



Dispute Settlement Body
25 November 2015

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD
ON 25 NOVEMBER 2015

Chairman: Mr. Harald Neple (Norway)

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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.155)

B. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.155)

C. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.130)

D. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.93)

E. United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States (WT/DS404/11/Add.41)

F. United States – Countervailing measures on certain hot-rolled carbon steel flat products from India: Status report by the United States (WT/DS436/14/Add.1)

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

A. United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.155)

1.2. The Chairman drew attention to document WT/DS176/11/Add.155, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US Section 211 Omnibus Appropriations Act of 1998.

1.3. The representative of the United States said that his country had provided a status report in this dispute on 12 November 2015, in accordance with Article 21.6 of the DSU. Several bills introduced in the current US Congress would repeal Section 211. Other bills would modify Section 211. The US Administration would continue to work on solutions to implement the DSB's recommendations and rulings and resolve this matter with the European Union.

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

1.5. The representative of Cuba said that her country noted that this dispute had remained under the surveillance of the DSB and was on the Agenda of the DSB's monthly meetings for more than 13 years. The 155th US status report was the same as the previous ones and provided no information indicating that the United States was taking action towards compliance in this dispute. Cuba recalled that, in September 2000, a panel had been established to examine the complaint

brought by the EU representing the interests of the Cuban-French joint venture Havana Club Holding. As a result, in February 2002, the DSB found that Section 211 violated the national and most-favoured-nation treatment obligations under the TRIPS Agreement and the Paris Convention. Cuba noted that the next WTO Ministerial Conference was approaching and Members, in particular the developing and least-developed countries, continued to face major challenges in terms of striking the right balance in the negotiations and in future endeavours, which would reaffirm the intrinsic value and effectiveness of the WTO. Members could not underestimate the role of the dispute settlement system as a mechanism for compliance with the Agreements and for provision of security and predictability to the multilateral trading system, as stipulated in Article 3.2 of the DSU.

1.6. Cuba also referred to Article 3.3 of the DSU, which provided that the prompt settlement of disputes was essential to the effective functioning of the WTO. As Cuba had already explained, non-compliance in this dispute concerned the US measures that amounted to the economic, financial and trade embargo against Cuba, despite the fact that, with the exception of two countries, this embargo was rejected before the UN General Assembly by all WTO Members. Cuba reiterated its request that the United States submit a status report which, in accordance with the DSU provisions, contained information on the specific measures taken to find an effective solution to this dispute. Cuba reiterated its call for an immediate and unconditional end to the illegal policy of economic, commercial and financial blockade against Cuba.

1.7. The representative of Nicaragua said that his country supported the statement made by Cuba. Nicaragua reiterated its concern about the continued lack of compliance by the United States with the DSB's recommendations and rulings in this dispute. As Nicaragua had stated at previous DSB meetings, Section 211 affected the economic interests of Cuba and its participation in the dispute settlement system. Nicaragua requested the United States to take the necessary measures to implement the DSB's recommendations and rulings.

1.8. The representative of Mexico said that since the circumstances of this dispute had not changed and the US non-compliance continued, Mexico wished to refer to its statements made under this Agenda item at previous DSB meetings.

1.9. The representative of Jamaica said that her country thanked Cuba, the United States and the EU for their statements, updates and the status report under this Agenda item. Jamaica noted that the circumstances of this dispute had not changed and that no progress had been reported since the previous DSB meeting. Jamaica reiterated its concern about the continued US failure to implement the DSB's recommendations adopted in 2002 regarding Section 211. The protracted failure by the United States to take the necessary steps to comply with its obligations under the DSU provisions was incompatible with the requirement for prompt implementation of the DSB decisions. This was of particular concern in cases such as this where the failure to meet an obligation had a negative impact on the economic interests of a developing-country Member. Jamaica reiterated its deep concern about the systemic implications of any disregard for DSB decisions. Such disregard could undermine the overall integrity of the dispute settlement system, which remained a key-pillar of the WTO. Jamaica believed that after 13 years since the adoption of the DSB's recommendations in this dispute, it was more than reasonable for Members to expect that this matter would be resolved and removed from the DSB's Agenda.

1.10. The representative of Brazil said that her country thanked the United States for its status report which confirmed that no concrete changes had been made to the status quo in this matter. Brazil shared the concerns expressed by other Members regarding the lack of compliance in this dispute. In that regard, Brazil urged the parties to the dispute, as well as the United States and Cuba, in light of their recent and positive bilateral developments, to cooperate in an effort to finding a solution to this dispute.

1.11. The representative of the Plurinational State of Bolivia said that, for more than 12 years, Members had heard the same US status report, which did not contain any information on progress in this dispute. Bolivia, once again, expressed its concern about the systemic implications of the US non-compliance with the DSB's recommendations and rulings. The failure to comply in this dispute undermined the credibility of the multilateral trading system and affected the interests of a developing-country Member. Bolivia urged the United States to comply with the DSB's recommendations and rulings and to remove the restrictions imposed under Section 211. Bolivia supported the concerns raised by Cuba at the present meeting.

1.12. The representative of Angola said that his country had noted the statements made under this Agenda item. Angola thanked the United States for its status report and supported the previous speakers regarding the lack of progress in this dispute. However, Angola welcomed the fact that, after more than half a century, there had been a re-establishment of diplomatic relations between the United States and Cuba. Angola considered that the re-established bilateral relationship between Cuba and the United States could provide a new foundation and a new opportunity to resolve this 13 year-old dispute. Angola reiterated its deep concern about the adverse effects of this dispute on Cuba, a small and vulnerable developing-country Member. Angola hoped that the United States would promptly comply with the DSB's recommendations in this dispute and resolve the matter so as to ensure the effective functioning of the dispute settlement system.

1.13. The representative of the Bolivarian Republic of Venezuela said that her country supported the statement made by Cuba. Venezuela, once again, expressed its concern about the non-compliance and the lack of information on progress towards implementation of the DSB's recommendations and rulings in this dispute. Venezuela noted that Section 211 remained in force and there was no indication of any movement towards compliance with the DSB's recommendations and rulings. In Venezuela's view, the 155th US status report did not meet the obligation stipulated in Article 21.6 of the DSU, which required Members to provide information on progress made in relation to the dispute at hand. Rather, the US status report simply repeated that no progress had been made in this dispute. Venezuela supported the statements made by the previous speakers about the systemic implications of this continued failure to comply. Such non-compliance set a negative precedent for the credibility of the DSB and undermined the dispute settlement system. It also undermined the multilateral trading system and its ability to resolve disputes. Venezuela, once again, urged the United States to comply with the DSB's recommendations and rulings and to repeal Section 211. Furthermore, Venezuela urged the United States to provide, at the next DSB meeting, information about measures it had taken to comply with the DSB's rulings in this dispute.

1.14. The representative of Trinidad and Tobago said that her country thanked the United States for its status report. Trinidad and Tobago wished to refer to its statements made under this Agenda item at previous DSB meetings and reiterated its position regarding this dispute. Trinidad and Tobago was of the view that the non-compliance with the DSB's rulings and recommendations in this dispute reflected poorly on the Membership as a whole. Members must preserve the credibility and effectiveness of the dispute settlement mechanism, which was one of the main achievements of the Uruguay Round. Moreover, the negative impact of non-compliance had had a severe economic and social impact on small, vulnerable economies such as Cuba. In that regard, and pursuant to Article 21.1 of the DSU, Trinidad and Tobago called for prompt compliance with the DSB's rulings and recommendations in this dispute.

1.15. The representative of India said that his country noted the US status report and shared the concern raised by previous speakers regarding the lack of progress in the implementation of the DSB's recommendations in this long-standing dispute. The United States had informed the DSB in 2002 of its intention to implement the DSB's recommendations and rulings regarding this matter. Non-compliance undermines the effective functioning of the dispute settlement system. India renewed its systemic concerns about the continuation of non-compliance as this undermined the confidence that Members reposed in a rules-based system, especially developing-country Members who sought compliance. India urged the United States to report compliance in this dispute.

1.16. The representative of China said that her country thanked the United States for its status report and its statement made at the present meeting. The prolonged situation of non-compliance in this dispute was highly inconsistent with the principle of prompt compliance under the DSU provisions, in particular since the interests of a developing-country Member were affected. China urged the United States to implement the DSB's rulings and recommendations without any further delay.

1.17. The representative of El Salvador said that her country thanked the United States for its status report and its statement made at the present meeting. Given that the situation had not changed since the previous DSB meeting, El Salvador wished to refer to its statements made under this Agenda item at previous DSB meetings.

1.18. The representative of Argentina said that his country thanked the United States for its status report. Argentina, once again, regretted that the US status report did not contain any new information on progress in this dispute. Argentina noted that the non-compliance in this dispute was inconsistent with the principle of prompt implementation of the DSB's recommendations and rulings, in particular since the interests of a developing-country Member were affected. Given the systemic effects of non-compliance on the dispute settlement system, Argentina encouraged both parties to this dispute, and in particular the United States, to adopt measures so as to comply promptly.

1.19. The representative of Peru said that since no progress had been observed in this dispute, Peru wished to refer to its statements made under this Agenda item at previous DSB meetings.

1.20. The representative of Uruguay said that her country thanked the United States and the EU for their statements. Uruguay supported the statement made by Cuba and recalled the statements made by her delegations under this Agenda item at previous DSB meetings.

1.21. The representative of Ecuador said that her country supported the statement made by Cuba. Ecuador, once again, recalled that the DSU referred specifically to prompt compliance with the DSB's recommendations and rulings, in particular since the interests of a developing-country Member were concerned. Ecuador hoped that the United States would step up its efforts and promptly comply with the DSB's recommendations and rulings by repealing Section 211.

1.22. The representative of the Dominican Republic said that her country noted that the US status report did not provide any information on progress in this dispute. The Dominican Republic, once again, urged the United States to comply with the DSB's recommendations and rulings regarding Section 211.

1.23. The representative of Zimbabwe said that his country thanked the United States for its statement regarding this dispute. Zimbabwe, once again, regretted that there was no progress in this dispute. This continued non-compliance with the DSB's rulings and recommendations impugned the integrity of the dispute settlement mechanism and affected the interests of a developing-country Member. In that regard, Zimbabwe joined previous speakers in supporting Cuba and urging the United States to implement the DSB's rulings and recommendations in this dispute.

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

1.25. The representative of Viet Nam said that her country thanked the United States, Cuba and the EU for their reports and statements. Viet Nam noted that, as at previous DSB meetings, there was no progress reported in this dispute. Viet Nam shared the concern raised by Cuba and other previous speakers regarding the non-compliance in this dispute. Viet Nam urged the United States to fully comply with the DSB's recommendations and rulings.

1.26. The representative of South Africa said that his country joined the previous speakers in expressing concern about the US status report. Non-compliance with the DSB's recommendations and rulings weakened the principle of the rule of law that underpinned the multilateral system. The systemic effect of non-compliance undermined the effectiveness and utility of the dispute settlement system. South Africa, therefore, called on the United States to promptly implement the DSB's rulings and recommendations in this dispute.

1.27. 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.155)

1.28. The Chairman drew attention to document WT/DS184/15/Add.155, 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.

1.29. The representative of the United States said that his country had provided a status report in this dispute on 12 November 2015, in accordance with Article 21.6 of the DSU. The United States had addressed the DSB's recommendations and rulings with respect to the calculation of anti-dumping margins in the hot-rolled steel anti-dumping duty investigation at issue. With respect to the recommendations and rulings of the DSB that had yet to be addressed, the US Administration would work with the US Congress with respect to appropriate statutory measures that would resolve this matter.

1.30. The representative of Japan said that his country thanked the United States for its statement and its status report submitted on 12 November 2015. Japan referred to its previous statements that this issue should be resolved as soon as possible.

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

C. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.130)

1.32. The Chairman drew attention to document WT/DS160/24/Add.130, 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.

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

1.34. The representative of the European Union said that the EU thanked the United States for the status report and its statement made at the present meeting. The EU referred to its statements made under this Agenda item at previous DSB meetings. The EU wished to resolve this dispute as soon as possible.

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

D. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.93)

1.36. The Chairman drew attention to document WT/DS291/37/Add.93, 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.

1.37. The representative of the European Union said that, in recent meetings, the EU had already reported on authorization decisions and other actions towards approval decisions taken up to October 2015. The Appeal Committee of 10 November 2015 had voted on two draft decisions authorizing the placing on the market of two GM maize products¹ for food and feed use. Member states had rendered "no opinion". Three draft Commission Implementing decisions authorising the placing on the market of three GM soybean products² had been presented to the Standing Committee for a vote on 18 November 2015. Member states had voted "no opinion" and the

¹ NK603xT25 maize and MON87427 maize.

² MON87705xMON89788 soybean, MON87708xMON89788 soybean, FG72 soybean.

dossiers would be transmitted to the Appeal Committee for a vote. More generally, and as stated many times before, the EU recalled that the EU approval system was not covered by the DSB's recommendations and rulings.

1.38. The representative of the United States said that his country thanked the EU for its status report and its statement made at the present meeting. As the United States had noted repeatedly since the adoption of the DSB's recommendations and rulings in this dispute, the United States remained concerned about the EU's measures affecting the approval and marketing of biotech products. Dozens of biotech applications remained pending in the EU approval system. The ongoing backlog and delays remained a serious impediment to trade in biotech products. Further, even when the EU does approve a biotech product, the approval may not apply within one or more EU member States. Instead, EU member States had banned such products, and had done so without any apparent scientific basis. Instead of taking steps to address this problem, the EU Commission had proposed an amendment to EU biotech approval measures that would facilitate the adoption of additional EU member State bans on biotech products approved at the EU-level. The United States understood that the European Parliament had recently sought the withdrawal of this proposal. The United States noted with continued concern, however, that the EU Commission had not confirmed that it would discontinue its pursuit of revisions to EU biotech approval measures that would encourage additional member State bans. In closing, the United States urged the EU to ensure that its biotech approval measures were consistent with its obligations under the SPS Agreement. Further, to the extent that the EU considered revisions to its biotech approval measures, the EU should ensure that any revisions were consistent with its WTO obligations and should notify these revisions to the SPS Committee pursuant to Article 7 of the SPS Agreement.

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

E. United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States (WT/DS404/11/Add.41)

1.40. The Chairman drew attention to document WT/DS404/11/Add.41, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US anti-dumping measures on certain shrimp from Viet Nam.

1.41. The representative of the United States said that his country had provided a status report in this dispute on 12 November 2015, in accordance with Article 21.6 of the DSU. As the United States had noted at past DSB meetings, in February 2012 the US Department of Commerce had modified its procedures in a manner that addressed certain findings in this dispute. The United States would continue to consult with interested parties as it worked to address the other recommendations and rulings of the DSB.

1.42. The representative of Viet Nam said that her country thanked the United States for its statement and the status report on this dispute. Viet Nam continued to expect the relevant parts of this dispute to be implemented by the United States in the context of the implementation of the DS429 dispute. Any delay in the implementation of the DS429 dispute may also delay the implementation of relevant parts of this dispute.

1.43. The representative of the Bolivarian Republic of Venezuela said that her country supported the statement made by Viet Nam and noted of the US status report. As it had stated in its previous statements made under this Agenda item, Venezuela reiterated the importance of prompt compliance with the DSB's recommendations and rulings. Protracted failure to comply undermined the credibility of the DSB and Members' confidence in the system and set a negative precedent. Venezuela urged the United States to take the necessary measures to resolve this dispute and to report at the next DSB meeting on the measures it intended to adopt.

1.44. The representative of Cuba said that her country supported the statement made by Viet Nam. Cuba reiterated the importance of effective compliance, in particular when the interests of a developing-country Member such as Viet Nam were affected. The DSB had adopted the recommendations and rulings in this dispute in 2011 but the US Department of Commerce had not taken the necessary steps to resolve this dispute. Thus Cuba urged the United States to comply as soon as possible.

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

F. United States – Countervailing measures on certain hot-rolled carbon steel flat products from India: Status report by the United States (WT/DS436/14/Add.1)

1.46. The Chairman drew attention to document WT/DS436/14/Add.1, 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 countervailing measures on certain hot-rolled carbon steel flat products from India.

1.47. The representative of the United States said that his country had provided a status report in this dispute on 12 November 2015, in accordance with Article 21.6 of the DSU. On 5 October 2015, pursuant to section 129(b) of the Uruguay Round Agreements Act ("URAA"), the US Trade Representative had requested the US Department of Commerce to issue a determination in the underlying proceeding that was not inconsistent with the findings of the Panel and the Appellate Body in this dispute. Also, on 5 October 2015, pursuant to section 129(a) of the URAA, the US Trade Representative had requested the US International Trade Commission (USITC) to issue an advisory report on whether US law permitted the Commission to take steps in connection with the underlying proceeding that would render its determination subject to the DSB's recommendations not inconsistent with the WTO findings. On 23 October 2015, the USITC had responded in the affirmative. On 6 November 2015, the US Trade Representative had proceeded to request that the USITC issue a determination in the underlying proceeding that was not inconsistent with the findings of the panel and the Appellate Body in this dispute. The United States would continue to work to address the recommendations and rulings of the DSB and to consult with interested parties.

1.48. The representative of India said that his country thanked the United States for its status report in this dispute in accordance with Article 21.6 of the DSU. India welcomed the statement made by the United States at the present meeting that the US authorities were conferring with interested parties and working to implement the DSB's recommendations and rulings. India noted that the USTR had requested the Secretary of Commerce to issue a redetermination that would render the determinations by the Department of Commerce subject to the DSB's recommendations not inconsistent with the WTO's findings. India also noted that, more recently, the USTR on 6 November 2015 had requested that the USITC issue a determination that would render its action in that proceeding not inconsistent with the DSB's recommendations and rulings. India looked forward to the United States fully implementing the DSB's recommendations and rulings in this dispute by the expiry of the reasonable period of time on 19 March 2016.

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

2 CHINA — MEASURES IMPOSING ANTI-DUMPING DUTIES ON HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES FROM JAPAN / CHINA — MEASURES IMPOSING ANTI-DUMPING DUTIES ON HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES FROM THE EUROPEAN UNION

A. Implementation of the recommendations of the DSB

2.1. The Chairman recalled that in accordance with the DSU provisions, the DSB was required to keep under surveillance the implementation of recommendations and rulings of the DSB in order to ensure effective resolution of disputes to the benefit of all Members. In that respect, Article 21.3 of the DSU provided that the Member concerned shall inform the DSB, within 30 days after the date of adoption of the panel or Appellate Body report, of its intentions in respect of implementation of

the recommendations and rulings of the DSB. He recalled that, at its meeting on 28 October 2015, the DSB had adopted the Appellate Body Reports and the Panel Reports, as modified by the Appellate Body Reports, pertaining to the disputes on: "China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes from Japan" and "China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes from the European Union". He then invited China to inform the DSB of its intentions in respect of implementation of the DSB's recommendations.

2.2. The representative of China said that, on 28 October 2015, the DSB had adopted the Reports of the Panel and the Appellate Body in the disputes on: China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes (HP-SSST) from Japan and the European Union (DS454/DS460). According to Article 21.3 of the DSU, China informed the DSB that it intended to implement the recommendations and rulings of the DSB in a manner that respected its WTO obligations. China needed a reasonable period of time to implement the DSB's recommendations and rulings. China stood ready to discuss this matter with Japan and the EU in due course, in accordance with Article 21.3(b) of the DSU.

2.3. The representative of Japan said that his country wished to express its appreciation to China for its intention to implement the DSB's recommendations and rulings as expressed in its statement made at the present meeting. In order to ensure the prompt settlement of this dispute, Japan expected China to take necessary actions for prompt implementation of the DSB's recommendations and rulings. Japan was willing to discuss this matter, including on the appropriate reasonable period of time, with China and the European Union in good faith.

2.4. The representative of the European Union said that the EU welcomed China's intention to comply with the DSB's recommendations and rulings. The EU stood ready to engage with China in order to agree on the length of the reasonable period of time for implementation as soon as possible.

2.5. The DSB took note of the statements, and of the information provided by China regarding its intentions in respect of implementation of the DSB's recommendations.

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

A. Statements by the European Union and Japan

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

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

3.3. The representative of the European Union said that the EU, once again, requested the United States to stop transferring anti-dumping and countervailing duties to the US industry which were incompatible with the DSB's recommendations and rulings. The EU renewed its call on the United States to abide by its clear obligation under Article 21.6 of the DSU to submit status reports in this dispute.

3.4. The representative of India said that his country shared the concerns of the EU and Japan in these disputes. The WTO-inconsistent disbursements continued unabated to the US domestic industry to the amount of US\$70 million in 2014. India agreed with the EU and Japan that the Byrd Amendment should continue to remain subject to the surveillance of the DSB until the United States ceased to administer it. India was of the view that this item should continue to remain on the Agenda of the DSB until such time that full compliance was achieved in this dispute.

3.5. The representative of Brazil said that her country thanked the EU and Japan for keeping this item on the DSB's Agenda. Brazil, as one of the parties to these disputes, was of the view that the

United States was under an obligation to discontinue the disbursements that still took place under the Continued Dumping and Subsidy Offset Act of 2000. In Brazil's view, this seemed to reflect a misunderstanding of the principle of non-retroactivity. Since the DSB had confirmed the illegal nature of the disbursements under the Byrd Amendment more than 10 years ago, any disbursements to petitioners must be discontinued, regardless of the date of initiation of the investigation. Only then would compliance be achieved in this dispute and the United States would be relieved from its obligation to provide status reports.

3.6. The representative of China said that her country thanked the EU and Japan for placing this item on the Agenda of the present meeting. China urged the United States to fully comply with the DSB's rulings on this matter.

3.7. The representative of Canada said that her country wished to refer to its statements made under this Agenda item at previous DSB meetings. Canada's position had not changed.

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

3.9. The DSB took note of the statements.

4 CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

A. Statement by the United States

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

4.2. The representative of the United States said that his country continued to have serious concerns that China had failed to bring its measures into conformity with its WTO obligations. China continued to impose its ban on foreign suppliers of electronic payment services ("EPS") by requiring a license, while at the same time failing to issue all specific measures or procedures for obtaining that license. The United States previously had taken note of an April 2015 State Council decision, which indicated China's intent to open up its EPS market following issuance of implementing regulations by the People's Bank of China and the China Banking Regulatory Commission. The United States had also noted that the People's Bank of China had issued some draft regulations. To date, however, the China Banking Regulatory Commission had not issued any draft or final regulations implementing the State Council's April 2015 decision. Nor had the People's Bank of China issued final regulations. As a result, a single Chinese enterprise continued to be the only EPS supplier able to operate in China's domestic market. As required under its WTO obligations, China must adopt the implementing regulations necessary for allowing the operation of foreign EPS suppliers in China, and any regulations must be implemented in a consistent and fair way. The United States continued to look forward to the prompt issuance and implementation of all measures necessary to permit foreign EPS suppliers to do business in China.

4.3. The representative of China said that her country regretted that the United States had, once again, brought this before the DSB. China referred to its statements made under this Agenda item

at previous DSB meetings and emphasized that it had taken all necessary actions and had fully implemented the DSB's recommendations and rulings in this dispute. China hoped that the United States would reconsider the systemic implications of its position.

4.4. The DSB took note of the statements.

5 THAILAND – CUSTOMS AND FISCAL MEASURES ON CIGARETTES FROM THE PHILIPPINES

A. Statement by the Philippines

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

5.2. The representative of the Philippines said that her country remained concerned about a series of outstanding compliance issues that remained despite Thailand's repeated statements that it had done all it was required to do to secure full compliance with the DSB's recommendations and rulings. As at previous meetings, the Philippines wished to highlight two issues due to their particular systemic impact on the DSB's rulings and on the Customs Valuation Agreement overall. First, the Philippines remained deeply concerned about the Thai Attorney General's decision to prosecute an importer of Philippine cigarettes for alleged under-declaration of customs value. The WTO panel had ruled that Thailand enjoyed no legitimate grounds to reject the customs values that Thailand now sought to criminalize. In addition, Thai Customs Board of Appeals (or "BoA") had explicitly accepted those customs values, in a ruling heralded by Thailand itself as a measure taken to comply. Thailand's actions with the criminal prosecution directly undermined the implementation obligation placed on it by the DSB's recommendations and rulings. In systemic terms, there could be no doubt that the disciplines of the Customs Valuation Agreement applied whenever a WTO Member engaged in the customs valuation of goods, including in the enforcement of domestic Customs provisions. Despite this evident WTO-inconsistency, Thailand had explained in its statements made at previous DSB meetings that it "will take steps to ensure" the WTO-consistency of the criminal prosecution. While it appreciated the sentiment behind these repeated statements, the Philippines still had not received an explanation about precisely what steps Thailand would take to ensure the WTO-consistency of the criminal prosecution. The Philippines requested Thailand to deliver expeditiously on its assurances.

5.3. Second, the Philippines was also deeply concerned about a separate Thai BoA ruling rejecting transaction value for 210 entries from Indonesia that were covered by the DSB's rulings and recommendations in the original proceedings in this dispute. Thailand had submitted the BoA ruling as a declared measure taken to comply. However, as the Philippines had previously noted, the ruling was riddled with WTO-inconsistencies, and set out a methodology that perpetuated Thailand's application of WTO-inconsistent conduct with respect to customs valuation of related party transactions. In addition, as it had been explained at previous DSB meetings, the position that Thai Customs had taken in pending domestic judicial proceedings concerning the BoA ruling was disturbing. Thai Customs had explicitly advised the Thai court that they did not need to follow the WTO ruling because it supposedly bound only the Philippines, as the party that had brought the dispute, and did not bind Thailand. The Philippines remained open to bilateral discussions with Thailand to resolve the outstanding compliance issues. The Philippines reiterated its appeal to Thailand to rise to its role as a responsible and important WTO Member, and to prove that its commitment to full compliance was real. If this was not possible, the Philippines reserved its right to revert to dispute settlement proceedings.

5.4. The representative of Thailand said that his country noted the Philippines's statement. Thailand believed that it had taken all actions necessary to implement the DSB's recommendations and rulings. In that regard, Thailand wished to refer to its previous statements made under this Agenda item.

5.5. The DSB took note of the statements.

6 INDONESIA – MEASURES CONCERNING THE IMPORTATION OF CHICKEN MEAT AND CHICKEN PRODUCTS

A. Request for the establishment of a panel by Brazil (WT/DS484/8 and Corr.1)

6.1. The Chairman drew attention to the communication from Brazil contained in documents WT/DS484/8 and Corr.1 and invited the representative of Brazil to speak.

6.2. The representative of Brazil said that, at the previous DSB meeting on 28 October 2015, Brazil had submitted, for the first time, the request for the establishment of a panel with regard to Indonesian measures concerning the importation of chicken meat and chicken products (DS484). In view of Indonesia's objection on that occasion, Brazil was submitting at the present meeting, its second request for the establishment of a panel. Brazil recalled that, since 2009, Brazil had been trying to export chicken meat and chicken products to Indonesia. Over the years, several attempts had been made by Brazil to overcome the barriers imposed by Indonesia against its exports, but it had not been possible to reach a negotiated solution. In Brazil's view, there was no justification for the import ban and other restrictive measures imposed by Indonesia on Brazilian exports. Brazil expected that this dispute would bring a solution to the current obstacles preventing Brazilian exports from reaching the Indonesian market. Brazil also hoped that it may help pave a new route for both countries to explore new business opportunities.

6.3. The representative of Indonesia said that, as it had explained at the previous DSB meeting, Indonesia had held constructive consultations with Brazil in good faith in order to find a satisfactory solution to this dispute. Indonesia believed that all responses provided during the consultations had fully addressed the concerns raised by Brazil. Indonesia noted that Brazil had misidentified the regulation in this dispute and had then revised it in its corrigendum. In Indonesia's view a panel should not be established until the panel request was fully consistent with the provisions of the DSU. In that regard, Indonesia considered Brazil's request for the establishment of panel at the present meeting as a first request and, once again, Indonesia was not in a position to accept the establishment of a panel at the present meeting. However, Indonesia was convinced that the measures at issue were in full conformity with Indonesia's obligation under the WTO Agreement and would demonstrate the consistency of its measures before a panel.

6.4. The representative of Brazil said that his country believed that there was no reason not to establish, at the present meeting, the panel to examine Indonesia's measures in this dispute. In Brazil's view, the corrigendum to the panel request only corrected a small typographical error, "MoT" instead of "MoA", one letter, which in no way affected the rights of Indonesia in this dispute. As Indonesia was aware, elsewhere in the same panel request, and in the consultations request, the legislation had been correctly indicated. Brazil recalled that the corrigendum had been circulated in good faith and in full transparency before the request for the establishment of the panel at the previous DSB meeting. Indonesia itself had recognized the existence of the corrigendum in its statement made at that meeting. Against this background, Brazil regretted Indonesia's objection to the establishment of a panel at the present meeting, an attitude that seemed to amount to nothing more than overly formalistic behaviour. In Brazil's view, Members should ask themselves whether this was an appropriate way to tackle procedural issues in dispute settlement or whether a more cooperative approach should be encouraged. However, as Indonesia insisted on blocking the establishment of a panel at the present meeting, Brazil would not engage in a procedural battle at this point and would request the establishment of a panel in this dispute at the special DSB meeting.

6.5. The representative of the United States said that his country noted that this was the first DSB meeting at which the panel request in document WT/DS484/8, as revised by WT/DS484/8/Corr.1, appeared on the Agenda. While this second document was circulated to Members as a corrigendum, in fact it reflected a change of substance by Brazil to its panel request. Thus, Brazil had in fact revised its panel request as compared to the request that was on the Agenda of the October DSB meeting. The United States also noted that Indonesia had stated that it would not join in a consensus to establish a panel pursuant to the revised panel request contained in WT/DS484/8 and WT/DS484/8/Corr.1. Accordingly, under Article 6.1 of the DSU, the revised panel request must be included on the Agenda of a second DSB meeting in order for the DSB to establish a panel by negative consensus.

6.6. The representative of Brazil said that his country appreciated the US interest in Brazil's bilateral dispute with Indonesia. At the same time, Brazil could not agree to a third-party in the dispute attempting to interpret this type of change resulting from the corrigendum. At a time where Members were discussing workload problems in this system, Brazil had serious doubts whether one letter should really lead to a panel being established at a next DSB meeting. For once, Brazil would adopt the US view of the dispute settlement system, which was, as Brazil understood, that the dispute settlement system was neither a tribunal nor a court of law. It was more a system that operated to enable the parties to find a positive resolution to a dispute. If Members wanted to be more practical, more flexible, and if of course the parties agreed, then, in Brazil's view, Members should try to favour this more cooperative approach, which would be more conducive to the positive resolution of disputes.

6.7. The representative of the European Union said that the EU did not intend to intervene on this point. However, given the debate, the EU wished to state that it had considerable sympathy for Brazil's views. In view of Brazil's very constructive approach to place this issue on the Agenda of a special DSB meeting, it appeared that the question was now academic. However, had Brazil insisted on the request being on the Agenda for the second time at the present meeting, the matter would have to be decided by the panel and not by the DSB.

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

7 REAPPOINTMENT OF TWO APPELLATE BODY MEMBERS

7.1. The Chairman said that, as announced at the October 2015 DSB meeting, the reappointment of two Appellate Body members was on the Agenda of the present meeting for decision. As delegations were aware, the reappointment of an Appellate Body member for a second four-year term was not automatic and required the formal consideration and the formal decision of the DSB. He recalled that at the DSB meeting held in April 2015, he had announced that the first four-year terms of office of Mr. Ujal Singh Bhatia and Mr. Thomas Graham would expire on 10 December 2015 and that both were eligible for reappointment to a second four-year term, in accordance with Article 17.2 of the DSU. He had also informed delegations that both Mr. Bhatia and Mr. Graham were interested and willing to serve for a second four-year term. Since then, he had undertaken informal consultations with interested delegations on this matter. He had reported to Members on the results of his consultations during several DSB meetings. In light of his consultations, at the October 2015 DSB meeting, he had announced his intention to host a very informal meeting on 12 November 2015 with the two Appellate Body members and he had invited any interested delegations who wished to participate in such a meeting and to pose questions to the Appellate Body members to contact him directly or via the Secretariat by 6 November 2015, and to indicate any topics that they wished to raise.

7.2. At the present meeting, the Chairman said that he wished to make a short report regarding the 12 November 2015 meeting with the two Appellate Body members and interested delegations. In this regard, he said that a total of 28 delegations, including several EU member States, had participated in the meeting held on 12 November 2015. There were separate sessions for each Appellate Body member. At the outset of that meeting, he as the Chairman of the DSB had set out ground rules for the orderly conduct of the meeting. In that regard, he had emphasized that the meeting was not intended to replicate or repeat the extensive interviews conducted by delegations in connection with the original appointments. He had informed delegations that questions to the Appellate Body members would be posed by Ambassadors or Deputies only, and that each delegation would be allowed to ask only two questions. Furthermore, he had stated that questions to be posed to the Appellate Body members must not touch upon legal issues raised in disputes currently under consultations, before panels or before the Appellate Body. Moreover, it was underlined that the questions must not refer to legal issues on which the Appellate Body had ruled during the term of the Appellate Body member seeking reappointment; and that they must not concern any legal issues which had not yet been addressed by the Appellate Body. He had also drawn attention to the fact that members of the Appellate Body were bound by the Rules of Conduct for the DSU and, that pursuant to Rules II.1 and III.2 shall be independent and impartial; shall avoid direct and indirect conflicts of interest, and shall maintain confidentiality. In that regard, he had emphasized that the Appellate Body members may, at any time, decline to answer any questions posed during the meeting. The Chairman further reported that after his introduction four delegations had made statements regarding the nature of the meeting and had expressed their views on the issue of reappointment, as set out in Article 17.2 of the DSU. Subsequently,

some delegations had posed questions. Those questions related to: (i) the Appellate Body member's interest in reappointment and the experiences and insights gained as an Appellate Body member; (ii) the issue of workload of the Appellate Body and how to address it; (iii) the issue of collegiality; and (iv) what the Appellate Body could do itself to improve the efficiency of the Appellate Body process. The Appellate Body members had answered all questions posed to them.

7.3. Following his short summary of the 12 November 2015 meeting, the Chairman further stated that in light of the results of his consultation process, including the meeting held on 12 November, he wished to propose that the DSB agree, at the present meeting, to reappoint Mr. Ujal Singh Bhatia and Mr. Thomas Graham for a four-year term, respectively, starting on 11 December 2015.

7.4. The DSB so agreed.

7.5. The representative of Brazil said that his country wished to congratulate Mr. Bhatia and Mr. Graham on their reappointment and to wish them all the best in their second term as Appellate Body members. Brazil wished to take the opportunity to make comments about the reappointment process. Brazil had always understood that the reappointment should not be conditioned upon a new set of questions posed by WTO Members to the Appellate Body candidates for reappointment. This was because initially candidates to the Appellate Body were normally interviewed as part of the selection process and that process did not need to be repeated in the context of reappointments and also because a new set of questions in the context of reappointments could imply undue interference with the independence and impartiality of the Appellate Body members. Brazil understood that any encounter with Appellate Body members that made their reappointment dependent on what or how they replied to Members' questions would be incompatible with the independence of the Appellate Body. Therefore, Brazil considered that any interaction, conversation or meeting between WTO Members and the Appellate Body members seeking reappointment, was not necessary. This understanding seemed to be consistent with past practice regarding reappointments until 2013. The DSU provisions did not require such a meeting or interaction. Article 17.2 of the DSU stated that: "each person may be reappointed once" but did not suggest that a meeting had to take place. It simply meant that the Appellate Body members did not have a right to continue for eight consecutive years and, in Brazil's view, only very specific circumstances could justify an evaluation of reappointments, such as the Appellate Body member's intentions about seeking reappointment, their health condition, malfeasance or if an alternative candidate were to be submitted by another WTO Member. Given the fact that as a result of the Chair's consultations, it had become clear that some WTO Members had expressed the need to have an interaction with the Appellate Body members who sought reappointments, Brazil had not opposed the Chair's idea to convene an informal meeting for that purpose, as long as such a meeting was transparent, inclusive and did not undermine the independence and impartiality of the Appellate Body members. Brazil was pleased that the open-ended meeting had followed strict ground rules and commended the Chairman for the role he had played in conducting that meeting. Finally, Brazil invited Members to consider whether the legitimate desire to have a moment of interaction with the Appellate Body members seeking reappointments could be addressed by having such interaction on a regular basis, which would be disconnected from the process of reappointment. For example, this could be done at the launch of the Appellate Body annual report.

7.6. The representative of the European Union said that the EU was very pleased to see the reappointments of Mr. Bhatia and Mr. Graham. While the EU was of the view that a meeting with the Appellate Body Members seeking reappointment would not have been necessary, it welcomed the very informal character of the meeting as well as the ground rules that had been set for the conduct of that meeting. The EU appreciated that those ground rules had been respected by all Members and allowed for a smooth conduct of the meeting and respected the independence of the Appellate Body members. Indeed, like Brazil, the EU commended the Chairman for his leadership in this regard.

7.7. The representative of Canada said that his country thanked Mr. Graham and Mr. Bhatia for accepting a second term on the Appellate Body. Their continued service was appreciated by all and their experience in their first term would serve them well and serve Members well during their second term. Canada joined the previous speakers in thanking the Chair for the consultations he had conducted to secure convergence among Members on the reappointments. Quite apart from any outstanding disagreements there might be among Members about the correct process for approving the reappointment, Canada did not take any view on some of the issues that had been raised and had also found the informal meeting with Mr. Graham and Mr. Bhatia to be very useful.

The meeting had provided a rare and valuable opportunity for delegations to hear from the Appellate Body members some of their preoccupations with workload and other Appellate Body process issues. In light of this experience, the DSB may wish to reflect further, as Brazil and the EU had suggested, on whether or not there was merit in organizing a similar set of exchanges on a regular basis with all Appellate Body members, or some variation of Appellate Body members, but separate from and not related to, the reappointment process. The same ground rules that had been applied during that meeting and which had worked so well could be applied in such a meeting to be held more regularly in an area where Members continued to seek improvements to the dispute settlement proceedings. Such an exchange might help Members identify further new practices and improvements to the Appellate Body stage of those proceedings.

7.8. The representative of China said that his country appreciated the hard and excellent work done by Mr. Bhatia and Mr. Graham, and fully supported their reappointments for a second term. China believed that the reappointment procedure of the Appellate Body members should be conducted in accordance with the principles of openness, transparency and fairness, so as to ensure the proper functioning of the dispute settlement system.

7.9. The representative of Mexico said that his country congratulated Mr. Bhatia and Mr. Graham on their reappointments. Mexico wished to make some comments regarding the process. In this regard, Mexico noted that, at present, no agreed rules existed with regard to reappointments to a second four-year term. In Mexico's view, while reappointment was not automatic, there could only be a limited number of circumstances for reappointments not to take place. For example, if an Appellate Body member would not wish to continue to serve on the Appellate Body or could not continue to do so. Alternatively, if a Member proposed another candidate or Members opposed the reappointment.

7.10. The representative of the United States said that his country joined the previous speakers in congratulating Mr. Bhatia and Mr. Graham on their reappointment. The United States thanked the Chairman for organizing a process so that Members could more meaningfully consider the decision proposed and successfully take this decision on reappointment. The United States had participated in the meeting hosted by the Chairman and had found it useful in terms of ensuring that Members' views were more fully informed to consider a possible reappointment decision by the DSB. The United States said it would like to express its appreciation to Mr. Bhatia and Mr. Graham for their willingness to meet with WTO Members, as multiple other Appellate Body members had done in the past. In no case had such an Appellate Body member called into question his or her independence or impartiality by simply talking to WTO Members. To the contrary, the United States, at least, had confidence that each Appellate Body member was capable of avoiding discussing any issues that would not be appropriate in that context, and even when not chaperoned by multiple WTO Members. Such meetings were helpful to WTO Members in carrying out their function under the DSU when reappointment was a possibility. The United States considered that, for future possible reappointments, similar meetings would also prove useful for Members.

7.11. The representative of India said that his country congratulated Mr. Graham and Mr. Bhatia on their reappointment as Appellate Body members. India wished them a successful second tenure. India wished to state that any process for reappointment of Appellate Body members must be transparent and inclusive and should not, in any way, impede the impartiality or independence of the Appellate Body. India appreciated and thanked the Chairman for his role in this regard.

7.12. The representative of Korea said that his country wished to join the previous speakers in congratulating Mr. Bhatia and Mr. Graham on their reappointment to a second term. Korea thanked the Chair for his able management of the informal meeting. Korea had found the meeting to be useful in better understanding the functioning of the Appellate Body and hoped that the reappointment process could continue in the future in a manner that was transparent and respectful of the independence of the Appellate Body members.

7.13. The representative of Australia said that his country also welcomed the reappointment of the two Appellate Body members who would continue the work that all Appellate Body members provided as an essential part of the system. Australia also appreciated the process that had been put in place to allow for the meeting to proceed and that allowed for the reappointments to be made. Australia wished to pick up on some of the ideas that Brazil had made about having a more regular, perhaps annual, meeting with the wider Appellate Body membership. From Australia's

perspective, the idea of an informal interaction with the members of the Appellate Body was a good one, obviously not to discuss any particular cases that were within the system, but particularly so that the Membership could engage with the Appellate Body on emerging issues such as workload and the efficiency of the system, many of those issues that were covered in the meeting held on 12 November 2015. In that regard, if such a meeting were considered useful by others, it would be helpful in moving ahead into the future.

7.14. The representative of the Russian Federation said that her country also welcomed the reappointment of Mr. Bhatia and Mr. Graham. Russia believed that their expertise, experience and professionalism were invaluable in these challenging times for the dispute settlement system. Russia wished to join the previous speakers in thanking the Chairman for organizing the process. Russia was ready to engage in discussions with other Members in order to resolve the concerns and uncertainties raised regarding the reappointment of Appellate Body members so as to ensure full transparency of the process and preserve the independence of the Appellate Body members.

7.15. The representative of the Kingdom of Saudi Arabia said that his country joined the previous speakers in congratulating Mr. Graham and Mr. Bhatia on their reappointment to a second term. Saudi Arabia thanked the Chairman for his leadership in conducting a transparent process that should continue in the future.

7.16. The Chairman said that the statements made at the present meeting and the various views expressed would form part of the formal record of the meeting. If Members so wished, the DSB could revert to some of these issues at a later stage. He wished to also take the opportunity to inform delegations that the second four-year term of Ms. Yuejiao Zhang would expire on 31 May 2016 and, pursuant to Article 17.2 of the DSU, she would not be eligible for reappointment. Accordingly, the DSB would have to decide on the appointment of a new Appellate Body member to replace her. It was his intention to circulate a draft decision regarding the selection process, to be adopted by the DSB at the 25 January 2016 meeting. However, in the meantime, he wished to encourage delegations to start thinking about possible candidates for the selection process to replace Ms. Zhang. In that regard, he wished to indicate that he would propose 15 March 2016 as the deadline for nominating candidates. However, needless to say, the decision to set a deadline was in the hands of Members. Furthermore, he drew attention to the fact that the first four-year term of Mr. Seung Wha Chang would expire on 31 May 2016. He said that Mr. Chang was eligible for reappointment to a second and final term of office, pursuant to Article 17.2 of the DSU. It was the Chairman's understanding that Mr. Chang was willing to serve a second term as Appellate Body member. In light of this, it was the Chairman's intention to consult informally with Members on this matter and he invited any delegation with views to contact him directly, should they wish to do so.

7.17. The DSB took note of the statements.

8 THE DISPUTE SETTLEMENT WORKLOAD

A. Statement by the Chairman

8.1. The Chairman, speaking under "Other Business", recalled that, at the 28 October 2015 DSB meeting, the Director-General had stated that, at each regular DSB monthly meeting, the Chairman of the DSB would provide information about the Appellate Body's workload, the number of disputes in the panel queue and at the panel composition stage, and the ability of the Secretariat to meet expected demand over the coming period. The Chairman said that he planned to do this under "Other Business" at each regular monthly meeting. At the present meeting, he reported that with regard to appeals, the Appellate Body was currently dealing with two appeals³ and two arbitrations⁴ to determine the reasonable period of time to comply with the DSB's recommendations and rulings under Article 21.3(c) of the DSU. Based on the projected dates for the circulation of the next panel reports, the Appellate Body could expect that up to three appeals may be filed in the first quarter of 2016.⁵ With regard to panels/arbitrations, currently, there were 17 active panels (including two panels under Article 21.5 of the DSU) and one active arbitration

³ DS397 EC – Fasteners (Recourse to Article 21.5 by China); DS453 Argentina – Measures Related to Trade in Goods and Services.

⁴ DS457 Peru – Agricultural Products; DS429 US – Shrimp II.

⁵ DS461 Colombia – Textiles; DS456 India – Solar Cells; and DS464 US – Washing Machines.

under Article 22.6 of the DSU.⁶ He noted that he was counting multiple panels and arbitrations that were being conducted simultaneously by the same panel or arbitrator as a single panel. For example, the "Australia – Tobacco Plain Packaging" panels, which were in fact four active disputes, were counted as a single panel in his report. In addition, he had excluded suspended panels from these data. The Rules Division and the Legal Affairs Division were working together to reduce the queue of panels awaiting availability of staff to assist the panels that had been composed. In the previous two weeks, a number of panels previously in the queue had begun working with parties to establish time-tables. As of the present day, there were four composed panels awaiting staff to assist them.⁷ As of now, there were 10 panels at the composition stage. With regard to new information on the WTO Website, he drew Members' attention to the fact that new information was now on the dispute settlement page of the WTO website that provided, consistent with the Director-General's undertaking to delegations the previous month, information about Appellate Body, panel, and arbitration workload, panels in composition, and the panel queue.

8.2. The representative of Korea said that his country thanked the Chair and the Secretariat for informing the DSB of the current status of disputes. Korea looked forward to information and continued updates from the Secretariat on the status of disputes in general, but also with respect to specific disputes should such information be requested by a party. Korea hoped that the new practice put in place by the Director-General would help enhance the transparency and predictability of the dispute settlement system.

8.3. The DSB took note of the statements.

⁶ DS384/DS386 US – COOL.

⁷ DS482 Canada – Welded Pipe; DS486 EU – PET; DS488 US – OCTG (Korea); DS480 EU – Biodiesel (Indonesia).