WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/M/183
7 March 2005

(05-0966)

Dispute Settlement Body
17 February 2005

MINUTES OF MEETING

Held in the Centre William Rappard
on 17 February 2005

Chairperson: Ms Amina Mohamed (Kenya)

Subjects discussed: Page

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.28)

(b) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.28)

(c) United States – Continued Dumping and Subsidy Offset Act of 2000: Status report by the United States (WT/DS217/16/Add.13 – WT/DS234/24/Add.13)

(d) United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.3)

(e) Mexico – Measures affecting telecommunications services: Status report by Mexico (WT/DS204/9/Add.2)

1. The Chairperson 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". She proposed that the five sub-items to which she 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.28)

2. The Chairperson drew attention to document WT/DS176/11/Add.28, 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.

3. The representative of the United States said that his country had provided a status report in this dispute on 4 February 2005, in accordance with Article 21.6 of the DSU. As noted in the report, the last US Congress had been considering a number of legislative proposals to amend or repeal Section 211 and the Senate had held hearings on those proposals in July 2004. Similar legislative proposals had been introduced in the current Congress, which had convened in January 2005. The US administration was working with this US Congress with respect to appropriate statutory measures to resolve this matter.

4. The representative of the European Communities said that three years had now passed since the condemnation of the US legislation and the EC was still waiting for the United States to bring a satisfactory solution to this dispute. Furthermore, the agreement between the EC and the United States to extend the time-period for implementation by six months had been reached two months ago and yet, the United States could not report on any progress. The US inaction was in sharp contrast with its determination to promote efficient and non-discriminatory protection of intellectual property rights worldwide. The EC had shown extreme patience in this case and expected that the United States would make use of the additional time-period for implementation to finally end this dispute.

5. The representative of Cuba said that her country, once again, regretted the lack of progress made, thus far, by the United States in implementing the DSB's recommendations and rulings in respect of Section 211 of the Omnibus Appropriations Act of 1998. Since the DSB had concluded that the United States must comply with the rulings and findings, the United States had requested, and had been granted, further extensions of the deadlines set for bringing its legislation into conformity with the WTO rules, giving the excuses which had been, and continued to be, both unconvincing and

inconsistent. It should be pointed out that the adoption of Section 211 had led deliberately to an extension of the blockade and the aggressive policies targeting Cuba in the area of intellectual property, causing ownership of the mark "Havana Club" in the United States to be withdrawn from the Havana Club Holding, its legitimate owner. At the present meeting and as had been expected, the US status report reiterated that the US administration was still working with the US Congress with a view to complying with the DSB's recommendations, when in reality no results had been obtained in the three years since the decision had been adopted. Cuba condemned the extraordinary indifference and laughable readiness of the United States to settle this dispute. Cuba wished to draw attention to the concept of a reasonable period of time and observed that the four extensions granted to the United States by the EC to comply with the decisions meant that the initial reasonable period of six months had been increased to three years as of 2 February 2005. Cuba wondered how long the DSB was willing to accept further extensions of this kind. Her delegation asked whether promptness in implementing DSB rulings was not one of the objectives of the dispute settlement process, especially when the appropriate balance between rights and obligations was affected. Moreover, the systematic failure of the United States to comply with the DSB's rulings cast doubt not only on that country's true political will to move forward in the negotiations and honour its WTO commitments, but also on the credibility of the WTO. Furthermore, Cuba was aware that on 9 February 2005, a group of 20 Republican and Democrat senators had introduced a bill in the US Senate which had proposed, among other things, the repeal of Section 211. Cuba maintained its view that Section 211 should be repealed and hoped that the US Congress would approve that bill.

6. 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.28)

7. The Chairperson drew attention to document WT/DS184/15/Add.28, 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.

8. The representative of the United States said that his country had provided a status report in this dispute on 4 February 2005, in accordance with Article 21.6 of the DSU. As of 23 November 2002, the US authorities had addressed most of the recommendations and rulings of the DSB in this dispute. The US administration would work with the new Congress to address the remainder of these recommendations and rulings.

9. The representative of Japan said that, as his delegation had pointed out at the DSB meeting on 25 January 2005, the re-extended deadline for the United States to implement the recommendations and rulings of the DSB in this proceeding would expire on 31 July 2005. Japan wished to maintain its trust in the pledges the United States was making towards its full implementation, but it was greatly disillusioned by the fact that little progress had been made thus far, and that no single bill had yet been introduced to the US Congress to address this matter. Japan sincerely hoped that the fully-fledged implementation of the DSB's recommendations and rulings would take effect at the earliest opportunity during the remaining 164 days. The credibility of the dispute settlement system and of the WTO relied upon each Member's compliance with the DSB's recommendations and rulings and prompt implementation thereof. If the United States fell short of implementation by the end of July, Japan would be entitled to the recourse provided for under the DSU provisions in order to safeguard its rights and interest.

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

(c) United States – Continued Dumping and Subsidy Offset Act of 2000: Status report by the United States (WT/DS217/16/Add.13 – WT/DS234/24/Add.13)

11. The Chairperson drew attention to document WT/DS217/16/Add.13 – WT/DS234/24/Add.13, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning the US Continued Dumping and Subsidy Offset Act of 2000.

12. The representative of the United States said that his country had provided a status report on 4 February 2005, in accordance with Article 21.6 of the DSU. As noted in the report, legislation to bring the Continued Dumping and Subsidy Offset Act into conformity with US WTO obligations had been introduced in the last Congress. In addition, on 7 February 2005, after the United States had submitted its status report, the US administration had proposed repeal of the CDSOA in its budget proposal for fiscal year 2006. The US administration would work with the new Congress to enact legislation, and would continue to confer with the complaining parties in these disputes, in order to reach mutually satisfactory resolutions of these matters.

13. The representative of the European Communities said that the EC welcomed the fact that the US President's budget called for a repeal of the Continued Dumping and Subsidy Offset Act. However, the same proposal had been made in 2004 as well as in 2003, but there had been absolutely no action in the US Congress. The failure of the United States had directly resulted in increasing impairments caused to other WTO Members. The total amount distributed thus far was more than US$1 billion and the President's budget forecasted that the distribution to start on 1 October 2005 would amount to US$1,6 billion. Another round of illegal disbursements under the Byrd Amendment would be unacceptable. The EC expected the US administration to work actively with Congressional leaders in order to ensure rapid compliance with the US obligations under the WTO. In the absence of such immediate action, the EC would have no other option than to exercise its retaliation rights.

14. The representative of Japan said that it was regrettable that his country had to repeat its call for the United States to comply with the WTO rulings in this proceeding by way of repealing the WTO-inconsistent CDSOA. It had been reported that in February 2005 the US administration had proposed, for the third time, repealing the CDSOA in its annual budget recommendations to the US Congress. On the other hand, congressional proponents of the CDSOA had continued their blunt refusal to implement the DSB's recommendations and rulings and had adhered to the idea that a WTO Member should be able to use its levied anti-dumping or countervailing duty money to subsidize domestic industry. Japan was greatly concerned about such an outright disregard of the WTO obligation by a major trading Member. Japan strongly urged the US administration to prompt the US Congress to repeal the CDSOA by taking the necessary legislative actions before it needed to exercise its retaliatory rights.

15. The representative of Canada said that his country, once again, noted the status report of the United States and its continued failure to comply with its WTO obligations in regards to the Byrd Amendment. He recalled that Canada had conducted an extensive public consultation process with Canadians on its retaliatory options. Canada was assessing comments received from Canadians on its retaliatory options. The US status report indicated that "the US Administration will work with the current Congress ... to enact legislation". Canada would like to know what concrete steps were being taken by the US administration for the repeal of the Byrd Amendment. It had now been two years since the DSB had adopted the Appellate Body's decision, finding the Byrd Amendment to be inconsistent with US trade obligations. Canada's position was clear; the path to avoiding retaliation was to repeal the Byrd Amendment. Clearly, the specter of retaliation would be removed once the United States brought itself into compliance and repealed the Byrd Amendment. Canada again called upon the United States to end this dispute and to repeal the Byrd Amendment.

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

(d) United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.3)

17. The Chairperson drew attention to document WT/DS160/24/Add.3, 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.

18. The representative of the United States said that his country had provided a status report in this dispute on 4 February 2005, in accordance with Article 21.6 of the DSU. As noted in the report, the US administration had been consulting on this matter with the US Congress. The US administration would continue to work with the Congress and confer with the EC in order to reach a mutually satisfactory resolution of this matter.

19. The representative of the European Communities said that the status report submitted by the United States was identical in all respects to the previous one, except that the reference to the US Congress convening in January 2005 had been dropped – quite logically – in the February status report. That was the only change that the EC had been able to identify in the US status report, which was once again a collection of uninformative and repetitive statements. The EC was extremely disappointed with the lack of any initiatives by the US administration or by the US Congress to bring the US Copyright Act into compliance with the TRIPS Agreement. The systemic implications of this situation had gone well beyond this case. Also, the United States seemed ready to lose, step by step, all the credit that it had as a sponsor of intellectual property protection around the globe. Indeed, if a Member was not able to comply with the rules on intellectual property, more than four years after the adoption of a WTO ruling, how could such a Member ask others to respect those rules. In order to break the current impasse, the EC would invite the United States to explain in concrete terms what was the substance of the consultations that the US administration stated to be conducting with the US Congress. Similarly, the EC wished to make clear that, contrary to what was indicated in the US status report, the US administration was not conferring with the EC in order to reach a mutually satisfactory resolution of this matter. The EC regretted very much this situation because it was more than willing to handle this as well as all other disputes in a co-operative manner. The EC hoped that the United States was ready to follow the same constructive approach. Finally, the EC wished to recall that it had reserved its right to reactivate, at any point in time, the arbitration proceedings pursuant to its retaliation request.

20. The representative of the United States said that his delegation wished to respond to the EC's comments made both under this agenda item as well as the previous one. The EC's comments on the US intellectual property rights record were thoroughly unfounded. The United Sates was second to none in providing strong protection for intellectual property rights. The United States wondered if the EC would consider that a Member's discriminatory denial of intellectual property protection for GIs would mean that a Member was losing credibility as a protector of intellectual property rights. At the same time, the United States also wished to take this opportunity to comment on a number of Members' suggestions that the US compliance record was poor and made a couple of points. The United States had been involved in quite a large number of disputes and its compliance record overall was quite good. No WTO Member had been asked to undertake the changes to its tax system, which the United States had been called on to make as a result of the FSC/ETI dispute. Yet, in 2004, the US Congress had repealed the ETI, as well as the 1916 Anti-Dumping Act. The United States had indicated that it would comply in other disputes and it would do so. Indeed, as noted previously, the United States had already taken most steps necessary to comply in the "US – Hot-Rolled Steel Products" dispute.

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

(e) Mexico – Measures affecting telecommunications services: Status report by Mexico (WT/DS204/9/Add.2)

22. The Chairperson drew attention to document WT/DS204/9/Add.2, which contained the status report by Mexico on progress in the implementation of the DSB's recommendations in the case concerning Mexico's measures affecting telecommunications services.

23. The representative of Mexico said that on 4 February 2005, pursuant to Article 21.6 of the DSU, his country had submitted its most recent status report regarding implementation in the case: "Mexico – Measures Affecting Telecommunications Services" (WT/DS204). In that status report, Mexico had provided information concerning the notification of an agreement on implementation reached by Mexico and the United States. Pursuant to that agreement, Mexico had a reasonable period of time for implementation of 13 months, which would expire in July 2005. Mexico had complied with the first phase of that agreement, which had been notified accordingly. Furthermore, Mexico was drafting regulations for the establishment of commercial agencies. Once these were developed, Mexico would fully comply with the DSB's recommendations and rulings.

24. The representative of the United States said that his country wished to thank Mexico for its status report. The United States was looking forward to planned consultations with Mexico on the development of regulations allowing the resale of international telecommunication services, as Mexico worked to complete its implementation of the DSB's recommendations.

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

2. United States – Continued suspension of obligations in the EC - Hormones dispute

(a) Request for the establishment of a panel by the European Communities (WT/DS320/6)

26. The Chairperson recalled that the DSB had considered this matter at its meeting on 25 January 2005 and had agreed to revert to it. She then drew attention to the communication from the European Communities contained in document WT/DS320/6, and invited the representative of the European Communities to speak.

27. The representative of the European Communities recalled that at the 25 January DSB meeting, the United States had stated that it was in the course of reviewing the relevant studies and documents, but thus far had failed to see how the revised EC's measures could be considered to implement the DSB's recommendations and rulings. The EC wished to know how much time the United States thought it still needed in order to arrive at a conclusion on this – after more than a year since the adoption of the new EC - Hormones Directive. He recalled that the United States had received from the EC all relevant information at the time. Thus, already for a long time, the United States had been in possession of all the information it needed. The EC would nevertheless give a reply to the US request under Article 5.8 of the SPS Agreement, in due course, but failed to see how that could effect a conclusion on this matter. Because the United States continued to be unwilling to act in accordance with its obligations under the DSU, the EC again requested the establishment of a panel and was glad that the DSB would establish a panel at the present meeting.

28. The representative of the United States said that his country regretted that the EC had chosen to proceed with its panel request. It was particularly regrettable that the EC was doing so at the present meeting. Among other things, the United States had still not received a response to the request by the United States, dated 13 December 2004, made under Article 5.8 of the SPS Agreement, for an explanation of the reasons for the restrictions contained in the EC's new measure. The United States would have hoped that the EC would have been willing to provide the scientific evidence and explanation sought by the United States in that request prior to seeking a panel. The United States did

not wish to repeat at the present meeting all the points that it had made at the 25 January DSB meeting. The United States believed that the EC's claims lacked merit and was confident that a panel would so agree.

29. 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.

30. The representatives of Australia, Canada, China, Mexico and Chinese Taipei reserved their third-party rights to participate in the Panel's proceedings.

3. Canada – Continued suspension of obligations in the EC - Hormones dispute

(a) Request for the establishment of a panel by the European Communities (WT/DS321/6)

31. The Chairperson recalled that the DSB had considered this matter at its meeting on 25 January 2005 and had agreed to revert to it. She then drew attention to the communication from the European Communities contained in document WT/DS321/6, and invited the representative of the European Communities to speak.

32. The representative of the European Communities said that the statement made by his delegation under the previous agenda item in the context of the EC's dispute with the United States applied to Canada as well, therefore, he did not wish to repeat that statement. Since Canada continued to be unwilling to act in accordance with its obligations under the DSU, the EC again requested the establishment of a panel and was glad that the DSB would establish a panel at the present meeting.

33. The representative of Canada said that his country wished, once again, to express its disappointment with the manner in which the EC had approached this issue. The EC knew well that Canada's measures had been taken pursuant to an authorization from the DSB to suspend concessions. That authorization had been granted as a result of the EC's failure to bring itself into compliance within a reasonable period of time in the EC - Hormones dispute. That authorization remained in effect. The EC stated that it now "considers itself" to have complied with the DSB's rulings and recommendations. Yet there had been no multilateral confirmation of this compliance, nor had the EC attempted to seek such confirmation. Rather, the EC would have Members believe that its unilateral determination and declaration of compliance overrode and annulled Canada's multilateral authorization. This position was legally untenable. Canada, therefore, awaited with interest the case the EC would have to make in this dispute for how its import prohibition – which the DSB had ruled to be inconsistent in 1998 and which remained in place until now – could be compliant with the EC's obligations under the WTO.

34. 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.

35. The representatives of Australia, China, Mexico, Chinese Taipei and the United States reserved their third-party rights to participate in the Panel's proceedings.

4. United States – Tax treatment for "Foreign Sales Corporations"

(a) Second recourse to Article 21.5 of the DSU by the European Communities: Request for the establishment of a panel (WT/DS108/29)

36. The Chairperson recalled that the DSB had considered this matter at its meeting on 25 January 2005 and had agreed to revert to it. She then drew attention to the communication from the European Communities contained in document WT/DS108/29, and invited the representative of the European Communities to speak.

37. The representative of the European Communities said that, as his delegation had already stated previously, the repeal of the FSC/ETI represented a welcome step towards solving this long-standing dispute. In recognition of this fact the EC had accordingly stated that it would suspend its countermeasures on US products. This was now the case. In particular, on 31 January 2005, the EC Council of Ministers had adopted a measure (Regulation 171/2005) which provided for the suspension of the application of additional duties on all US products; moreover, such suspension was retroactive as from 1 January 2005. This suspension was, of course, without prejudice to the EC's rights under Article 22 of the DSU. He wished to underline that the suspension of the countermeasures did not only reflect the wish of the EC to respond positively to the US action, but perhaps more importantly to demonstrate the conviction of the EC that a WTO Member should not unilaterally pass judgment upon implementation actions of another WTO Member and, as a consequence, unjustifiably maintained sanctions, but should rather pursue its complaints under the appropriate DSU procedures; i.e. in the form of an Article 21.5 panel. This was precisely what the EC was requesting at the present meeting, namely, that the DSB establish a panel under Article 21.5 of the DSU to determine the WTO-compatibility of the US measures. The EC stressed that its request to establish a panel was without prejudice to its continuous readiness to explore with the United States alternative ways to put an end to this long-standing dispute.

38. The representative of the United States said that, as his delegation had noted at the 25 January 2005 DSB meeting, as a result of the US American Jobs Creation Act of 2004, the ETI tax benefits had been repealed. What remained – and what the EC was challenging – were transition rules. Many times the United States had asked the EC to identify any particular commercial problem caused by these transition rules. The EC had never identified any. Therefore, the United States continued to be profoundly disappointed by the EC's decision to prolong this dispute by requesting the establishment of yet another panel.

39. The DSB took note of the statements and agreed, pursuant to Article 21.5 of the DSU, to refer to the original Panel, if possible, the matter raised by the European Communities in document WT/DS108/29. The Panel would have standard terms of reference.

40. The representatives of Australia and China reserved their third-party rights to participate in the Panel's proceedings.

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

(a) Request for the establishment of a panel by Japan (WT/DS322/8)

41. The Chairperson drew attention to the communication from Japan contained in document WT/DS322/8 and invited the representative of Japan to speak.

42. The representative of Japan said that his country was requesting the establishment of a panel in this dispute. The issues that Japan had raised in this dispute were the inconsistencies of the US zeroing methodology used for calculating dumping margins, and the incorporation of the result of a calculation using zeroing in the US anti-dumping procedures, with the WTO Agreements, both "as such" and "as applied," and were described in detail in Japan's request. Zeroing artificially and unfairly inflated the overall margin of dumping. As confirmed by the Appellate Body in the "US – CRS Sunset Review" case (DS244), it distorted not only the magnitude of a dumping margin, but also the finding of the very existence of dumping. The Panel and the Appellate Body had consistently held through cases such as "EC – Bed Linen" (DS141) and "US – Softwood Lumber from Canada" (DS264) that such zeroing procedures were inconsistent with Articles 2.4 and 2.4.2 of the Anti-Dumping Agreement. As a corollary of the inherent unfairness of zeroing, any procedure in an anti-dumping procedure consequent upon the results of a calculation of a dumping margin, which used zeroing, were also inconsistent with the WTO Agreements. Japan considered that the US laws, regulations, and administrative procedures, or any adoptions or applications thereof, which set out the

use of or otherwise incorporated zeroing were inconsistent with the Anti-Dumping Agreement, the GATT 1994 and the Marrakesh Agreement. As manifested by the specific cases set out in Japan's panel request, the use of zeroing had led to the collection of anti-dumping duty where none should have been collected, and the Japanese companies had suffered serious losses as a result. Japan had held consultations with the United States on 20 December 2004 to resolve these issues. However, these consultations had not led to a mutually agreeable solution to this dispute. Accordingly, Japan requested the establishment of a panel to examine the WTO compatibility of the US measures in this dispute as set out in Japan's panel request, with standard terms of reference.

43. The representative of the United States said that his country was disappointed that Japan had requested a panel on this matter. Japan's request was broad, but without merit. The United States intended to vigorously defend the measures at issue. In that regard, the United States noted that not all of the materials identified by Japan in its panel request were "measures," including, for example, the Statement of Administrative Action. In light of these considerations, the United States was not in a position to accept the establishment of a panel at the present meeting.

44. The representative of the European Communities recalled that in August 2004, the DSB had adopted the Panel and the Appellate Body Reports in the "US - Softwood Lumber" dispute, which had found that the US calculation methodology of the dumping margin, including the practice of zeroing was in breach of the Anti-Dumping Agreement. In similar circumstances, following the findings in the "Bed Linen" dispute, the EC had decided to avoid unnecessary litigation and had gone beyond what implementation strictly required. The EC had ceased to apply this practice in conformity with the WTO rules. The United States had instead chosen to ignore the wider implications of the DSB's ruling. Although the latter only pertained to the measure against softwood lumber, it was clear, that the US practice of zeroing was fundamentally WTO-inconsistent. And the EC was extremely worried by the US preliminary finding of 31 January 2005 purporting to implement the softwood lumber ruling. The United States had explicitly continued the practice of zeroing and had increased the duty rate for the exporters concerned. It seemed that the United States was trying everything to keep its practice as long as possible. The US attitude forced other Members to multiply the dispute settlement cases. At the present meeting, Japan was requesting the establishment of a panel, *inter alia*, on this issue. The EC had an ongoing dispute on zeroing that covered both US law and 31 measures. Zeroing was one of the claims raised by Mexico in two ongoing disputes against the United States. Recently, over one month, the use of zeroing by the United States had led Thailand and Mexico to request WTO consultations. Instead of wasting the time and resources of the WTO and its Members by trying to defend further cases, the United States should do what the EC had done and abolish the practice of zeroing as soon as possible.

45. The representative of the United States said that with respect to the EC's suggestion that the United States should follow the EC's approach to implementing DSB rulings on so-called zeroing, his delegation had a question about the suggestion: Would the EC care to explain its approach, that is, how the EC had been implementing dumping comparisons in investigations? On the issue of zeroing more broadly, the United States understood that the EC did not believe that zeroing was prohibited in administrative reviews.

46. The DSB took note of the statements and agreed to revert to this matter.

6. Japan – Import quotas on dried laver and seasoned laver

(a) Request for the establishment of a panel by Korea (WT/DS323/2)

47. The Chairperson drew attention to the communication from Korea contained in document WT/DS323/2 and invited the representative of Korea to speak.

48. The representative of Korea said that Japan had been maintaining extremely restrictive import quotas on dried laver and seasoned laver for more than 50 years. Korea believed these quotas were patently inconsistent with Japan's obligations under the WTO, in particular Article XI of the GATT 1994. Following its request for consultations on 1 December 2004, Korea had discussed this matter with Japan on 23 December 2004 and 21 January 2005. As these consultations had failed to result in a mutually satisfactory solution, Korea requested the DSB to establish a panel with standard terms of reference.

49. The representative of Japan said that his country regretted that Korea had decided to proceed with the request for the establishment of a panel on this matter. Japan considered that its import quota system on dried and seasoned laver, which Korea challenged in this dispute was fully consistent with the relevant provisions of the WTO Agreement. In its request for consultation, dated 1 December 2004, Korea claimed that Japan's import quotas on dried and seasoned laver were inconsistent with several provisions of the WTO Agreements. Contrary to Korea's view, these import quotas had been duly notified to the WTO, maintained and administered in accordance with the relevant disciplines under the WTO Agreement. Japan sincerely responded to Korea's request for consultation and the two Members had held such consultations on 23 December 2004 and 21 January 2005. It was disappointing that these consultations had not led to a resolution of the dispute. Japan firmly believed that its import quota system on dried and seasoned laver was WTO-consistent. Japan could not agree with Korea's view in this regard and, therefore, was not in a position to accept the establishment of a panel.

50. The DSB took note of the statements and agreed to revert to this matter.

7. Election of Chairperson

51. The outgoing Chairperson recalled that at its meeting on 15 February 2005, the General Council had taken note of the consensus on a slate of names for Chairpersons to a number of WTO bodies, including the DSB. On the basis of the understanding reached by the General Council, she proposed that the DSB elect, by acclamation, Ambassador Eirik Glenne (Norway) as Chairperson of the DSB.

52. DSB so agreed.

53. The outgoing Chairperson said that, before handing over the chairmanship to Ambassador Eirik Glenne, she wished to express her heartfelt gratitude to all Members for their enormous support and professionalism during her term as Chairperson of the DSB. Together, it had always been possible to find pragmatic solutions to problems which had arisen, thus enabling the DSB to fulfil its important role in the multilateral trading system. The DSB was quite a unique body and not only because of the frequency of meetings, but also because of the manner in which these meetings had been conducted. It had always been business-like with delegations working mostly in a very constructive spirit. She said that she had acquired a great amount of knowledge about the dispute settlement system and believed that the experience she had acquired would no doubt be extremely helpful in her new role as the Chairperson of the General Council. She hoped to be able to continue to count on Members' support in the coming months. She thanked the Directors of the Council & TNC Division, the Legal Affairs Division and the Appellate Body as well as their staff for support and advice over the past 11 months. Without that support it would have been difficult for her to discharge her duties as Chairperson of the DSB. Their sense of duty and professionalism were truly remarkable. Finally, she thanked the interpreters for their patience and hard work, which had contributed to the success in the DSB. She assured the incoming Chairperson that he would find chairing this important body a delightful and rewarding experience.

54. The incoming Chairperson thanked Members for electing him as Chairperson of the DSB. Members showed confidence in him and he hoped that he would be able to live up to their

expectations. One thing that he wished to promise was that he would do his very best to uphold the high esteem of the DSB. He thanked the outgoing Chairperson for the very good job that she had done for the WTO. She was now going on to even higher responsibilities and he promised to support her and wished her good luck.

55. The DSB took note of the statements.