in this dispute caused systemic concerns and affected the interests of a developing-country Member. Furthermore, it was inconsistent with the principle of prompt compliance with the DSB's recommendations and rulings and set a negative precedent. In Venezuela's view, a growing number of developing-country Members, as respondents, were making efforts to meet their WTO obligations. Venezuela noted that the US failure to comply in this dispute reflected the US intention to continue to maintain its illegal economic, commercial and financial blockade against Cuba, which had been denounced by the UN General Assembly because it violated international law. Non-compliance also undermined the credibility of the WTO and the multilateral trading system as well as its ability to resolve disputes. Venezuela regretted that the WTO dispute settlement system was negatively affected by the repeated lack of compliance by one Member. Venezuela supported Cuba and strongly condemned the US conduct. Venezuela urged the United States to repeal Section 211 in order to resolve this dispute.

1.7. The representative of Ecuador said that her country supported the statement made by Cuba at the present meeting. Ecuador noted, once again, that Article 21 of the DSU referred specifically to prompt compliance with the DSB's recommendations and rulings, in particular when the interests of a developing-country Member were affected. Ecuador hoped that the United States would step up its efforts and promptly comply with the DSB's rulings and recommendations by

repealing Section 211. She noted that 13 years of non-compliance in this dispute highlighted the shortcomings of the WTO dispute settlement system.

1.8. The representative of Viet Nam said that her country thanked the United States for its status report. Viet Nam supported Cuba's statement and the statements made by previous speakers expressing their concerns about the lack of progress in this dispute. As mentioned by Cuba, Viet Nam urged the United States to step up its efforts and comply with the DSB's recommendations and rulings in this dispute.

1.9. The representative of Mexico said that his country thanked the United States for its status report. As Mexico had stated in the past and as mentioned by previous speakers, Article 21.1 of the DSU referred to prompt compliance with the DSB's recommendations and rulings "to the benefit of all Members". Mexico urged the United States to adopt the measures necessary to comply with the DSB's recommendations and rulings in this dispute.

1.10. The representative of Zimbabwe said that his country welcomed the US status report. Zimbabwe, once again, regretted to note that the United States had not provided any substantive information on progress in this dispute. As Zimbabwe and other delegations had continually stated, this lack of progress was incompatible with the principle of effective and prompt implementation of the DSB's rulings and recommendations, and affected the interests of a developing-country Member. In that regard, Zimbabwe joined previous speakers in supporting Cuba and urged the United States to take the necessary steps to resolve this matter.

1.11. The representative of Trinidad and Tobago said that his country thanked Cuba for its update and the United States for its status report under this Agenda item. Trinidad and Tobago recalled its previous statements made under this Agenda item and, once again, regretted that there had been no positive movement towards prompt compliance with the DSB's rulings and recommendations in this dispute. The prompt compliance with the DSB's recommendations and rulings required under Article 21.1 of the DSU was critical as it built confidence and predictability in the system and ensured the effective resolution of disputes for the benefit of all Members. As Trinidad and Tobago had stated at previous DSB meetings, non-compliance with the DSB's recommendations or rulings negatively affected both developed and developing countries alike. In that regard, Trinidad and Tobago supported the call for prompt compliance with the DSB's rulings and recommendations in this dispute.

1.12. The representative of Nicaragua said that his country thanked the United States for its status report. Nicaragua supported the statement made by Cuba and agreed with the statements made by previous speakers regarding the non-compliance in this dispute. Nicaragua, once again, urged the United States to adopt the measures necessary to comply with the DSB's rulings and recommendations.

1.13. The representative of Brazil said that his country thanked the United States for its status report concerning the surveillance of implementation in this long-standing dispute. Brazil regretted that the US status report did not contain any information on concrete progress achieved in this dispute. Brazil shared the concerns expressed by the EU, Cuba and other delegations regarding the lack of compliance in this dispute. Brazil urged the United States to take meaningful steps towards compliance. Such compliance would certainly strengthen the multilateral rules.

1.14. The representative of Argentina said that his country thanked the United States for its status report. Argentina regretted that the US status report did not contain any new information. As Argentina had previously stated many times, this lack of progress was inconsistent with the principle of prompt and effective implementation of the DSB's recommendations and rulings, in particular since the interests of a developing-country Member were concerned. Argentina supported Cuba and the EU and urged the United States to adopt the necessary measures to finally resolve this matter.

1.15. The representative of El Salvador said that her country thanked the United States for its status report and Cuba for its update in this dispute. El Salvador noted with concern the lack of compliance with the DSB's rulings in this dispute, which affected the interests of a country with a small and vulnerable economy. The non-compliance in this dispute also undermined the

multilateral trading system. El Salvador urged the parties to this dispute to resolve this long-standing dispute by promptly complying with the DSB's recommendations and rulings.

1.16. The representative of India said that his country noted the US status report. India shared the concern raised by previous speakers about the lack of progress in implementing the DSB's recommendations in this long-standing dispute. India recalled that, in 2002, the United States had informed the DSB of its intention to implement the DSB's recommendations and rulings in this dispute. In India's view, non-compliance affected the proper functioning of the dispute settlement system. 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 to the DSB.

1.17. The representative of Jamaica said that her country thanked Cuba and the United States for their statements, updates and the US 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. As in past DSB meetings, Jamaica joined previous speakers in expressing its concern about the continued US failure to implement the DSB's recommendations adopted on 2 February 2002 with respect to this dispute. The US's protracted failure to take the necessary steps to comply with its obligations under the DSU provisions was incompatible with the requirement for prompt and effective implementation of the DSB's decisions. This was of particular concern in cases such as this where the failure to meet an obligation had a negative impact on the economic interest of a developing-country Member. Jamaica reiterated its 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 believed that, after 13 years since the adoption of the DSB's recommendations in this dispute, it was more than reasonable for Members to expect that this matter would be resolved and removed from the DSB's Agenda.

1.18. The representative of Uruguay said that his country thanked the United States for its status report regarding the implementation of the DSB's rulings and recommendations in this dispute. Uruguay thanked Cuba for its statement made at the present meeting. Uruguay noted that 13 years had passed without any substantial progress in this dispute. Such non-compliance undermined the credibility of the dispute settlement system.

1.19. The representative of China said that his country thanked the United States for its status report and the statement made at the present meeting. The prolonged situation of non-compliance in this dispute was highly inconsistent with the principle of prompt compliance 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.

1.20. The representative of Angola said that his country thanked the United States for its status report regarding Section 211. Angola was concerned that, after 13 years, this matter had not been resolved and Cuba, a country with a vulnerable economy, continued to be adversely affected. In that regard, Angola called for an appropriate and equitable solution as soon as possible in order to arrive at a proper balance under the multilateral trading system. Angola reiterated its support for Cuba and encouraged the parties to this dispute to find a mutually agreed solution. Angola urged the United States to show its commitment to resolve this matter.

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

1.22. 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.147)**

1.23. The Chairman drew attention to document WT/DS184/15/Add.147, 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.

1.24. The representative of the United States said that his country had provided a status report in this dispute on 12 March 2015 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.

1.25. The representative of Japan said that his country thanked the United States for its statement and its status report submitted on 12 March 2015. Japan, once again, requested that this issue be resolved as soon as possible.

1.26. 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.122)**

1.27. The Chairman drew attention to document WT/DS160/24/Add.122, 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.

1.28. The representative of the United States said that his country had provided a status report in this dispute on 12 March 2015 in accordance with Article 21.6 of the DSU. The US Administration would continue to confer with the European Union and work closely with the US Congress, in order to reach a mutually satisfactory resolution of this matter.

1.29. 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 regarding its wish to resolve this dispute as soon as possible.

1.30. 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.85)**

1.31. The Chairman drew attention to document WT/DS291/37/Add.85, 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.

1.32. The representative of the European Union said that, in recent meetings, the EU had already reported on authorization decisions and other actions towards approval decisions taken up through February 2015. Four draft decisions for the renewal of the authorisation of GM food and feed had been voted in the Standing Committee on 16 March 2015<sup>1</sup>. The Committee had rendered no opinion. The European Commission would present these draft decisions to the Appeal Committee on 21 March or 7 April 2015. Two draft authorization decisions for non-food and non-feed uses had been voted in the Regulatory Committee on 16 March 2015<sup>2</sup>. The Committee had rendered no

<sup>1</sup> MON531 cotton, MON1445 cotton, MON531xMON1445 cotton, MON15985 cotton.

<sup>2</sup> Carnations IFD-25958-3 and IFD-26407-2 (cut flowers).

opinion. The European Commission would present these draft decisions to the Appeal Committee on 21 March or 7 April 2015. The products just referred to were identified in the written version of the EU's statement. As stated many times before, the EU recalled that the EU approval system was not covered by the DSB's recommendations and rulings.

1.33. 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. The EU measures affecting the approval of biotech products were seriously disrupting trade in agricultural products between the United States and the EU. As the United States had explained at recent DSB meetings, the EU had failed to approve a single new biotech product since November 2013. Thirteen product applications currently pending before the EU College of Commissioners were awaiting final, political approval. Each one of these products had received a positive safety evaluation from the EU's scientific authority. As the United States had also noted with concern, it appeared, based on public statements by high-level EU officials that the EU had decided to further delay approvals until the EU conducts another re-examination of its biotech approval measures. The United States urged the EU to end these unwarranted delays and approve the pending applications immediately.

1.34. 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.33)**

1.35. The Chairman drew attention to document WT/DS404/11/Add.33, 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 shrimp from Viet Nam.

1.36. The representative of the United States said that his country had provided a status report in this dispute on 12 March 2015, 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.

1.37. The representative of Viet Nam said that her country thanked the United States for its statement and status report. Viet Nam wished to comment and report on the extent to which the United States had implemented the Panel's findings and conclusions in the DS404 dispute related to anti-dumping measures imposed by the United States on imports of frozen shrimp from Viet Nam. The US anti-dumping measures against shrimp from Viet Nam had been in effect for over a decade. As was recently determined by the Panel in the DS429 dispute, the failure of the United States to "sunset" these measures in the first sunset review was inconsistent with US obligations under the Anti-Dumping Agreement. Similarly, the Panel in the DS429 dispute had determined that the failure of the United States to properly consider individual company requests for revocation of the measures based on the sustained absence of dumping was also contrary to US obligations. Finally, the Panel in the DS429 dispute had found that the US application of a so-called country-wide rate in excess of the weighted average of the dumping margins of the individually examined respondents in each review was "as such" WTO-inconsistent. The United States had not appealed any of these findings of the Panel in the DS429 dispute.

1.38. The results of the DS429 dispute were important in the context of the implementation, or lack thereof, by the United States in the DS404 dispute, as were the persistent delays by the United States in implementing other reports adopted by the DSB. In that regard, Viet Nam noted that the request for consultations in the DS404 dispute had been filed on 1 February 2010. Notwithstanding the DSB's adoption of the Appellate Body Report in the DS294 dispute that found the application of zeroing in periodic reviews to be "as such" WTO-inconsistent on 9 May 2006, the United States had not implemented this finding regarding zeroing in the DS294 dispute, as of the date of the request for consultations almost four years later and the date of adoption of the Panel Report in the DS404 dispute on 2 September 2011. However, by the expiration date of the reasonable period of time agreed to in the DS404 dispute, the United States had finally changed its practice consistent with the findings in the DS294 dispute and had applied those changes



prospectively to all reviews. Thus, while Viet Nam considered that the United States had implemented the findings of the Panel in the DS404 dispute related to zeroing, it noted that the United States had reintroduced zeroing in the 8th and 9th periodic reviews of the anti-dumping measures on shrimp from Viet Nam under the second sentence of Article 2.4.2 of the Anti-Dumping Agreement. This sentence provided an exception to the normal average-to-average or transaction-to-transaction comparisons when there was a pattern of prices which differed significantly among customers or regions or over a period of time.

1.39. The combination of the delay in US implementation of the DS294 dispute and the re-introduction of zeroing by the United States had resulted in Viet Nam being subject to the WTO-inconsistent zeroing methodology in all but one of its first nine periodic reviews of the shrimp anti-dumping measures. Korea and China were challenging this re-introduction of zeroing by the United States. Unfortunately, based on the US reluctance to timely implement reports adopted by the DSB, it was possible that others would also have to challenge the re-introduction of zeroing even though Viet Nam expected that the issue should be resolved in the ongoing Korean case. This was unfortunate because it served to consume the resources of the dispute settlement system with redundant claims that had already been resolved by the DSB. The other major issue for Viet Nam in the DS404 dispute was the application of the so-called country-wide rate to certain respondents, which had not been individually investigated in periodic reviews. Rather than apply the "all others" rate as required under Article 9.4 of the Anti-Dumping Agreement to all respondents not individually investigated, the United States applied a rate to companies not demonstrating independence from the Government in excess of the rate permitted by Article 9.4. The Panel had found this practice to be "as applied" inconsistent with US WTO obligations. The United States had not taken any steps to implement this Panel's finding either in the underlying periodic reviews or in subsequent reviews where identical factual circumstances had been involved. As a result, Viet Nam had decided to pursue this claim as an "as such" violation in the DS429 dispute. The Panel in the DS429 dispute had found the US "country-wide entity" practice to be "as such" WTO-inconsistent. Since the United States had not appealed this finding of the Panel, Viet Nam anticipated, perhaps naively, that the United States would discontinue its country-wide rate practice immediately after adoption of the Panel and Appellate Body Reports in the DS429 dispute. Viet Nam's focus was no longer on the implementation in the DS404 dispute but rather on the implementation in the DS429 dispute. Viet Nam expected the Panel and Appellate Body Reports to be placed for adoption at the next DSB meeting.

1.40. The representative of the Bolivarian Republic of Venezuela said that his country wished to reiterate its systemic concern about this matter and supported the statement made by Viet Nam. Venezuela stressed the importance of prompt compliance with the DSB's recommendations. Venezuela was carefully following developments in this dispute and hoped that necessary measures would be taken to finally end this dispute.

1.41. The representative of Cuba said that her country had listened closely to the statements made by the parties to this dispute, in particular the statement made by Viet Nam. Cuba noted that this was another case of non-compliance. Cuba regretted that Viet Nam, a developing-country Member, had invested resources and time without being able to reap the benefits of the dispute settlement system. Cuba urged the parties to this dispute, in particular the United States, to resolve this dispute.

1.42. The representative of the United States said that his country thanked Viet Nam for its statement. The United States appreciated Viet Nam's recognition that the United States had implemented certain elements of the DS404 dispute. With respect to Viet Nam's reference to the DS429 dispute, the United States noted that this was a different dispute from the one at issue under this Agenda item. However, the United States recalled that it had continually tried to engage Viet Nam in bilateral discussions to resolve their concerns with respect to the matters at issue in both the DS404 and the DS429 dispute. The United States also took note of Viet Nam's comments about the workload on the dispute settlement system. As Viet Nam was aware, the United States shared those concerns and had continually tried to engage with Viet Nam to resolve these matters by discussing them outside of the litigation context. The United States thought that this was a more productive avenue to resolve the matters between the parties to this dispute. The United States continued to encourage Viet Nam to make use of that avenue.

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



---

**F. European Communities – Measures prohibiting the importation and marketing of seal products: Status report by the European Union (WT/DS400/16 – WT/DS401/17)**

1.44. The Chairman drew attention to document WT/DS400/16 – WT/DS401/17, which contained the status report by the European Union on progress in the implementation of the DSB's recommendations in the case concerning the EU measures prohibiting the importation and marketing of seal products.

1.45. The representative of the European Union said that the EU was currently working on the implementation of the DSB's recommendations and rulings in this dispute and was making its best efforts to complete the implementation before the agreed reasonable period of time expired on 18 October 2015. First, the European Commission had submitted a proposal to the legislators, namely the Council and the Parliament, for amending those aspects of EC Regulation No. 1007/2009 on trade in seal products that had been found to be discriminatory. In particular it proposed to remove the exception for maritime resource management hunts and provide for certain modifications to the exception for Indigenous communities thereby addressing the specific criticisms expressed by the Appellate Body. The proposal was currently being discussed by the legislators. Once the amendment to the Regulation on trade in seal products was adopted, subsequent changes would be made to Commission regulation No. 737/2010. Second, the EU and Canada had established a cooperative framework in order to facilitate access of products derived from Canadian Inuit to the European market. The cooperation had proved to be constructive and would hopefully soon result in the setting up of the necessary attestation system for Canadian Inuit to start using the exception for Indigenous communities.

1.46. The representative of Canada said that her country thanked the EU for its status report regarding the implementation of the DSB's recommendations and rulings in this dispute. As the EU indicated, Canada was engaging with the EU to operationalize the indigenous exemption, with the objective of ensuring practical market access for Canadian aboriginal seal products. This engagement was based on the September 2014 "Canada – EU Joint Statement on Access to the European Union of Seal Products from Indigenous Communities of Canada". The Joint Statement set out a framework for cooperation to ensure that Canadian Indigenous communities were treated no less favourably than any other Indigenous communities seeking access for seal products in markets within the EU. Under the existing regulations, Canadian officials were working closely with the Nunavut Territorial Government, one of Canada's northern territories, on developing and finalizing a formal application to become a Recognised Body. The formal application would be submitted imminently and Canada hoped that Nunavut would achieve Recognised Body status in a timely manner. This would be the first application from Canada, but it only represented one region. Therefore, other applications could follow from other regions within Canada. Canada reiterated that its seal harvests were humane, sustainable and well-regulated activities that provided an important source of food and income for coastal and Inuit communities. With regard to the proposed amendments to the Basic Regulation mentioned by the EU, Canada would be following closely the discussion in the European Parliament and by the Council of the European Union. Canada expected that any amendment to the Basic Regulation would be implemented consistently with the DSB's rulings and recommendations and in a manner that did not adversely affect Inuit and other indigenous communities.

1.47. The representative of Norway said that his country thanked the EU for its status report. As previously stated, Norway was looking forward to the EU moving promptly to bring its measures into compliance with its WTO obligations. Norway had read with interest the proposal by the European Commission to the European Parliament and the Council of the European Union for an amendment of the Basic Seal Regulation. Moreover, Norway had noted the joint statement by the EU and Canada regarding the Canadian Inuit. Norway reiterated its position that its seal hunt was well-regulated, conducted in a humane manner and contributed to the sustainable management of Norway's living marine resources. Norway was disappointed that the EU had not taken this into account in its proposal for the amendment of the Basic Seal Regulation. Norway would continue to monitor the legislative process, including the discussions in the relevant EU institutions. Norway fully trusted that the EU would implement the DSB's recommendations and rulings within the agreed reasonable period of time.

1.48. 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 then invited the respective representatives to speak.

2.2. The representative of the European Union said that, once again, the EU requested the United States to stop transferring anti-dumping and countervailing duties to the US industry. Every disbursement still made 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 to submit status reports in this dispute.

2.3. The representative of Japan said that since the distributions under the CDSOA had been continuing, Japan, once again, urged the United States to stop the illegal distributions in order to resolve this long-standing dispute. As it had stated at previous DSB 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 Brazil said that his country, as one of the parties to these disputes, thanked the EU and Japan for keeping this item on the DSB's Agenda. Brazil was of the view that the United States was under obligation to discontinue any disbursements made pursuant to the Byrd Amendment. Brazil, once again, stressed that the fact that the current disbursements may be related to investigations initiated before the repeal of the Act in February 2006 did not mean that they were excluded from compliance obligations. On the contrary, considering that the DSB recognized the illegal nature of some of the aspects of the Byrd Amendment more than 10 years ago, and the repeal of the Act by the United States, made it even more egregious for the United States to continue disbursing substantial amounts to petitioners (after 1 October 2007) on the basis of a provision found to be inconsistent with the Anti-Dumping and Subsidies Agreements. Only by discontinuing the disbursements would the United States achieve compliance and be released from its obligation to submit status reports in this dispute.

2.5. The representative of India said that his country shared the concerns of the EU and Japan. The latest data available<sup>3</sup> in the CDSOA Annual Report of the US Customs and Border Protection for the fiscal year 2014 indicated that about US \$70 million were disbursed to the US domestic industry, which was WTO-inconsistent. India agreed with the EU and Japan that the Byrd Amendment should continue to remain subject to the DSB's surveillance until the United States ceased to administer it. India was of the view that this item should continue to remain on the DSB's Agenda until such time as full compliance was achieved in this dispute.

2.6. The representative of Canada said that her country referred to its previous statements made under this Agenda item at previous DSB meetings. Canada's position on this matter had not changed.

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, was 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. The United States recalled, furthermore, 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, nearly seven and a half 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 the 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, as these very WTO Members had demonstrated repeatedly when they were responding parties in a dispute, there was no

---

<sup>3</sup> <http://www.cbp.gov/sites/default/files/documents/FY2014%20Annual%20Report%20wHolds.pdf>

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 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 more than one and a half years after the end of its period of time for compliance. 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") by imposing a licensing requirement on them, while at the same time providing no procedures for foreign suppliers to obtain that license. Nearly five months had now passed since China's State Council had announced that China would open the EPS market to qualified suppliers, but China had yet to adopt any procedures under which foreign enterprises could apply for licenses. As a result, foreign suppliers remained barred from operating in China and China Union Pay remained the only EPS supplier that could operate in China's domestic market. To comply with China's WTO obligations, and despite China's assertions in previous DSB statements, China must adopt the regulations necessary for allowing foreign EPS suppliers to operate in China. The United States, therefore, continued to call on China to issue promptly the regulations needed to follow through on the announcement by the State Council.

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 under this Agenda item at previous DSB meetings. 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 reiterated that the regulation mentioned by the United States was not relevant to the implementation of the DSB's recommendations and rulings in this dispute. The DSB meeting was not an appropriate forum to discuss that regulation. China hoped that the United States would reconsider the systemic implications of its position.

3.4. 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 invited the representative of the Philippines to speak.

4.2. The representative of the Philippines said that while Thailand had repeatedly informed the DSB that it had done all it was required to do to secure full compliance with the DSB's recommendations and rulings, the outstanding compliance issues expressed by the Philippines at the DSB remained to be addressed. The Philippines wished to highlight two of these issues because their systemic impact on the DSB's rulings, and the Customs Valuation Agreement was of particular importance.

4.3. First, as was well known to the DSB, the Philippines was deeply concerned about the Thai Attorney General's decision to prosecute an importer of Philippine cigarettes for alleged under-declaration of customs value. The WTO Panel had ruled that Thailand had no legitimate grounds to reject the customs values that Thailand now considered as a basis for criminal liability.

In addition, Thai Customs' Board of Appeals (or "BoA") had explicitly accepted those customs values in a ruling heralded by Thailand itself as a measure taken to comply. Thailand's criminal prosecution directly undermines the implementation obligation under the DSB's recommendations and rulings. In systemic terms, there could not be no doubt that the disciplines of the Customs Valuation Agreement applied, whenever a WTO Member engaged in the customs valuation of goods, including, and indeed, most obviously so, in the enforcement of domestic customs provisions. That was precisely what Thailand was doing in the case of the criminal prosecution, having apparently determined, despite the views of the Panel and the BoA, that the customs value for the entries at issue was under-declared.

4.4. Second, the Philippines was also concerned about a separate Thai BoA ruling rejecting the transaction value for 210 entries from Indonesia that were covered by the rulings and recommendations in the original proceedings in this dispute. Thailand had submitted the BoA ruling as a declared measure taken to comply. However, as the Philippines had noted previously, the ruling was riddled with WTO inconsistencies, and set out a methodology that put Thailand on the wrong course regarding customs valuation of related party transactions. In addition, as explained at the previous DSB meeting, the position that Thai Customs had recently taken in pending domestic appeal proceedings concerning the BoA ruling was disturbing. Thai Customs had explicitly advised the Thai court that it did not need to follow the WTO ruling because it supposedly bound only the Philippines, as the party that had brought the dispute, and not Thailand. The Philippines reiterated its call on Thailand to rise to its role as a responsible and important WTO Member, and to prove that its commitment to full compliance was real. If that was not possible, the Philippines would reserve its right to revert to dispute settlement proceedings.

4.5. The representative of Thailand said that her country noted the Philippines' statement made at the present meeting. As stated previously in its status reports and at previous DSB meetings, Thailand had taken all actions necessary to implement the DSB's recommendations and rulings in this dispute. This was without prejudice to the Philippines' rights under the DSU provisions. With respect to the ongoing criminal matters, the outcome of the pending investigations should not be prejudged at this point. Thailand would take the necessary steps to ensure that all future actions would be consistent with its rights and obligations under the WTO law. Thailand reiterated that it had been - and remained - available to discuss the specific concerns of the Philippines bilaterally, including those not addressed by the DSB's recommendations and rulings.

4.6. The DSB took note of the statements.

## **5 EUROPEAN UNION – COUNTERVAILING MEASURES ON CERTAIN POLYETHYLENE TEREPHTHALATE FROM PAKISTAN**

### **A. Request for the establishment of a panel by Pakistan (WT/DS486/2)**

5.1. The Chairman recalled that the DSB had considered this matter at its meeting on 23 February 2015. He then drew attention to the communication from Pakistan contained in document WT/DS486/2, and invited the representative of Pakistan to speak.

5.2. The representative of Pakistan recalled that at the regular DSB meeting on 23 February 2015, his country had requested the establishment of a panel to examine the countervailing measures imposed by the EU on imports of certain polyethylene terephthalate, commonly called PET products, from Pakistan. At that meeting, the EU had opposed the establishment of a panel on the grounds that a discussion at the technical level should be first explored. On 9 March 2015, a bilateral meeting had taken place in Brussels and helped to clarify some technical aspects of the investigation. Regretfully, the EU had not provided any signals that would enable the parties to reach a mutually agreed solution to resolve the dispute. In light of the current circumstances and given the importance of the PET industry to Pakistan, his country requested, for the second time, that the DSB establish a panel to examine the countervailing measures imposed by the EU on imports of PET products from Pakistan.

5.3. The representative of the European Union said that the EU noted Pakistan's decision to request a panel regarding the EU's countervailing measures on imports of PET products from Pakistan, and with respect to certain aspects of the investigation underlying those measures. The EU had imposed the countervailing duties on the grounds that imports from Pakistan were

receiving trade distorting subsidies and had caused an injury to the European PET industry. The EU was convinced that its measures were in conformity with the WTO Agreements. Moreover, Pakistan and the EU had agreed to continue discussions on a technical level with regard to these measures and the EU believed that the panel request was premature. Therefore, the EU regretted that Pakistan had requested a panel for the second time, and stood ready to defend its measures during the panel's proceedings.

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 and the United States reserved their third-party rights to participate in the Panel's proceedings.

## **6 RUSSIA - TARIFF TREATMENT OF CERTAIN AGRICULTURAL AND MANUFACTURING PRODUCTS**

### **A. Request for the establishment of a panel by the European Union (WT/DS485/6)**

6.1. The Chairman recalled that the DSB had considered this matter at its meeting on 10 March 2015. He then drew attention to the communication from the European Union contained in document WT/DS485/6, and invited the representative of the European Union to speak.

6.2. The representative of the European Union said that the EU was requesting the establishment of a panel to examine the tariff treatment that Russia accorded to certain goods in both agricultural and manufacturing sectors, with standard terms of reference. As explained at the previous DSB meeting, the request followed the EU efforts to find a solution with Russia since it joined the WTO, including through formal WTO consultations that had been held in November 2014. Despite those efforts, the measures were still in place and continued to severely hamper trade. In addition to their negative economic impact, those measures also raised important systemic concerns. In fact, Russia subjected a number of goods to import duties that exceeded the bound levels recorded in its Schedule. This was inconsistent with the most basic WTO rule enshrined in Article II of the GATT 1994. Under those circumstances, the EU had no choice but to request the establishment of a panel to examine this matter.

6.3. The representative of the Russian Federation said that her country regretted that the EU had requested the establishment of a panel to examine this matter. As it had previously stated, Russia had participated in the consultations with the EU in good faith with the intention of finding a mutually satisfactory solution. Russia was convinced that this matter could be successfully resolved through further consultations. Russia was willing to continue to cooperate with the EU with no need to resorting to the panel proceedings. However, Russia was ready to take all the required actions under the DSU provisions.

6.4. 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.

6.5. The representatives of Brazil, Canada, Chile, China, Colombia, India, Japan, Korea, the Republic of Moldova, Norway, Ukraine and the United States reserved their third-party rights to participate in the Panel's proceedings.

## **7 UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN OIL COUNTRY TUBULAR GOODS FROM KOREA**

### **A. Request for the establishment of a panel by Korea (WT/DS488/5)**

7.1. The Chairman recalled that the DSB had considered this matter at its meeting on 10 March 2015. He drew attention to the communication from Korea contained in document WT/DS488/5, and invited the representative of Korea to speak.

7.2. The representative of Korea said that as his country had mentioned at the previous DSB meeting on 10 March 2015, Korea had grave concerns about the anti-dumping measures imposed by the United States on certain oil country tubular goods from Korea. As detailed in its request for



the establishment of a panel circulated on 26 February 2015, Korea believed that the measures were inconsistent with the US obligations under the Anti-Dumping Agreement and the GATT 1994. The US measures continued to nullify or impair benefits accruing to Korea under WTO Agreements. Therefore, Korea, once again, requested that the DSB establish a panel pursuant to Article 6 of the DSU, with standard terms of reference, in order to examine the matter described in Korea's panel request.

7.3. The representative of the United States said that, as his country had explained both to Korea and to the DSB, the US actions described in Korea's request were fully consistent with US obligations under the WTO Agreement. Accordingly, the United States regretted that Korea had chosen, for a second time, to request the establishment of a panel with regard to this matter. The United States was prepared to engage in these proceedings and to explain to the panel that Korea had no legal basis for its claims. Further, the US statement was without prejudice to whether each of the items cited in Korea's request constituted a measure for purposes of the DSU, and therefore was subject to examination by the panel.

7.4. 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.

7.5. The representatives of Canada, China, EU, India, the Russian Federation, and Turkey reserved their third-party rights to participate in the Panel's proceedings.

## **8 CHINA – MEASURES IMPOSING ANTI-DUMPING DUTIES ON HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES ("HP-SSST") FROM JAPAN**

### **A. Joint request by Japan and China for a decision by the DSB (WT/DS454/6)**

8.1. The Chairman drew attention to the joint communication from Japan and China contained in document WT/DS454/6 and invited the representatives of Japan and China to make statements.

8.2. The representative of Japan said that his country and China were jointly requesting that the DSB agree to provide additional time for the adoption or appeal of the Panel Report in this dispute by adopting the draft decision that had been circulated to Members in document WT/DS454/6. Japan appreciated China's cooperation to put forward the decision for the DSB's consideration at the present meeting. With due respect for Peru and Guatemala's approach for the Appellate Body's workload issues and related decision agreed upon by the DSB on 17 December 2014, Japan and China had reached a mutual understanding to jointly make this request. This decision would allow the DSB adoption of the Panel Report until 20 May 2015, unless the Report was appealed on that day. This proposed DSB decision reflected that the WTO dispute settlement system as a whole, including the Appellate Body, was currently facing a significant volume of disputes. Japan believed that this would help the Appellate Body manage its workload. Japan expected that other Members in similar circumstances would also take a similar approach with their disputes. Japan emphasized that, without Members' cooperation and self-restraint, those problems would not be solved and could even be exacerbated. Japan would appreciate the DSB's support for the draft decision.

8.3. The representative of China said that, taking into account the current workload of the Appellate Body, China joined Japan in requesting that the DSB agree to provide additional time for adoption or appeal of the Panel Report in this dispute by adopting the draft decision set forth in document WT/DS454/6. China considered that the draft DSB decision would provide greater flexibility in scheduling any possible appeal of the Panel Report in this dispute. China would appreciate the DSB's support for the draft decision.

8.4. The representative of the United States said that his country did not object to the joint DSB decision being proposed by Japan and China under this Agenda item or that being proposed by the EU and China under the next Agenda item. In fact, both proposed decisions appeared to be efforts by these Members, in consultation with the Appellate Body, to find practical solutions to Appellate Body workload issues in light of a fixed DSU time-period. The United States, therefore, encouraged all Members to support these proposed decisions as they had cooperated to support similar decisions in the past. At the same time, the United States said it would like to clarify that the only element of the circulated documents that the DSB was adopting at the present meeting was the section entitled "Draft Decision of the DSB", which included one sentence establishing that:

"the DSB agrees it shall, upon request of a party to the dispute, adopt the Panel Report in the respective dispute no later than 20 May 2015, unless: (i) the DSB decides by consensus not to do so or (ii) either party to the dispute notifies the DSB of its decision to appeal pursuant to Article 16.4 of the DSU". The United States did not consider the associated "Confirmed Procedures" circulated to Members in these documents to constitute part of either decision the DSB was adopting, and the United States did not consider that such procedures were required or desirable to be communicated together with a draft DSB decision. However, the United States supported the decision itself. Indeed, Members would recall that, in November 2014, the DSB had adopted a similar decision proposed by the United States and India with respect to the time-period for adoption or appeal of the Panel Report in the dispute: "India – Measures Concerning the Importation of Certain Agricultural Products from the United States" (DS430). The United States continued to believe that Members should cooperate among themselves and with the Appellate Body in order to sequence their appeals in a manner that respected Members' interests in having their disputes resolved expeditiously, as well as to time their appeals to assist the Appellate Body in managing its workload and ensure that the Appellate Body was able to meet the DSU deadline for its report to the maximum extent possible. Finally, the United States noted that the adoption of such a decision provided a good example of parties to a dispute finding a way to cooperate with other Members and the Appellate Body to come up with a practical solution that respected the text of the DSU when an explicit timeline included in that text was unable to be met. The United States continued to encourage Members and the Appellate Body to engage in similar efforts in other situations where this difficulty may arise, such as with respect to Article 17.5 of the DSU. This would help ensure that the credibility of the DSU was maintained, while also ensuring transparency and predictability for all WTO Members.

8.5. The DSB took note of the statements.

8.6. The Chairman proposed that: "The DSB agree that, upon a request by China or Japan, the DSB shall no later than 20 May 2015 adopt the Panel Report in the dispute: *China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from Japan* contained in document WT/DS454/R, unless: (i) the DSB decides by consensus not to do so or (ii) either party to the dispute notifies the DSB of its decision to appeal pursuant to Article 16.4 of the DSU."

8.7. The DSB so agreed.

## **9 CHINA – MEASURES IMPOSING ANTI-DUMPING DUTIES ON HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES ("HP-SSST") FROM THE EUROPEAN UNION**

### **A. Joint request by the European Union and China for a decision by the DSB (WT/DS460/6)**

9.1. The Chairman drew attention to the joint communication from the European Union and China contained in document WT/DS460/6 and invited the representative of the European Union to speak.

9.2. The representative of the European Union said that, taking into account the current workload of the Appellate Body, the EU and China wished to request that the DSB adopt the draft decision contained in document WT/DS460/6. The EU considered that the draft DSB decision, if adopted, would provide greater flexibility in scheduling any possible appeal of the Panel Report in this dispute. The Panel Report had been circulated to Members on 13 February 2015.

9.3. The representative of China said that, as discussed under the previous Agenda item, taking into account the current workload of the Appellate Body, China joined the EU in requesting that the DSB agree to provide additional time for adoption or appeal of the Panel Report in this dispute by adopting the draft decision set forth in document WT/DS460/6. China considered that the draft DSB decision would provide greater flexibility in scheduling any possible appeal of the Panel Report in this dispute. China would appreciate the DSB's support for the draft decision.

9.4. The DSB took note of the statements.



9.5. The Chairman proposed that: "The DSB agree that, upon a request by the European Union or China, the DSB shall no later than 20 May 2015 adopt the Panel Report in the dispute: *China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from the European Union* contained in document WT/DS460/R, unless (i) the DSB decides by consensus not to do so or (ii) either party to the dispute notifies the DSB of its decision to appeal pursuant to Article 16.4 of the DSU."

9.6. The DSB so agreed.

## **10 PROPOSED NOMINATION FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS (WT/DSB/W/543)**

10.1. The Chairman drew attention to document WT/DSB/W/543, which contained one new name proposed by the Dominican Republic 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/543.

10.2. The DSB so agreed.

## **11 STATEMENT BY THE CHAIRMAN REGARDING A COMMUNICATION FROM THE APPELLATE BODY CONCERNING GUIDELINES FOR WTO MEMBERS IN CONNECTION WITH THE SUBMISSION OF EXECUTIVE SUMMARIES OF WRITTEN SUBMISSIONS IN APPELLATE PROCEEDINGS**

11.1. The Chairman, speaking under "Other Business", drew Members' attention to a communication from the Appellate Body entitled: "Executive Summaries of Written Submissions in Appellate Proceedings", which had recently been circulated in document WT/AB/23. He said that this document explained certain modifications and set out guidelines for WTO Members in connection with the submission of executive summaries of written submissions in appellate proceedings. These executive summaries would be annexed to the Appellate Body Reports and would replace the section of the reports currently summarizing participants' and third-participants' arguments. It was the Chairman's understanding that the Appellate Body intended to follow this new approach on a trial basis, as from the next appeal. Subsequently, based on its experience, the Appellate Body would consider whether it would be useful to incorporate some or all aspects of these guidelines into the Working Procedures for Appellate Review. If so, the Appellate Body would consult with the DSB Chairman and the Director-General, as required by Article 17.9 of the DSU and Rule 32 of the Working Procedures for Appellate Review. The Chairman recalled that, as Members were aware, the DSB had adopted procedures for consultations between the DSB Chairman and WTO Members in relation to amendments to the Working Procedures for Appellate Review set out in document WT/DSB/31.

11.2. The DSB took note of the statement.

## **12 STATEMENT BY THE CHAIRMAN REGARDING THE WORKLOAD BEFORE THE APPELLATE BODY AND THE DELAYS AT THE PANEL STAGE**

12.1. The Chairman, speaking under "Other Business", said that recently he had made himself available to meet with several delegations, at their request, in order to hear their views regarding the impact on the system of the current workload before the Appellate Body and the delays experienced in panel proceedings. Those delegations had expressed concerns about long delays in initiating the processes after composition at the panel stage as well as the difficulties encountered in scheduling appeals. Members recognized that these problems were due to the large volume of disputes currently in the system, as well as the increased complexity and size of disputes coming forward. Some of those delegations had also raised concerns about the difficulties for the Appellate Body in meeting the 90-day period for issuance of their reports, as set out in Article 17.5 of the DSU, due to the number, size and complexity of appeals, as explained in the Appellate Body Workload Paper contained in document Job/AB/1. He was also informed that a group of delegations had been working together in order to find a common solution to these matters. However, a common approach among delegations in the group had yet to be found. These were important matters and he wished to be of assistance should Members find it useful. These matters

were, of course, in the hands of Members, but his door was open should Members wish to contact him on this matter.

12.2. The DSB took note of the statement.

---