

**Dispute Settlement Body**  
**25 September 2007**

**MINUTES OF MEETING**

Held in the Centre William Rappard  
on 25 September 2007

*Chairman: Mr. Bruce Gosper (Australia)*

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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.58)
- (b) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.58)
- (c) United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.33)

1. The Chairman recalled that Article 21.6 of the DSU required that "unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved". He proposed that the three sub-items to which he had just referred be considered separately.

- (a) United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.58)

2. The Chairman drew attention to document WT/DS176/11/Add.58, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US Section 211 Omnibus Appropriations Act of 1998.

3. The representative of the United States said that his country had provided a status report in this dispute on 13 September 2007, in accordance with Article 21.6 of the DSU. As noted in the status report, a number of legislative proposals that would implement the DSB's recommendations and rulings in this dispute had been introduced in the current Congress, in both the US Senate and the US House of Representatives. The US administration continued to work with the Congress to implement the DSB's recommendations and rulings.

4. The representative of the European Communities said that a strong and non-discriminatory protection of IP rights worldwide was essential in the development of strong and mutually beneficial trade relations. In that respect, the conclusion of the TRIPS Agreement was a major achievement of the Uruguay Round negotiations. It was, therefore, highly regrettable that the United States, one of its main promoters, had now failed to send the message of the need to live up to its rules. In the past months, there had been, however, some positive signs. Bipartisan bills that would, *inter alia*, repeal Section 211 had been introduced in the US Congress in June 2007 and had already received support from 65 co-sponsors. This added to other bills introduced earlier that would also repeal Section 211 and were supported by 62 co-sponsors. The EC hoped that the introduction of these bills showed a renewed and genuine interest of the United States to finally bring itself into compliance with its TRIPS obligations. It was in the interest of all, including of the US Industry, that the United States finally complied with its obligations under the TRIPS Agreement.

5. The representative of Cuba said that the United States was yet again submitting the same report before the DSB regarding Section 211. Not a word had been changed in that report. Nor, essentially, had its intentions changed with regard to settling this dispute. When countries condemned the US lack of will and failure to comply, the United States repeated that their accusations were groundless. One might think that Cuba, too, was propounding the same reasons month after month, and that the EC as well as other delegations with systemic concerns at these serious failures to comply were also repeating the same arguments. However, there was a great difference between those

arguments; i.e. those put forward by the United States were wrong and those put forward by the rest of the world were the assertion of a right that had been flouted. The defence of rights, prompt settlement of disputes and prohibition of unilateral determinations were the agreed objectives of the multilateral trading system. The way in which the United States was disregarding the principle of prompt compliance could set a precedent that would undermine the very foundations of the dispute settlement system.

6. Section 211 was part of the concessions made by the United States to an economically powerful group linked with the anti-Cuban extreme right based in South Florida, as payment for electoral favours in exchange for the continuation of its hostile policy towards Cuba. Section 211 complemented and extended the US blockade of Cuba, which would shortly be once again judged by the international community in the US General Assembly, and, as had happened for the last 15 consecutive years, that government would be requested to put an end to a criminal policy that was unjustified both ethically and legally. The United States had stated that its Congress was working on various statutory proposals in order to comply with the DSB's decision on this dispute. Its contempt for the decisions of the DSB and the US General Assembly was revealed by proposals that perpetuated this piece of legislation by introducing insignificant changes to Section 211. It could no longer be claimed that the delay of more than five years in complying with the decisions of the DSB was a way of putting the security and credibility of the dispute settlement mechanism to the test. The fact was that no one any longer believed in the existence of a rapid, effective and reliable regulatory system for settling disputes. Cuba, with rights on its side and the support of a DSB decision, called upon the United States to repeal Section 211 with immediate effect and to show more respect for the WTO and its Members.

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

8. The representative of the Bolivarian Republic of Venezuela said that his delegation thanked Cuba for its statement, which it fully endorsed, and which, as on previous occasions, enabled delegations to have an updated picture of the matter. His country also noted the status report submitted by the United States. In spite of the expressions of goodwill by the United States made at previous meetings, delegations were, once again, gathered at the present meeting to listen to a reiterated status report on the case in question, a situation which was not conducive to a rapid conclusion to this matter, as one would hope for. The United States had insisted that it had a good record of full compliance with its obligations in the vast majority of the disputes in which it had been involved. In this regard, his delegation would recall the old adage that "it is better to travel hopefully than to arrive". Accordingly, in the interests of maintaining the good record, which the United States had claimed, his country would urge the United States to put an end to this long-running dispute by coming up with a solution mutually satisfactory to the parties concerned.

9. The representative of China said that, like other Members, China, once again, wished to express its concerns with regard to this protracted implementation. Five years had passed and the implementation issue pertaining to this case was still before the DSB under discussion. While China noted the encouraging development within the United States on this matter, there was yet no clear indication when this matter would hopefully be resolved. Bearing in mind the systemic impact that the undue delay of full implementation of the DSB's rulings would cause to the integrity and efficiency of the dispute settlement system, China, once again, urged the United States to double its efforts to fully implement the DSB's decision pertaining to this case.

10. The representative of Nicaragua said that, as had already been stated by Cuba, all Members were aware of the arguments and concerns which had been expressed by different delegations since the DSB's decision regarding this dispute. Nicaragua thanked the United States for its report. Nevertheless her country had always expressed its systemic concern that an important WTO Member should respect the DSB's decision and that both large and small delegations should all respect such decisions. Nicaragua, therefore, once more urged the United States to comply with the DSB's decision pertaining to the dispute under consideration, and hoped that the parties to the dispute would soon be in a position to report to the WTO and the DSB on compliance in this dispute.

11. The representative of India said that, due to systemic interests, her country, once again, wished to express its concerns on protracted implementation process in this case. India thanked the United States for the status report and the statement made at the present meeting. It was regrettable that the implementation issue in this case was still before the DSB under discussion. Although more than five years had passed since the DSB had adopted the panel and the Appellate Body's recommendations, there was no indication when this matter would hopefully be resolved. As mentioned on past occasions, a continued non-compliance situation by WTO Members clearly undermined the credibility of the system and the carefully negotiated balance of rights and obligations of the entire Membership.

12. The representative of Viet Nam said that, as a new WTO Member, Viet Nam expected all WTO rules to be strictly respected. However, Viet Nam, was surprised by the fact that the DSB's rulings, in several cases, had not been implemented for a long period of time, and in the case under discussion for more than five years. Like many other developing countries, despite facing no few difficulties, Viet Nam still tried its best to meet all its obligations as a WTO Member. Therefore, Viet Nam wished to echo other Members in requesting the implementation of the DSB's rulings and recommendations in this dispute without further delay so as to ensure the efficiency of the system.

13. The representative of the United States said that regarding the EC's statement, the United States regretted that the EC was again suggesting that US actions in this dispute had somehow undermined the authority of the TRIPS Agreement. The United States failed to understand how its commitment to implement the DSB's recommendations and rulings in this dispute and its efforts to comply, as noted by the EC in its reference to the various legislative proposals currently before the US Congress, could undermine the "authority" of the TRIPS Agreement. To the contrary, these affirmed Members' commitments to the TRIPS Agreement. With respect to the interventions by other Members expressing "systemic" concerns, the record showed that the United States had fully complied in the vast majority of its disputes. In that connection, his delegation wished to recall that at the previous DSB meeting, the United States had announced that it had implemented the DSB's recommendations and rulings in four disputes. As for the remaining few, including the dispute under discussion, the United States was actively working towards compliance.

14. 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.58)

15. The Chairman drew attention to document WT/DS184/15/Add.58, 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.

16. The representative of the United States said that his country had provided a status report in this dispute on 13 September 2007, in accordance with Article 21.6 of the DSU. As of 23 November 2002, the US authorities had addressed the DSB's recommendations and rulings with

respect to the calculation of anti-dumping margins in the hot-rolled steel anti-dumping duty investigation at issue in this dispute. Details were provided in document WT/DS184/15/Add.3. The US administration would work with the US Congress with respect to the recommendations and rulings of the DSB that had not already been addressed by the US authorities by 23 November 2002.

17. The representative of Japan said that his country thanked the United States for its statement and the latest status report in this dispute. Japan also acknowledged that in November 2002 the United States had taken certain measures to implement the part of the DSB's recommendations, as reported by the United States. However, it was regrettable that while it had been almost five years since then, and more than six years after the DSB had adopted its recommendations, the issue of implementation in this case still remained on the DSB's agenda. As Japan had repeatedly stated before the DSB, a full and prompt implementation of the DSB's recommendations and rulings was essential for maintaining the credibility of the WTO dispute settlement system. In this regard, Japan noted the statement made by the United States, along with its latest status report, that the US administration was working with the new US Congress to pass specific legislative amendments that would implement the DSB's recommendations and rulings. Japan wished to renew its strong hope that the US administration would accelerate its efforts to work with the US Congress in order to come to full compliance without further delay.

18. 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.33)

19. The Chairman drew attention to document WT/DS160/24/Add.33, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning Section 110(5) of the US Copyright Act.

20. The representative of the United States said that his country had provided a status report in this dispute on 13 September 2007, in accordance with Article 21.6 of the DSU. The US administration would work closely with the US Congress and would continue to confer with the EC, in order to reach a mutually satisfactory resolution of this matter. In this regard, the United States appreciated the EC's statement at the 31 August 2007 DSB meeting that it remained prepared to work with the United States to seek a mutually satisfactory solution to this dispute. The United States shared the EC's goal of discussing how such a solution could be achieved.

21. The representative of the European Communities said that there was no need to repeat the history of this case, which had been on the DSB's agenda for quite some time; if that was not an understatement. The EC needed to see action soon. The EC was of course prepared to work with the United States to resolve the dispute.

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

**2. United States – Continued Dumping and Subsidy Offset Act of 2000: Implementation of the recommendations adopted by the DSB**

(a) Statements by Canada, the European Communities and Japan

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

24. The representatives of Canada said that her country was pleased that duty deposits collected by the United States after 30 September would no longer be subject to the Byrd Amendment. While this was a significant step forward, duty deposits collected by the United States before 1 October 2007, would continue to be subject to disbursement. Canada remained disappointed that for more than a year, the United States had neither submitted status reports nor had taken action to repeal the Byrd Amendment in full.

25. The representative of the European Communities said that the EC expected that the United States would, once again, claim having fully implemented the DSB's ruling and recommendations in this dispute. Yet, in a few days, the United States would start a new distribution under the Continued Dumping and Subsidy Offset Act. Provisional amounts published by the United States indicated that the distribution to come would likely be the most important thus far. The EC was still waiting for a convincing explanation as to how this reconciled with the United States' assertion month after month that it had taken all actions necessary to bring itself in compliance with its WTO obligations. The DSB's recommendation, the full implementation of which had been claimed, required stopping those distributions which were in breach of Article 18.1 of the Anti-Dumping Agreement and Article 32.1 of the SCM Agreement. This should have been done by 27 December 2003, and not at some undefined future date, at the convenience of the United States. As long as the distributions under the CDSOA continued, the United States would be in breach of Articles 18.1 of the Anti-Dumping Agreement and Article 32.1 of the SCM Agreement. Therefore, the EC wished to ask again the United States if and what steps it intended to take to stop the transfer of anti-dumping and countervailing duties to its industry. The EC also renewed its call on the United States to abide by its clear obligation under Article 21.6 of the DSU, and to submit implementation reports in this dispute.

26. The representative of Japan said that initiated by a Federal Notice<sup>1</sup>, issued on 31 May 2007, the distribution process under the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") was well underway for fiscal year 2007. Based on the information contained in the preliminary CDSOA amounts, available as of 30 April 2007, also published in May 2007, funds preliminary available to US domestic industries for the next distribution would amount to some US\$279 million. The past experiences with the CDSOA demonstrated that the final amounts that would be eventually distributed were likely to be substantially higher than these preliminary figures. The notice and announcement demonstrated that the CDSOA had been repealed only *in form*, but was still in force and fully operational. Although Japan recognized that a duty collected on entries entered as from 1 October 2007 would not be subject to the distributions, "the distribution process will continue until all entries made before [that date] are liquidated and the duties are collected".<sup>2</sup> Under the US system, such liquidation and collection could take years to come. Thus, contrary to the repeated US assertion that it had taken all necessary steps for implementation in this case, these latest US actions rendered further support to the view that the United States had still failed to fully implement the DSB's recommendations and rulings in this case. Japan, once again, urged the United States to immediately terminate the illegal distribution and to repeal the CDSOA not just *in form* but also in substance. Until then, Japan considered that the US compliance was incomplete and the issue of implementation in this dispute must be under surveillance by the DSB pursuant to Article 21.6 of the DSU. In this connection, Japan reiterated that the United States was under obligation to provide the DSB with a status report, pursuant to Article 21.6 of the DSU. Japan reserved all its rights under the DSU until the United States came into full compliance.

27. The representative of Brazil said that his country thanked Canada, the EC and Japan for maintaining this matter on the DSB's agenda. In less than one week, the United States would begin the seventh round of disbursements under the Byrd Amendment. According to preliminary figures

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<sup>1</sup> "Notice of Intent to Distribute Offset for Fiscal Year 2007", 72 Federal Register at 29582 et seq. (dated 29 May 2007).

<sup>2</sup> 71 Federal Register at 31336 et seq. (dated 1 June 2006).

released by the US authorities, US domestic industry would receive US\$279 million as a result of that WTO-inconsistent measure being still operative in defiance of the repeated assertion by the United States that full compliance had been achieved in this case. With this next distribution, the Byrd Amendment would have channelled, since fiscal year 2001, almost US\$2 billion into the US domestic industry's pockets at the expense of foreign producers and exporters and of WTO Members' rights. And more was yet to come in light of the conditions applying to the repeal of the Byrd Amendment, pursuant to the "Deficit Reduction Act of 2006". Anti-dumping and countervailing duties collected on products entered into the United States up to 30 September 2007 would still be handed out to the US domestic industry no matter when the duties were liquidated, and despite the fact that the reasonable period of time to fully implement the recommendations in the present dispute had expired on 27 December 2003. Brazil wished to reiterate that full compliance on the part of the United States would only come through the complete elimination of all disbursements under the Byrd Amendment. Until this condition was met, WTO Members should be able to exercise any rights related to the non-compliance situation they faced in this case.

28. The representative of India said that her country joined previous speakers in thanking Canada, the EC and Japan for raising this issue at the present DSB meeting once again. India shared their concerns and supported their request for the United States to explain how full compliance had been achieved in this particular dispute. However, India noted that at the end of this month, the duties collected would be no more subject to the Byrd Amendment. However, India was disappointed that the United States had failed to submit the status report for the past year.

29. The representative of Thailand said that his country wished to join previous speakers in thanking Canada, the EC, and Japan for continuing to bring this matter before the DSB. As noted in previous meetings, Thailand remained disappointed at the United States' continued illegal disbursement of funds under the CDSOA. Thailand also remained disappointed at the United States' continued lack of status reports on its outstanding implementation in this dispute. Therefore, Thailand again urged the United States to cease its WTO-inconsistent disbursements, to repeal the Byrd Amendment with immediate practical effect, and to resume providing status reports until such actions were taken and this matter had been fully resolved.

30. The representative of China said that his country thanked Canada, the EC and Japan for once again raising this item at the DSB meeting. China shared the view of the previous speakers that, despite the efforts of the United States up to this moment, the implementation issue had not been resolved in this dispute within the framework of Article 21 of the DSU. Therefore, China wished to join them in urging the United States to comply fully with the DSB's rulings.

31. The representative of the United States said that, as his delegation had already explained at previous DSB meetings, the US President had signed the Deficit Reduction Act into law on 8 February 2006. That Act included a provision repealing the Continued Dumping and Subsidy Offset Act of 2000. Thus, the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. Regarding comments concerning CDSOA disbursements, the United States was surprised by the assertion that the United States would not have implemented the DSB's recommendations and rulings until the last CDSOA distribution had been made and the EC's specific claims of breach today. Of course, such questions were for panels to decide. With respect to comments regarding further status reports in this matter, those Members who had inscribed this item on the agenda of the present meeting were, of course, free to do so, but the United States failed to see what purpose would be served by further submission of status reports repeating the progress the United States had made in the implementation of the DSB's recommendations and rulings.

32. The DSB took note of the statements.

### **3. China – Measures affecting the protection and enforcement of intellectual property rights**

- (a) Request for the establishment of a panel by the United States (WT/DS362/7)

33. The Chairman recalled that the DSB had considered this matter at its meeting on 31 August 2007, and had agreed to revert to it. He drew attention to the communication from the United States contained in document WT/DS362/7, and invited the representative of the United States to speak.

34. The representative of the United States said that, at the 31 August DSB meeting, his country had briefly described its concerns with three aspects of the Chinese legal regime for the protection and enforcement of intellectual property rights. His delegation did not wish to repeat that description at the present meeting. The United States had taken note of China's statement made at the 31 August DSB meeting, including China's comments about the efforts it had made to develop and enforce its IPR regime. As his delegation had stated previously, the United States recognized that China had made the protection of intellectual property rights a priority, and that China had taken active steps to improve IPR protection and enforcement. The fact remained, however, that bilateral discussions on the specific matters described in the US panel request had not resulted in a mutually agreeable solution to the US concerns. The United States, therefore, once again requested that the DSB establish a panel to examine the matters set forth in the US panel request.

35. The representative of China said that his country had fully elaborated its position on this issue on previous occasions, including at the 31 August DSB meeting, and would not repeat it at the present meeting. It was regrettable that the United States requested the establishment of the panel for a second time. While remaining confident that China's relevant measures were consistent with relevant WTO rules, China strongly opposed the US attempt to impose on developing Members, through this case, an extra obligation that would go beyond what had been specified in the TRIPS Agreement and shall defend its interests in the future process.

36. The DSB took note of the statements and agreed to establish a panel in accordance with the provisions of Article 6 of the DSU with standard terms of reference.

37. The representatives of Argentina, the European Communities, Japan, Mexico and Chinese Taipei reserved their third-party rights to participate in the Panel's proceedings.

### **4. United States – Laws, regulations and methodology for calculating dumping margins ("Zeroing")**

- (a) Recourse to Article 21.5 of the DSU by the European Communities: Request for the establishment of a panel (WT/DS294/25)

38. The Chairman drew attention to the communication from the European Communities contained in document WT/DS294/25, and invited the representative of the European Communities to speak.

39. The representative of the European Communities said that on 9 July 2007, the EC had requested consultations with the United States on the measures allegedly taken to comply with the DSB's rulings and recommendations in this dispute. The consultations held on 30 July had allowed for a better understanding of respective positions, however, the EC was disappointed that those consultations had failed to settle the dispute. That left the EC no choice, but to move to the next stage by requesting the establishment of a panel at the present meeting. Under the terms of the Understanding regarding the procedures under Articles 21 and 22 of the DSU reached with the United



States, the panel would be established at the present meeting upon the first request. The EC's request should not come as a surprise. The EC had expressed its dissatisfaction with US actions several times and in detail, but no corrective actions had been taken

40. In particular, the EC was concerned that the United States was still collecting duties calculated with zeroing in many of the cases challenged by the EC and that nothing had been done to eliminate zeroing in the 16 administrative reviews. A couple of cases were also causing particular concern. In the case on "Stainless Steel Sheet and Strip in Coils from Italy", the EC was still waiting for proper implementation five months after the end of the implementation period. The exporter concerned (ThyssenKrupp-AST) should have a *de minimis* margin without zeroing and not be subject to an AD anymore, but had been denied this by US DOC's refusal to correct an obvious arithmetic error. Similarly, a decision was still awaited in the case of Ball bearings from the UK, where one company, NSK UK, should also have a zero duty in its latest review. It was now more than five months after the implementation deadline, but the US DOC still refused to take any action to remove zeroing. This left the company concerned in a totally unjustifiable position with no choice but to bear a 16,87 per cent duty entirely created by a WTO breach, or go through, at its own expenses, an administrative review with an uncertain outcome. In addition to requesting the establishment of a panel, the EC would also want to hear from the United States why it had not submitted a status report before the present meeting. In its latest report, the United States had stated that "With respect to the 15th investigation, Certain Stainless Steel Sheet and Strip in Coils from Italy, Commerce is expected to issue a determination imminently". Thereby, it had admitted that its implementing actions were incomplete even in its understanding of its obligations. The EC recalled, once again, that under Article 21.6 of the DSU, the issue of implementation shall remain on the agenda until the issue was resolved and the Member concerned shall submit beforehand a status report.

41. The representative of the United States said that his country was disappointed that the EC was seeking the establishment of a panel. However, pursuant to the US understanding with the EC, which had been circulated to the DSB in document WT/DS294/21, the United States would accept establishment of a panel at the present meeting. As the United States had informed the EC during consultations, the United States had complied fully with the DSB's recommendations and rulings. The United States was confident that the panel would so agree. The United States also wished to note that not all of the measures in the EC's panel request were measures taken to comply with the DSB's recommendations and rulings, and were, therefore, not within the scope of the Article 21.5 proceeding.

42. With regard to the EC's suggestion that the United States should have filed another status report, the United States had explained at the previous DSB meeting that the United States had completed the last investigation still pending, involving stainless steel from Italy. On that basis, the United States had also informed the DSB that it had implemented the recommendations and rulings of the DSB in this dispute. The United States was, therefore, surprised to hear the EC suggest that the United States was under a continuing obligation to provide a status report. The United States was not aware of any Member that continued providing status reports after it had informed the DSB that it had implemented the DSB's recommendations and rulings. The EC was no exception in this regard. For example, the EC had not provided status reports all these many years in disputes on "Hormones" and "Bananas", the two longest running disputes in WTO history, which were currently the subject of dispute settlement proceedings over compliance.

43. The representative of the European Communities said that the EC considered that in each of the 31 cases condemned in the past year's ruling, the United States was under the obligation to stop applying duty rates created or inflated by zeroing. All the measures identified in the EC's request for consultations contributed to maintaining zeroed duty rates in force after the implementation deadline. For that reason, the EC considered that they were measures which the WTO needed to review when examining whether or not the United States had implemented the DSB's recommendations and

rulings. Previous DSB's rulings clearly established that the measures taken to comply were not limited to those identified by the implementing Member and fully supported the EC approach.

44. The DSB took note of the statements and agreed, pursuant to Article 21.5 of the DSU, to refer to the original Panel, if possible, the matter raised by the European Communities in document WT/DS294/25. The Panel would have standard terms of reference.

45. The representatives of India, Japan and Mexico reserved their third-party rights to participate in the Panel's proceedings.

## **5. Appointment of Appellate Body members**

### **(a) Statement by the Chairman**

46. The Chairman, speaking under "Other Business", referred to his fax of 5 September 2007 regarding the Appellate Body selection process, and recalled that the Selection Committee would interview the candidates proposed for the Appellate Body on 26 and 27 September and 11 and 15 October. All the necessary arrangements had already been made by the Secretariat in this respect. Furthermore, in accordance with past practice, on 16, 17 and 18 October, the Selection Committee would make itself available to meet, upon request, with interested delegations who would wish to express their views on the candidates. Delegations wishing to do so were invited to contact the Council and TNC Division to make an appointment. Alternatively, delegations could send their comments in writing addressed to the Chairman of the DSB, in care of the Council and TNC Division, by no later than c.o.b. 18 October 2007. Shortly, thereafter, the Selection Committee would inform delegations of its recommendations regarding the four positions in the Appellate Body so that the final decision could be taken by the DSB at its regular meeting on 19 November 2007.

47. The DSB took note of the statement.

48. Just prior to the closure of the meeting, following the Chairman's announcements regarding next DSB meetings, the representative of Colombia said that his delegation wished to express concerns regarding a special DSB meeting to be held on 28 September to consider Panama's request for the establishment of a panel to examine its complaint with regard to Colombia's indicative prices and restrictions on ports of entry (DS366). Colombia wished to express its disagreement and dissatisfaction regarding this matter since a special DSB meeting was being convened to consider a panel request for the first time. According to Colombia's interpretation of the DSU, special DSB meetings could be convened to consider panel requests for the second time. Colombia believed that the convening of this special meeting to consider Panama's panel request for the first time impaired Colombia's rights of defence. In this regard, Footnote 5 to Article 6.1 of the DSU provided that a special DSB meeting could be convened to consider a panel request for the second time. In Colombia's view this special rule took precedence over general rules.

49. The Chairman thanked Colombia for the statement and said that under the DSU provisions "the DSB shall meet as often as necessary to carry out its functions within the time-frames provided in this Understanding". He noted Colombia's concern regarding the convening of the special DSB meeting and proposed that the DSB take note of the statement.

50. The DSB took note of the statements.

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