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**Dispute Settlement Body
31 August 2017**

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD
ON 31 AUGUST 2017

Chairman: Mr. Junichi Ihara (Japan)

Prior to the adoption of the Agenda, the item concerning the adoption of the Panel Report in the dispute: "European Union – Countervailing Measures on Certain Polyethylene Terephthalate from Pakistan" (DS486), was removed from the proposed Agenda following the decision by the European Union to appeal the Panel Report.

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A. Statement by Canada15

1 SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

A. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.175)

B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.150)

C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.113)

D. European Union – Anti-dumping measures on biodiesel from Argentina: Status report by the European Union (WT/DS473/17/Add.2)

E. Canada – Anti-dumping measures on imports of certain carbon steel welded pipe from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu: Status report by Canada (WT/DS482/7)

1.1. The Chairman noted that there were five sub-items under this Agenda item concerning status reports submitted by delegations pursuant to Article 21.6 of the DSU. He recalled that Article 21.6 required that: "Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the Agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time and shall remain on the DSB's Agenda until the issue is resolved". Under this Agenda item, the Chairman 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 also 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". He then turned to the first status report under this Agenda item.

A. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.175)

1.2. The Chairman drew attention to document WT/DS184/15/Add.175, 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.

1.3. The representative of the United States said that the United States had provided a status report in this dispute on 18 August 2017, 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.

1.4. The representative of Japan said that his country thanked the United States for its statement and status report. Japan called on the United States to fully implement the DSB's recommendations and rulings in order to resolve this matter.

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

B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.150)

1.6. The Chairman drew attention to document WT/DS160/24/Add.150, 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.

1.7. The representative of the United States said that the United States had provided a status report in this dispute on 18 August 2017, in accordance with Article 21.6 of the DSU. The US Administration would continue to confer with the EU, and to work closely with the US Congress, in order to reach a mutually satisfactory resolution of this matter.

1.8. The representative of the European Union said that his delegation thanked the United States for its status report and its statement. The EU referred to its previous statements on this matter and reiterated that it wished to resolve this dispute as soon as possible.

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

C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.113)

1.10. The Chairman drew attention to document WT/DS291/37/Add.113, 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.

1.11. The representative of the European Union said that his delegation referred to its statement at the previous DSB meeting. In July 2017, the draft authorisations for two types of genetically modified soybean¹ (for food and feed use) had been submitted for a vote at the member States Committee, with a "no opinion" result. These measures would now be submitted for discussion and possible opinion to the Appeal Committee on 14 September 2017. The EU said that it remained committed to acting in line with its WTO obligations. More generally, and as it had stated previously on many occasions, the EU recalled that the EU approval system was not covered by the DSB's recommendations and rulings.

1.12. The representative of the United States said that the United States thanked the EU for its status report and its statement at the present meeting. The United States noted that EU measures affecting the approval of biotech products continued to involve prolonged, unpredictable, and unexplained delays at every stage of the approvals process. Numerous products, including corn and soybean event applications, remained stalled in the biotech approval pipeline. Some of these applications had been pending in the approval process for many years – and much longer than the time permitted by the EU's own measures. The United States urged the EU to take action to ensure that pending biotech applications were evaluated on the basis of scientific evidence, and that decisions were taken without further delay.

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

D. European Union – Anti-dumping measures on biodiesel from Argentina: Status report by the European Union (WT/DS473/17/Add.2)

1.14. The Chairman drew attention to document WT/DS473/17/Add.2, which contained the status report by the European Union on progress in the implementation of the DSB's recommendations in the case concerning anti-dumping measures on biodiesel from Argentina.

1.15. The representative of the European Union said that, as had been notified to the DSB on 9 August 2017 (WT/DS473/18), Argentina and the EU had mutually agreed to modify the reasonable period of time (RPT) in this dispute to expire on 28 September 2017. The review

¹ DAS-44406-4 and FG72 x A5547-127.

investigation was ongoing. The European Commission had disclosed its intentions of amending the Implementing Regulation (EU No. 1194/2013) to Argentina and other interested parties, which had been given an opportunity to provide comments. The EU said that it intended to comply with the DSB's recommendations and rulings before the expiry of the agreed RPT.

1.16. The representative of Argentina said that his country welcomed the status report submitted by the EU pursuant to Article 21.6 of the DSU. Argentina regretted that the EU had not implemented the DSB's recommendations and rulings within the mutually agreed reasonable period of time which had expired on 10 August 2017. Nevertheless, Argentina had demonstrated its flexibility and had agreed with the EU to extend the reasonable period of time until 28 September 2017. As an interested party to the review of the anti-dumping measures imposed on biodiesel from Argentina, initiated on 20 December 2016 by the EU pursuant to its "WTO Enabling Regulation", Argentina was closely monitoring developments in these proceedings and was concerned about the delays. Argentina hoped that the EU would publish its review findings on dumping and injury before the new expiry date of the reasonable period of time for implementation. In this regard, Argentina reiterated its firm belief that a review consistent with the DSB's recommendations and rulings in this dispute should result in full access to the European market for biodiesel from Argentina. Although Argentina remained concerned about the delays in implementation, it was confident that the Member states of the EU would give priority to prompt compliance with WTO rules. Any further delay would be a very worrying sign for Argentina.

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

E. Canada – Anti-dumping measures on imports of certain carbon steel welded pipe from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu: Status report by Canada (WT/DS482/7)

1.18. The Chairman drew attention to document WT/DS482/7, which contained the status report by Canada on progress in the implementation of the DSB's recommendations in the case concerning anti-dumping measures on imports of certain carbon steel welded pipe from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

1.19. The representative of Canada recalled that on 25 January 2017, the DSB had adopted the Panel Report in "Canada – Welded Pipe" (DS482). On 20 February 2017, Canada had informed the DSB that it intended to implement the DSB's recommendations and rulings with regard to this dispute. In this regard, Canada had filed a status report on 17 August 2017, which had been circulated in document WT/DS482/7. Regarding the DSB's recommendations and rulings relating to the Special Import Measures Act, amendments to that Act in respect of exporters found to have a *de minimis* margin of dumping had been passed into law in June 2017 as part of the Budget Implementation Act, 2017, No. 1. With regard to the DSB's recommendations and rulings relating to the measures of the Canada Border Services Agency (CBSA) and the Canadian International Trade Tribunal (CITT) in the investigation of certain carbon steel welded pipe from Chinese Taipei: on 28 July 2017, the CBSA had initiated a review of its final determination of dumping and the CITT had initiated a review of its threat of injury findings in that investigation, having due regard to the DSB's recommendations and rulings. The CBSA would conclude its review on 29 September 2017 and the CITT would issue its findings by 8 December 2017.

1.20. The representative of Chinese Taipei said that her delegation thanked Canada for its status report. Chinese Taipei expressed its appreciation for Canada's efforts to complete its legislative process so quickly and to initiate reviews on the measures at issue. Chinese Taipei was now reviewing the legislative amendments and would continuously monitor any developments in the review proceedings. Chinese Taipei looked forward to working closely with Canada to resolve this dispute as soon as possible.

1.21. 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. Statement by the European Union

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

2.2. The representative of the European Union said that, once again, his delegation requested the United States to stop transferring anti-dumping and countervailing duties to the US industry. Every disbursement that still took place was clearly an act of non-compliance with the DSB's recommendations and rulings. The EU renewed its call on the United States to abide by its clear obligations under Article 21.6 of the DSU to submit status reports on implementation in this dispute. The EU would continue to include this item on the Agenda until the United States implemented the WTO ruling.

2.3. The representative of Canada said that his country thanked the EU for placing this item on the DSB's Agenda. Canada shared the EU's view that the Byrd Amendment remained under the DSB's surveillance until it was no longer applied.

2.4. The representative of Brazil said that, once again, her country thanked the EU for keeping this item on the DSB's Agenda. As one of the parties to the Byrd Amendment disputes, Brazil wished to refer to its previous statements made on this matter. In particular, Brazil wished to refer to its previous statements regarding the continuation of illegal disbursements, which should cease immediately. Brazil renewed its calls on the United States to fully comply with the DSB's recommendations and rulings in this dispute. Until then, the United States was under an obligation to submit status reports, pursuant to Article 21.6 of the DSU.

2.5. The representative of the United States said that, as the United States had noted at previous DSB meetings, the Deficit Reduction Act – which included a provision repealing the Continued Dumping and Subsidy Offset Act of 2000 – had been enacted into law in February 2006. Accordingly, the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. The United States recalled, furthermore, that the EU had acknowledged that the Deficit Reduction Act did not permit the distribution of duties collected on goods entered after 1 October 2007, over nine years ago. With respect to the EU's request for status reports in this matter, as the United States had already explained at previous DSB meetings, there was no obligation under the DSU to provide further status reports once a Member had announced that it had implemented the DSB's recommendations and rulings, regardless of whether the complaining party disagreed about compliance. As the United States had noted previously, the EU had demonstrated repeatedly that it shared this understanding, at least when it was the responding party in a dispute. Once again, for the present meeting, the EU had provided no status reports for disputes in which there was a disagreement between the parties on the EU's compliance.

2.6. The representative of the European Union said that the EU noted the statement made by the United States. The EU did not agree with the point mentioned by the United States that the EU had not provided status reports in disputes in which there was a disagreement between the parties on compliance. In this regard, the EU reiterated that it had provided status reports on all disputes that involved the EU (i.e. DS291 and DS473).

2.7. The DSB took note of the statements.

3 CHINA – TARIFF RATE QUOTAS FOR CERTAIN AGRICULTURAL PRODUCTS

A. Request for the establishment of a panel by the United States (WT/DS517/6)

3.1. The Chairman drew attention to the communication from the United States contained in document WT/DS517/6 and invited the representative of the United States to speak.

3.2. The representative of the United States said that the United States recalled that all WTO Members, including China, were required to administer tariff-rate quotas consistently with the obligations of the GATT 1994. Upon accession to the WTO, China had committed to administer its tariff-rate quotas consistently with additional obligations in its Accession Protocol and Working Party Report. Regrettably, it appeared that China administered certain tariff-rate quotas for wheat, short- and medium-grain rice, long-grain rice, and corn inconsistently with its WTO commitments. In particular, China did not administer these tariff-rate-quotas consistently with its commitments in its Accession Protocol and Working Party Report because China did not administer these tariff-rate quotas on a transparent, predictable, or fair basis, and did not use clearly specified administrative procedures and requirements that would not inhibit the filling of each tariff-rate quota. Further, China administered each of the tariff-rate quotas inconsistently with GATT 1994 Article X:3(a) on reasonable administration, Article XI:1 prohibiting import restrictions, and Article XIII:3(b) on providing public notice. Prior to initiating this dispute, the United States had attempted to resolve these issues with China, both bilaterally and in the Committee on Agriculture. The United States and China had also held formal dispute settlement consultations in February 2017. However, these efforts had failed to resolve the US concerns. Accordingly, the United States requested that the DSB establish a panel to examine the matter set out in its panel request, with standard terms of reference.

3.3. The representative of China said that her country regretted the US request for the establishment of a panel and that China could not accept the request at the present meeting. It said that it was particularly disappointed by the United States' consecutive challenges to China's legitimate and WTO-consistent measures with respect to vital agricultural staples. These included rice, wheat and corn. China and the United States had maintained smooth bilateral communications regarding agricultural issues for some time, particularly with regard to China's administration of import TRQs for agricultural products (both within multilateral and bilateral frameworks). During the consultations in Geneva on 9 February 2017, China had made an effort to clarify its policies and explain the measures at issue to the United States. China had expressed its willingness to engage in further consultations with the United States in order to seek an amicable solution. It was thus very disappointing for China to learn that the United States had now requested the establishment of a panel. China said that it did not believe that this was a mutually advantageous manner of resolving this dispute. China had always complied with WTO rules, and had been regulating trade in agricultural products in a manner that was consistent with WTO rules. Since its accession to the WTO, China had fulfilled its commitments concerning the administration of TRQs for wheat, rice and corn. China had enacted laws, regulations and rules for the TRQ administration of agricultural products, and had consistently followed the principles of fairness, transparency and non-discrimination. Imports of agricultural products from WTO Members, including the United States, benefited from these practices. China said that, should the United States continue to seek the establishment of a panel in this dispute, China would defend its interests and demonstrate the WTO-consistency of its measures.

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

4 CANADA – MEASURES CONCERNING TRADE IN COMMERCIAL AIRCRAFT

A. Request for the establishment of a panel by Brazil (WT/DS522/6)

4.1. The Chairman drew attention to the communication from Brazil contained in document WT/DS522/6 and invited the representative of Brazil to speak.

4.2. The representative of Brazil said that his country requested the DSB to establish a panel to examine numerous measures through which Canada had provided substantial subsidies to Bombardier and its suppliers to develop, launch, and preserve Bombardier's C-Series aircraft program. Brazil considered that the support from Canada's federal, provincial and local governments to Bombardier and its suppliers for the C-Series program had caused significant distortions in the commercial aircraft market. Due to the huge amount of government support, Bombardier had sold hundreds of aircraft at unfair prices causing serious prejudice to Brazil's export interests. Canada's support to Bombardier for the C-Series program included loans, grants, equity infusions, tax credits, and other financial contributions that were at odds with Canada's obligations under the SCM Agreement. To mention but a few examples, the Government of Canada had provided C\$350 million and the Government of Quebec had provided C\$117 million to Bombardier for commercial aircraft design and development. Moreover, through various research

and development programs, Canada and Quebec had provided hundreds of millions of dollars in funding to aerospace companies, including Bombardier, throughout the life of the C-Series program. In 2015, when the C-Series program costs had been escalating and Bombardier had been facing severe financial difficulties, the Government of Quebec had agreed to invest US\$2.5 billion in Bombardier. Earlier in 2017, on the day before Brazil had requested consultations, Canada had, once again, committed itself to support Bombardier by providing several hundred million dollars' worth of additional subsidies. Without these and other measures, Bombardier's C-Series program would simply not have survived. More worrisome was that, as a consequence of these support measures, the conditions of competition unfairly favoured Bombardier and its suppliers. This scenario had caused, continued to cause, and threatened to cause more extensive prejudice to the interests of the Brazilian aerospace industry, in clear violation of Canada's WTO obligations. Brazil also requested the DSB to initiate the procedures provided for in Annex V of the SCM Agreement and designate a representative to serve the function of facilitating the information-gathering process, upon the establishment of a panel for this matter. Brazil hoped that the Annex V procedure would result in a better understanding of the full scope of Canada's support measures. As such, Brazil intended to put forward suggestions as to the information that should be sought under this procedure once the panel was established. Brazil hoped that, following this panel request, Canada would make every effort to bring its measures into conformity with its WTO obligations in the shortest period of time possible, in order to re-establish fair conditions of competition in the market for commercial aircraft.

4.3. The representative of Canada said that his country was disappointed that Brazil had requested the establishment of a panel with respect to certain Canadian measures concerning trade in commercial aircraft. Canada and Brazil had held consultations on 10 March 2017. During the consultations, Canada had engaged constructively and had provided responses to Brazil's extensive questions. Canada was confident that its measures were consistent with its WTO obligations. Accordingly, Canada was not in a position to agree to the establishment of a panel at the present meeting.

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

5 APPELLATE BODY MATTERS

A. Statement by the Chairman

5.1. The Chairman said that, under this Agenda item, he wished to make a statement regarding two issues: one issue related to the resignation of Mr. Hyun Chong Kim as an Appellate Body member and the second issue was to inform delegations of the results of his consultations concerning his proposal on Appellate Body selection processes. First, he informed the DSB that on 1 August 2017, the Chairman of the Appellate Body had informed him of the resignation of Mr. Hyun Chong Kim which was made with immediate effect. The Chairman of the Appellate Body had transmitted a copy of the resignation letter he had received from Mr. Kim to the Chairman. In the letter Mr. Kim had tendered his resignation as an Appellate Body member effective as of 1 August 2017. For transparency purposes, the resignation letter had been circulated to all delegations in document WT/DSB/73. Mr. Kim had been appointed as Trade Minister in the Korean Government on 4 August 2017. This event had created an unprecedented legal situation. Rule 14 of the Working Procedures for Appellate Review provided that the resignation had to take effect 90 days after the notification had been made unless the DSB, in consultation with the Appellate Body, decided otherwise. At the same time, Article 17.3 of the DSU stipulated that Appellate Body members "shall be unaffiliated with any government". Mr. Kim had been appointed as Trade Minister only three days after tendering his resignation. Therefore, pursuant to Article 17.3 of the DSU, he could not remain a member of the Appellate Body as of 4 August 2017. Thus his decision to tender his resignation with immediate effect had been consistent with Article 17.3 of the DSU. This had also created an immediate vacancy on the Appellate Body. Members recalled that Mr. Kim had been appointed by the DSB as Appellate Body member as of 1 December 2016 for a four-year term. This meant that, in accordance with Article 17.2 of the DSU, a person appointed to replace Mr. Kim whose term of office had not expired "shall hold office for the remainder of the predecessor's term". Therefore, the DSB was faced with three vacancies on the Appellate Body, one of which arose as of 12 December 2017. This brought the Chairman to the second issue which he wished to share with Members, namely, his proposal to open three selection processes, as soon as possible, to be carried out by the same Selection Committee. The Chairman said that he had

been consulting on this with some delegations. However, presently, further consultations were needed.

5.2. The representative of Korea said that his country thanked the Chairman for his report regarding the Appellate Body matters. Korea recognized that a vacancy on the Appellate Body had arisen since Mr. Hyun Chong Kim had tendered his resignation on 1 August 2017, with immediate effect. He was then appointed as Korea's Trade Minister on 4 August 2017. Korea said that it believed that Mr. Kim had made his best effort to fulfil his obligations as an Appellate Body member until his resignation, which had been due to the unforeseen development of the establishment of a new administration in Korea. His country remained committed to the WTO dispute settlement system wherein the Appellate Body played a crucial role. In this regard, Korea fully supported launching of the selection process as soon as possible. It was Korea's view that discussions to launch the selection process for the vacancy left by Mr. Kim should be dealt with together with the discussions regarding the selection process for the vacancy left by Mr. Ramírez and the upcoming vacancy that would be left by Mr. Van den Bossche. Korea was ready to show flexibility as to how and when the three selection processes were to be launched, as long as the period of vacancies could be minimized.

5.3. The representative of the United States said that the United States appreciated the information the Chairman had provided, and that its comments under this Agenda item were also pertinent to Agenda items 6 and 7 of the present meeting. The resignation of Mr. Kim from the Appellate Body raised important systemic questions for the DSB to consider and resolve. At the time of Mr. Kim's resignation, he had been one of three members of the Appellate Body serving on the appeal in the dispute "EU – Antidumping Measures on Imports of Certain Fatty Alcohols from Indonesia" (DS442). The Chairman of the Appellate Body had informed the DSB that the Appellate Body expected to circulate its report in this dispute no later than Tuesday, 5 September 2017.² However, Members had been informed that, on 1 August 2017, Mr. Kim had "tender[ed] [his] resignation as an Appellate Body member, effective 1 August 2017".³ A WTO press release dated 1 August 2017 reflected the view that "the resignation was with immediate effect".⁴ In light of that information, Mr. Kim was no longer an Appellate Body member as of 1 August 2017. Therefore, the report to be circulated on 5 September 2017 would not appear to be on behalf of three Appellate Body members. This raised concerns under Article 17.1 of the DSU, which stated that "three [members] shall serve on any one case".

5.4. Given Mr. Kim's resignation to become Korea's Trade Minister, the United States considered it necessary and appropriate for his resignation to have been effective immediately. However, the WTO press release was in tension with Rule 14(2) of the Working Procedures for Appellate Review, which stated that a "resignation shall take effect 90 days after the notification ... unless the DSB decides otherwise". The United States noted that the Appellate Body's rule as drafted would permit any appellate report on which the individual had been working to be issued before that resignation became effective. This reinforced that a person had to be a member of the Appellate Body when that report was circulated to the DSB. The United States further noted that Mr. Ramírez was serving on this same appeal, although his second term had expired on 30 June 2017. This meant that, on the date the Appellate Body report was to be circulated to the DSB, only one signatory would appear to actually be an Appellate Body member. These were unprecedented circumstances, and the United States considered that the DSB needed to consider the implications and decide how to handle this situation.

5.5. In addition to the "Alcohols" (DS442) dispute, Mr. Ramírez continued to serve on two other appeals. In a letter to the DSB Chairman, the Chairman of the Appellate Body had stated that Mr. Ramírez "has been authorized, pursuant to Rule 15, by the Appellate Body to complete the disposition of these appeals". Rule 15 only applied to "[a] person who ceases to be a Member of the Appellate Body".⁵ Under DSU Article 17.2, it was the DSB that had the authority to appoint and

² WT/DS442/8 (10 August 2017).

³ Communication from the Appellate Body: Resignation of an Appellate Body Member, WT/DSB/73 (2 August 2017).

⁴ https://www.wto.org/english/news_e/news17_e/ab_01aug17_e.htm

⁵ *Working Procedures for Appellate Review*, Rule 15, WT/AB/WP/6 (16 August 2010) ("A person who ceases to be a member of the Appellate Body may, with the authorization of the Appellate Body and upon notification to the DSB, complete the disposition of any appeal to which that person was assigned while a member, and that person shall, for that purpose only, be deemed to continue to be a member of the Appellate Body.").

reappoint members of the Appellate Body. The DSB had exercised that authority in reappointing Mr. Ramírez "for a second four-year term of office, starting on 1 July 2013".⁶ As had been decided by the DSB, his appointment as an Appellate Body member had expired on 30 June 2017. It was only by virtue of that DSB decision that WTO Members had been considering the issue of a selection process to replace him. But Members had not discussed how any continued service on appeals might affect that process. The United States said that it appreciated that the approach of Rule 15 could contribute to efficient completion of appeals. As a party in two pending appeals, the United States said that it would welcome Mr. Ramírez's continued service on the appeals to which he had been assigned as of 30 June 2017. Under the DSU, however, the DSB had a responsibility to decide whether a person whose term of appointment had expired, should continue serving, as if a member of the Appellate Body, on any pending appeals. The United States considered that the DSB should also discuss this issue so that it could take appropriate decisions. The United States looked forward to consulting with the Chairman and other Members on these important systemic issues.

5.6. The representative of Pakistan, speaking in relation to Agenda items 5, 6 and 7, said that his country was deeply concerned at the current delay in the appointment of Appellate Body members due to lack of consensus on procedural formalities. Pakistan wished to reiterate the importance of the Appellate Body, which could not be overstated. The dispute settlement mechanism with its Appellate Body was often referred to as the "Jewel in the Crown" of the multilateral trading system. Pakistan said that it seemed that the "Crown Jewel" was getting eclipsed. The system still had some room for improvement, but, in this world full of uncertainties, it was a good example of working multilateralism and it stood out as an important chapter in the evolution of international justice. The system was being used not only by major trading nations, but increasingly by smaller and developing countries. Small economies had the opportunity to challenge measures from large economies, and Members had witnessed such challenges repeatedly. This high level of activity underscored the great measure of confidence that Members continued to place in the WTO dispute settlement mechanism. At the same time, these elevated levels of activity placed great strain on the system. Pakistan said that it expected that the Membership recognized the constraints that just one empty seat, let alone three, placed on the Appellate Body and on the dispute settlement system as a whole. Therefore, acting swiftly to appoint new Appellate Body members would be beneficial to the Membership and would reinforce the legitimacy of the dispute settlement system. Pakistan sincerely hoped that the differences among the Membership were bridged and overcome quickly, and urged Members to work towards that end. Pakistan hoped that the process of appointment of new Appellate Body members would be finalized by 22 November 2017.

5.7. The representative of Mexico, speaking on behalf of Argentina, Brazil, Colombia, Chile, Guatemala, Mexico and Peru, thanked the Chairman for his report regarding the consultations on AB matters. Mexico deeply regretted that, at this point, the DSB had not reached a consensus to fill the vacancies in the Appellate Body. Mexico noted that, in addition to the vacancy resulting from the expiration of Mr. Ramírez's term, another vacancy had been created by Mr. Hyun Chong Kim's resignation on 1 August 2017. As a result, the DSB had to deal with two selection processes to fill the existing vacancies. Members should also avoid a delay in appointing Mr. Van den Bossche's replacement as his term would expire in December 2017. Article 17.2 of the DSU stipulated that "Vacancies shall be filled as they arise." Members had an obligation to safeguard the Appellate Body and the multilateral trading system. They should not continue to reiterate their positions every month in the DSB. Their concerns had to be matched by concrete actions that would enable the DSB to overcome the current impasse. By doing nothing under the circumstances, which were very serious, unprecedented and risked leaving the Appellate Body in a dysfunctional situation very soon, Members would send a signal that was contrary to one of the fundamental pillars of the WTO. Mexico recalled that many disputes would continue to be filled before the Appellate Body. This meant delays which would affect legitimate interests of Members.

⁶ *Dispute Settlement Body, Minutes of the Meeting Held on 26 March 2013, WT/DSB/M/330* (4 June 2013) ("In his statement, the then Chair of the DSB had stated the following: 'Under Article 17.2 of the DSU the DSB shall appoint persons to serve on the Appellate Body for a four-year term, and each person may be reappointed once'. The then Chair had continued to say that: 'the reappointment of Appellate Body members for a second term of office was not automatic and required consideration by, and a formal decision of, the DSB'. Therefore, consistent with those requirements, the Chair proposed that the DSB adopt, at the present meeting, a formal decision and agree to reappoint Mr. Ricardo Ramírez for a second four-year term of office, starting on 1 July 2013'. The DSB so agreed.").

5.8. The representative of Canada, speaking in relation to Agenda items 5, 6 and 7, said that his country thanked the Chairman for his explanations and consultations. Canada was disappointed that those consultations had not resolved the present dysfunctional situation and that the DSB had failed to discharge its duties to launch selection processes to fill vacancies on the Appellate Body. Canada reiterated that it would join a consensus to initiate a process or processes to fill any of the vacancies. That said, considering the time needed to complete a selection process or processes, Canada was of the view that it would be preferable to fill all three vacancies concurrently.

5.9. The representative of the European Union said that his delegation thanked the Chairman for the information he had provided. The EU took note of Mr. Kim's resignation and wished to take this opportunity to thank him for his work on the Appellate Body. Regarding the vacancy that had arisen, as it had repeatedly stated in previous meetings, the EU fully supported the selection of new Appellate Body members without delay. This also applied to the most recent vacancy on the Appellate Body, which had arisen due to the resignation of Mr. Kim. In view of the statement made by the Chairman on the third vacancy, the EU proposed starting the process to fill that vacancy concurrently with the other vacancies as well. The EU therefore encouraged all Members to support its proposal under the next Agenda item, so that all of the selection processes could be launched at the present meeting.

5.10. The representative of Australia said that her country thanked the Chairman for his efforts to resolve the impasse and for reporting to the meeting on the progress, or lack of progress, to date. Australia said that it wished to formally place on the record its grave concern at the impasse that Members had reached at the present meeting in relation to appointments to the Appellate Body. Australia found no compelling reason to delay commencing a selection process for all three vacancies as soon as possible. Matters regarding the timing of the three processes could be resolved – if there was a genuine commitment to reaching a resolution. Australia, for its part, certainly had that commitment. Australia remained very flexible about the form of any selection process or processes to fill the existing and forthcoming vacancies. The key was to commence a process or processes without further delay. In Australia's view, the DSB should not be distracted from this important task by other issues relating to the proper functioning of the Appellate Body.

5.11. The representative of Japan, speaking in relation to Agenda items 5, 6 and 7, said that his country thanked the Chairman for his report on Mr. Kim's departure from the Appellate Body and for his efforts to launch the selection process or processes. As the Chairman had noted, the DSB had yet another vacancy to fill. Japan recalled that Mr. Ramírez's term of office had expired on 30 June 2017 and Mr. Van den Bossche's term of office would expire on 11 December 2017. With the departure of Mr. Kim, the DSB was now under an obligation to fill three positions out of seven. Given the time and resources needed for the DSB to select new members, it was all the more incumbent on the DSB to launch a selection process to fill these three vacancies as quickly as possible. Like previous speakers, Japan said that it could agree to launch the three selection processes together. Thus it was unfortunate that the DSB was not in a position to launch the selection process or processes at the present meeting. Appointing Appellate Body members was an important function entrusted to the DSB under the DSU. Japan urged all Members concerned to exercise flexibility and act in a constructive manner so that the DSB could perform its functions as contemplated in the DSU, without further delay. Japan took note of the United States' statement. Japan was not a third party in the appeal the United States had referred to and was not familiar with the particular exchanges between the division hearing the appeal and the parties to that dispute. Japan did recognize, however, that Mr. Kim's sudden departure from the Appellate Body could potentially have negative impacts on the work in the two ongoing appeals he had been assigned to before his resignation. More generally, Japan understood the systemic concerns expressed by the United States with respect to the status of outgoing members of the Appellate Body contemplated in Rule 15 of the Working Procedures for Appellate Review and the legal implications of such status for the ongoing work of the Appellate Body. However, resolving a problem that could arise out of uncertainty in the status of outgoing Appellate Body members and selecting new members to replace outgoing Appellate Body members were two distinct and different tasks. Such tasks could be and had to be addressed by the DSB separately. Indeed, one could say that selecting a new Appellate Body member, as quickly as possible, could reduce the scope of uncertainty that could be created by the status of outgoing members – at least in future appeals or disputes. Once again, Japan stressed that appointing Appellate Body members was an important function entrusted to the DSB under the DSU. All Members were responsible for ensuring that the DSB properly discharged this important function.

5.12. The representative of China, speaking in relation to Agenda items 5, 6 and 7, said that his country thanked the Chairman for his report regarding the resignation of Mr. Kim as an Appellate Body member and for conducting the consultations with Members on this issue. China thanked Mr. Hyun Chong Kim for his contribution to the work of the Appellate Body and China thanked the proponents for, once again, revising their proposals and putting them forward. China took note of the concerns expressed by some Members, and said that it fully understood their concerns considering that the DSB was faced with this unforeseen and unprecedented situation. China said that the DSB consisted of all Members and that all Members should work collectively, constructively and closely to resolve these issues. China referred to its previous statements on this matter and reiterated its serious systemic concerns over this issue. Since a new vacancy on the Appellate Body had arisen in August 2017, China was concerned that the Appellate Body had only five members and a heavy workload. Therefore, China called upon Members to show flexibility so that the vacancies could be filled as soon as possible.

5.13. The representative of Switzerland, speaking in relation to Agenda items 5, 6 and 7, said that his country thanked the Chairman for his ongoing efforts regarding these matters. Switzerland shared the concerns expressed by other delegations about the developments during 2017 with regard to vacancies on the Appellate Body. Only nine months after the Appellate Body had regained its full complement in December 2016, following half a year with two vacancies, the DSB was faced with yet another crisis – even wider and more worrying this time. Switzerland reiterated that repeated and lengthy vacancies on the Appellate Body had the potential to seriously damage the functioning and credibility of the WTO's dispute settlement system, and of the multilateral trading system as a whole. Switzerland therefore welcomed the Chairman's proposal to launch concurrent selection processes for all three vacancies as quickly as possible and called on Members concerned to actively contribute to overcoming the current impasse with a sense of urgency.

5.14. The representative of Brazil said that his country wished to echo the previous speakers, in particular Mexico and Australia, and reminded Members that they all had a responsibility and a legal obligation under Article 17.2 of the DSU to fill vacancies as they arose. What was unprecedented was that, as of the present meeting, the DSB had not yet even launched a process to fill the vacancies. Any other discussion on procedural issues, such as those that had been mentioned by the United States, as important as they may be, could not prevent the responsibility to fill the vacancies on the Appellate Body. He recalled that the discussions on reappointment issues in a dedicated session held in 2016 had not been used to stop the reappointment of Appellate Body members. Brazil hoped that, given the circumstances surrounding these processes, the DSB would not move from "a situation of crises" to a "situation of major crisis".

5.15. The representative of Singapore, speaking in relation to Agenda items 5, 6 and 7, said that his country thanked the Chairman for his update on the Appellate Body matters as well as his consultations on the Chairman's proposal. Singapore also thanked the EU and the group of Latin-American proponents on their proposals. There were now two vacancies on the Appellate Body and there would be another vacancy arising at the end of 2017. The DSB had been discussing the issue of Appellate Body selection for several months without achieving any concrete outcomes. Singapore wished to highlight its deep and serious systemic concerns and expressed its regret over the lengthy delay in launching an Appellate Body selection process. Singapore called on Members to show flexibility and to be pragmatic in order to reach consensus to launch the selection process, as soon as possible so that there would be a full complement of Appellate Body members to deal with the current workload of appeals.

5.16. The representative of New Zealand said that her country thanked the Chairman for his report on recent developments, efforts to find consensus on this important matter, and for the proposal outlined by the Chair. New Zealand encouraged the Chairman to strengthen his efforts towards consensus in this regard. It also thanked the EU, and the group of Latin American proponents for their updated proposals. New Zealand said that it wished to underline its deep disappointment with the present situation. Members had now two vacancies in practice, and they were rapidly coming to a situation where it would be impossible to avoid a third one. What was even more disappointing was that Members appeared to be no closer to remedying this situation by agreeing to a process or processes to select the new members. New Zealand shared the grave concern that had been expressed by other speakers at the current impasse. It called on all Members to show flexibility to allow the launch and conclusion, as soon as possible, of a process or processes to fill all three positions.

5.17. The representative of Hong Kong, China, speaking in relation to Agenda items 5, 6 and 7, said that her delegation thanked the Chairman for his efforts on these matters. Hong Kong, China shared the systemic concerns expressed by other Members on the current impasse on the launching of the Appellate Body selection process. Its preference and readiness to join this consensus had been repeatedly expressed at previous DSB meetings. Hong Kong, China therefore urged Members to exercise flexibility in order to reach agreement on the selection processes as soon as possible.

5.18. The representative of Chinese Taipei, speaking in relation to Agenda items 5, 6 and 7, said that his delegation wished to thank the Chairman for his report and efforts regarding these matters. Chinese Taipei referred to its previous statements on the issue of Appellate Body appointments. Currently, the WTO had two vacancies on the Appellate Body and faced an additional one arising in December 2017. Certainly, the system was facing resource constraints in carrying out its adjudicative tasks. These had already, and would continue to, jeopardize the dispute settlement mechanism's function. Given the urgency of this matter, Chinese Taipei called on all Members to agree on the selection process or processes as soon as possible. Chinese Taipei looked forward to working closely with other Members to achieve a solution.

5.19. The representative of Norway, speaking in relation to Agenda items 5, 6 and 7, said that her country wished to thank the Chairman for his report and his efforts through continuing consultations. Norway wished to reiterate its previous position. The well-functioning Appellate Body was in Norway's primary interest. Ensuring that all vacancies were filled as they arose was an important part of its considerations. Unfortunately, the DSB had failed to fulfil this obligation. Norway expressed its serious systemic concern in this regard, especially considering the resignation of Mr. Kim. Norway thanked the proponents for their revised proposals. As it had mentioned during the last DSB meeting, Norway would be in a position to support any of the proposals that had been put forward. However, it had a preference for the proposal from the EU as that proposal seemed to provide for a more efficient process that could facilitate the selection of the three new Appellate Body members within an agreed time-frame. Norway failed to understand why the DSB could not agree to launch the process for selecting the two new Appellate Body members for the seats that were already vacant. The process for selecting the third position that would become vacant later in 2017 should be launched without delay. Norway urged all Members to show the utmost flexibility in order to ensure that the DSB surpassed this deadlock – for the benefit of the system.

5.20. The Chairman thanked Members for their statements. He noted that the points raised by the United States deserved the DSB's consideration. He also noted the concerns expressed by many other delegations and said that he believed that, in order to give all Members an opportunity to discuss this matter, he was ready to hold an open-ended informal meeting as soon as feasible. At the same time, he said that he would make himself available for consultations and invited delegations with views and ideas on these matters to contact him directly.

5.21. The DSB took note of the statements.

6 APPOINTMENT OF APPELLATE BODY MEMBERS: PROPOSAL BY THE EUROPEAN UNION (WT/DSB/W/597/REV.3)

7 PROPOSAL REGARDING THE APPELLATE BODY SELECTION PROCESS (WT/DSB/W/596/REV.3)

7.1. The Chairman drew attention to the communication contained in document WT/DSB/W/597/Rev.3 and invited the representative of the European Union to speak.⁷

7.2. The representative of the European Union said that the EU wished to refer to its statements on the issue of Appellate Body appointments made at previous DSB meetings. The EU fully supported the selection of new Appellate Body members without delay. The EU encouraged all Members to support its proposal so that it would be accepted at the present meeting. Regarding the details of its proposal, the EU noted that the proposal strictly followed the models of similar DSB decisions in the past. It incorporated the proposal made by the group of Latin American

⁷ As indicated by the Chairman in his concluding remarks (paragraph 7.16) Agenda items 6 and 7 were considered jointly.

proponents but, in addition, it also provided for the launching of the selection process for the replacement of Professor Van den Bossche. Following the statement made by the Chairman under the previous Agenda item, the EU amended its proposal to also include the launching of the selection process for the replacement of Mr. Hyun Chong Kim. Thus, the EU was proposing the launching of three selection processes at the present meeting. The proposal provided for the selection processes to be conducted and concluded as soon as possible. The EU invited Members to support its proposal to launch the selection processes at the present meeting.

7.3. The representative of the United States said that, as had been mentioned under Agenda item 5, the United States was not in a position to support the proposed decision. The United States considered that the first priority was for the DSB to discuss and decide how to deal with reports being issued by persons who were no longer members of the Appellate Body. Members should consider how the resolution of those issues might affect a selection process. An informal DSB meeting would be a good place to start.

7.4. The representative of Brazil said that his country would like to intervene briefly at this point since it had already made a statement under the previous Agenda item. With regard to the US statement, Brazil noted that it appeared that the United States linked the selection processes to the discussion of certain procedural issues. He recalled that this was not the case in the context of the discussions on reappointment of Appellate Body members held in 2016. Therefore, if Brazil's understanding was correct the current situations appeared to be worse as compared to the discussions on reappointments. The DSB was in a difficult situation – with two vacancies on the Appellate Body and the third one arising in December 2017 – and now, in the middle of the road, there was a "huge stone" that prevented the DSB from moving forward. Brazil said that working procedure for appellate review could be discussed in an informal open-ended meeting. These were important issues and Brazil was open to discussing them. However, there should be no linkage between systemic issues and the selection processes to appoint new Appellate Body members.

7.5. The representative of Canada said that his country welcomed an informal meeting to discuss the procedural issues raised by the United States. While these issues were important, linking these procedural issues with the appointment of new Appellate Body members, as the United States did, exacerbated the problems that the United States had outlined. Canada did not see the logic in that linkage. To lessen those problems, the DSB should launch the selection processes. Canada asked the United States to reconsider the linkage that it had proposed. Canada fully supported an informal discussion to discuss those procedural issues, but it did not support any linkage between the two.

7.6. The representative of China said that his country wished to echo the statements made by the previous speakers. China noted that the DSB was faced with two issues: (i) the systemic concerns expressed by a certain Member; and (ii) the delay in the launch of the Appellate Body selection process. China did not see any logic in linking these two issues. In previous DSB meetings, the majority of WTO Members had expressed their concerns over the second issue. As the Chairman had reported, Mr. Kim had resigned from the Appellate Body which had created a new vacancy. This made it even more important to solve the second issue. China took note of the United States' concerns, but believed that these two issues should be addressed separately.

7.7. The representative of Australia said that her country could be very flexible in relation to the process for appointing new Appellate Body members. Australia would be prepared to support the EU's proposal. It urged Members to consider how important it was to move ahead and ensure that the DSB was in a position to appoint new Appellate Body members in a prompt manner, and ensure the efficient and effective functioning of the WTO dispute settlement system. Australia also echoed the statements made by other Members regarding linking systemic issues and the appointment process of new Appellate Body members. These were distinct issues and had to be addressed separately. Australia considered that commencing a selection process would be helpful in addressing some of the concerns that the United States had raised. Australia did not understand the logic behind linking these issues and said that it would be interested in hearing further from the United States as to its rationale.

7.8. The representative of Japan said that his country wished to refer to its statement made under the previous Agenda item. Japan was ready to engage in discussions with other Members on the systemic issues raised by the United States in a constructive manner. However, at the same time,

Japan stressed, once again, that the DSB had to launch the selection processes to fill the three vacancies as soon as possible.

7.9. The representative of Cameroon said that his country took note of the Chairman's statement on the vacancies within the Appellate Body and acknowledged the fact that the current situation was worrisome. Cameroon believed that the process ought to be accelerated in order for these vacancies to be swiftly filled. The United States had raised an issue which needed to be taken into account. There were in fact several issues regarding the Appellate Body matters and they should all be considered. Sometimes by considering problems together, solutions could be found. This was why Cameroon believed that consultations should be carried out so that no problems were overlooked and to avoid the Appellate Body from being paralyzed. The DSB was presently facing a very critical situation.

7.10. The representative of Mexico, speaking on behalf of Argentina, Brazil, Colombia, Chile, Guatemala, Mexico and Peru, said that at the 22 May, 19 June and 20 July 2017 DSB meetings, the Latin American proponents had proposed that a decision be taken to initiate the process to select a successor to Mr. Ramírez. Due to the lack of consensus, thus far, the DSB had not able to make a decision on this matter. This was the fourth attempt by the Latin American proponents to find a solution to this impasse. Mexico stressed that nothing in the DSU required a DSB decision in order to initiate the processes to fill vacancies in the Appellate Body. In fact, the DSU explicitly stipulated that vacancies "shall be filled as they arise". Thus, there was an obligation that the DSB and Members had to fulfil. For that reason, the proponents had submitted an updated proposal in this regard. The proposal was in line with past practice with regard to similar matters. The updated proposal took into account the urgency of this particular process and the incremental progress that the adoption of this decision would represent. The proposal comprised four elements: (i) to launch a selection process to replace Mr. Ricardo Ramírez Hernández, whose second term of office had expired on 30 June 2017; (ii) to establish a Selection Committee; (iii) to set a deadline of 29 September 2017 for submitting nominations of candidates; and (iv) to request the Selection Committee to circulate its recommendation by 22 November 2017 at the latest. Finally, the countries in question reiterated their readiness to work with other Members to appoint replacements for the vacancies in the Appellate Body that had to be filled in 2017. Finally, Mexico wished to know whether there was a consensus at the present meeting on the proposal put forward by the Latin American countries.

7.11. The representative of the United States said that the United States thanked Members for their interventions and said that the United States had been listening carefully. A number of Members had raised questions on the logic of linking the concerns the United States had raised under item 5 with the selection of Appellate Body members. There also seemed to be some confusion regarding the United States' position. The United States said that it had further heard the concern that the DSB had the responsibility to address the systemic concerns raised. As Members were aware, the United States had a number of long-standing concerns frequently expressed in the DSB regarding the critical necessity of the DSB asserting the authority assigned to it under the DSU. The issue the United States had raised earlier at the present meeting concerning the continued service of former Appellate Body members was an important example of these concerns that the United States had been raising for some time. In the United States' view, simply moving forward with filling vacancies risked perpetuating and leaving unaddressed the concerns that the United States believed required the urgent attention of the DSB. The United States said that its view under Agenda item 6 also applied to the proposal that had been put forward under Agenda item 7 by Argentina, Brazil, Colombia, Chile, Guatemala, Mexico and Peru.

7.12. The representative of Chile said that his country thanked the Chairman for his efforts in finding a solution to this matter. Chile fully endorsed Mexico's statement made on behalf of the Latin American proponents. Chile believed that Members were facing a critical moment in the WTO as they had not been able to start a selection process to appoint new members of the Appellate Body. Each delegation was free to have its own position as to what was the best way to carry out the processes, or to propose necessary changes to improve the functioning of the dispute settlement system. Chile, like many other Members, would be ready to contribute to ideas and proposals in due course. But it was not appropriate or advisable to disrupt the regular DSB work. The Appellate Body had currently two vacancies and the third vacancy was upcoming. Thus the Appellate Body's capacity was being dramatically reduced. Chile had a direct interest in this issue since it intended to present a candidate, one of Chile's best specialists and diplomats, to fill the

vacancy left by Mr. Ramírez. Chile was particularly concerned about the fact that the regular work of the DSB, which was at the centre of the rules-based multilateral trading system, was being undermined. Chile said that a threat hung over the role of the WTO. That threat would materialise if the DSB was not able to keep one of the main bodies of the multilateral trading system running in an expeditious and seamless way and give security and predictability to all Members. Chile was committed to the WTO system. Chile's President had expressed this with clarity before the General Council, and had pledged Chile's assistance towards the next Ministerial Conference in Buenos Aires, to provide a strong political signal in favour of the system. The lack of a solution to this impasse went in the opposite direction to what the world needed and to the WTO's purpose of maintaining open international trade, without protectionism or barriers. Chile said that it was necessary for the DSB, under the guidance of the Chairman to take concrete actions to find a solution. It would also be advisable to hold high-level consultations on this matter. Chile hoped that this issue should be resolved at the September DSB meeting so that Members could focus their efforts on the preparation for the next Ministerial Conference.

7.13. The representative of Mexico, speaking on behalf of Argentina, Brazil, Colombia, Chile, Guatemala, Mexico and Peru, said that it was regrettable that for the fourth time, the DSB was not able to reach a consensus to initiate a selection process. This process should have begun over four months ago so that, as of June 2017, the Appellate Body would have six members. Currently, there were only five members on the Appellate Body. Mexico reiterated that the dispute settlement system was seriously harmed by the fact that the Appellate Body did not have all of its members. At the present meeting, Mexico asked the Chairman to hold high-level consultations on these matters and called upon the Director-General and the Chairman of the General Council to use their good offices to help overcome this impasse. Mexico also requested that an informal open-ended meeting be held in an effort to finding a solution.

7.14. The representative of the Russian Federation said that her country wished to thank the Chairman for his ongoing efforts in resolving this situation. Russia referred to its previous statements made on this matter. Russia wished to join other Members in urging all parties involved to take all steps necessary to ensure compliance with the DSU provisions and avoid creating new obstacles so that all three Appellate Body vacancies could be filled as they arose. Russia said that it remained flexible regarding the modalities thereof, as long as they were launched without undue delay.

7.15. The representative of the Dominican Republic said that, in view of the seriousness of this situation, the Dominican Republic supported the statements made by Chile and Mexico.

7.16. The Chairman said that Agenda item 6, the proposal by the European Union contained in WT/DSB/W/597/Rev.3, and Agenda item 7, the proposal by seven Latin American countries contained in WT/DSB/W/596/Rev.3 had been considered jointly at the present meeting. He noted that there was no consensus on either of the proposals submitted at the present meeting. He regretted that the DSB had not been able to launch a process or processes to fill the vacancies on the Appellate Body. He noted that the United States raised systemic concerns, which required the DSB's consideration. However, the points raised by the United States had also raised serious concerns on the part of many other delegations. The Chairman reiterated that, in order to give all Members an opportunity to discuss these matters in depth, he was ready to hold an open-ended informal meeting as soon as feasible. At the same time, he invited any Members with views or ideas to contact him directly.

7.17. The DSB took note of the statements.

8 CANADA - MECHANISM FOR DEVELOPING, DOCUMENTING AND SHARING PRACTICES AND PROCEDURES IN THE CONDUCT OF WTO DISPUTES (JOB/DSB/1)

A. Statement by Canada

8.1. The representative of Canada, speaking under "Other Business", said that at the 20 July 2017 DSB meeting, his country had brought the DSB's attention to four new practice documents that had been developed by Members and circulated under the Mechanism for Developing, Documenting, and Sharing Practices and Procedures in the Conduct of WTO disputes. Recently, Canada had circulated an update to the Practice Mechanism's endorsements document, which set

out which Members had endorsed each practice document. The symbol of the updated document was JOB/DSB/1/Add.1/Rev.1. Canada said that it was encouraged by the endorsements that had been highlighted in this document and it considered that they reflected the endorsing Members' commitments both to developing and sharing good practices in the conduct of WTO disputes and to making incremental improvements to the operation of the dispute settlement system. Canada suggested that Members take note of the slight revisions to the procedure set out in paragraph 3 through which Members could make further revisions to the endorsements document. It invited any Members with questions about the Practices Mechanism to pose them to Canada.

8.2. The DSB took note of the statement.
