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Dispute Settlement Body
23 March 2012

MINUTES OF MEETING

Held in the Centre William Rappard
on 23 March 2012

Chairperson: Mrs. Elin Østebø Johansen (Norway)

Prior to the adoption of the Agenda, the item concerning the adoption of the Panel Reports in the disputes on: "United States – Certain Country of Origin Labelling (COOL) Requirements" (DS384; DS386) was removed from the proposed Agenda following the US decision to appeal the Reports.

Subjects discussed: Page

1. Surveillance of implementation of recommendations adopted by the DSB

(a) United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.112)

(b) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.112)

(c) United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.87)

(d) European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.50)

(e) China – Measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products: Status report by China (WT/DS363/17/Add.14)

(f) United States – Anti-dumping administrative reviews and other measures related to imports of certain orange juice from Brazil: Status report by the United States (WT/DS382/10/Add.3)

(g) United States – Definitive anti-dumping and countervailing duties on certain products from China: Status report by the United States (WT/DS379/12/Add.2)

The Chairperson recalled that Article 21.6 of the DSU required that unless the DSB decided 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 was resolved. She proposed that the seven sub-items under Agenda item 1 be considered separately.

(a) United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.112)

1. The Chairperson drew attention to document WT/DS176/11/Add.112, 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.

2. The representative of the United States said that his country had provided a status report in this dispute on 12 March 2012, in accordance with Article 21.6 of the DSU. Legislative proposals had been introduced in the current 112th Congress to implement the recommendations and rulings of

the DSB. The US Administration would continue to work on solutions to implement the DSB's recommendations and rulings.

3. The representative of the European Union said that the EU thanked the United States for its most recent status report. The EU hoped that the US authorities would very soon take steps towards implementing the DSB's ruling and resolve this matter.

4. The representative of Cuba said that the status report submitted by the United States at the present meeting contained only one change as compared to the previous reports, namely its number (112). The United States showed that nothing had been done for more than a decade to implement the DSB's rulings and recommendations in the Section 211 dispute. Thus, the US non-compliance continued and there was no effective WTO-consistent solution to end this dispute. The United States had been unable to show any change in its position or to send a signal of any progress towards meeting its WTO obligations. In fact, the legislative proposals referred to by the United States in its status report remained at a standstill, since they did not constitute a priority for either the US Administration or the US Congress. At the same time, the United States openly displayed its incoherent foreign policy by co-sponsoring and promoting "respect for intellectual property rights" in the WTO, through the so-called "Anti-Counterfeiting Trade Agreement". The United States also sought to impose that Agreement which was a result of secret and exclusive negotiations, on other Members, in order to guarantee the private rights of companies from the United States and other developed countries which monopolized ownership of the majority of marks and patents worldwide. At numerous forums, the United States had expressed its "concerns" about the alleged non-compliance of other Members with the TRIPS Agreement, while at the same time proposing legislation on the subject, despite its continuing record of violations of intellectual property rights, as in the case of Section 211.

5. The US conduct discredited the dispute settlement system, in which Members placed hopes of great success at the time when the WTO had been established. It was an infringement of intellectual property rights to keep in place legislation that was inconsistent with the TRIPS Agreement, which provided the highest degree of regulation and protection for intellectual property rights at the multilateral level. As Cuba pointed out every month, the Bacardi Company, under the protection of Section 211, marketed a line of rum, making improper use of the Havana Club trademark. This legitimized misleading advertising by the Bacardi Company which continued, with impunity, to use the trademark to sell rum of non-Cuban origin under a Cuban brand name. The United States, contrary to the image of a protector of intellectual property rights that it tried to portray, undermined and degraded the aims of those players in the area of international trade that genuinely sought to combat counterfeiting. Cuba reaffirmed its determination to continue demanding that the United States comply with its WTO legal obligations. No country, however powerful, had the authority to place itself above international law and multilateral trade rules. Repealing Section 211 was the only way of arriving at an equitable settlement of this dispute. The United States should learn that neither the economic, trade and financial blockade against Cuba nor the legislative contrivances of its implementation would succeed in undermining the success of the Cuban revolution. Cuba urged the United States to comply with the DSB's rulings and recommendations.

6. The representative of Brazil said that her country thanked the United States for its status report but noted that, once again, the United States reported lack of progress. Brazil remained concerned about this situation of non-compliance with the DSB's recommendations and urged the United States to bring its measures into conformity with WTO disciplines.

7. The representative of China said that her country thanked the United States for its status report. However, China regretted that the United States, once again, reported non-compliance. This prolonged situation of non-compliance was highly incompatible with the prompt and effective implementation required under the DSU provisions, in particular when the interests of a developing-

country Member were affected. Thus, China urged the United States to implement the DSB's rulings and recommendations without further delay.

8. The representative of the Plurinational State of Bolivia said that, once again, the United States had nothing new to report. Throughout the years, Bolivia noted the lack of political will on the part of the United States to resolve this dispute. Bolivia, therefore, reiterated its concern about the US non-compliance with the DSB's recommendations. This situation of non-compliance undermined the credibility and integrity of the multilateral trading system and caused serious harm to a developing-country Member. Calls on Cuba to initiate a new dispute on this matter would imply high financial costs and would result in the same DSB ruling. Once again, Bolivia urged the United States to comply with the DSB's recommendations and rulings and to take steps to remove the restrictions under Section 211. Finally, he said that Bolivia supported the concerns raised by Cuba at the present meeting.

9. The representative of Nicaragua said that his country thanked the United States for its status report in this dispute. Nicaragua noted that the status report did not contain any new information and remained the same over the years. This showed the continued lack of will on the part of the United States to comply with the DSB's recommendations and rulings. Nicaragua supported Cuba's arguments and had confidence in the multilateral trading system and wished to strengthen that system. However, Members' non-compliance with the DSB's recommendations and rulings undermined the credibility of the system and had affected Cuba's trading and economic interests for more than a decade. Nicaragua, once again, urged the United States to comply with the DSB's recommendations and rulings.

10. The representative of Ecuador said that his country supported the statement made by Cuba and, once again, noted that Article 21 of the DSU referred specifically to prompt compliance with the DSB's recommendations and rulings, in particular where the interests of a developing-country Member were affected. Ecuador hoped that the United States would step up its efforts to ensure prompt compliance with the DSB's recommendations and rulings by fully repealing Section 211.

11. The representative of the Dominican Republic said that his country thanked the United States for its status report. The Dominican Republic, once again, regretted that this item had been on the DSB's Agenda for such a long time. The Dominican Republic understood the US Administration's efforts and the balance of powers in the US system, however, it believed that non-compliance undermined the credibility of the dispute settlement system. In that regard, the Dominican Republic, once again, urged the US Administration to step up its efforts in order to find a definitive solution to comply with the DSB's recommendations and rulings.

12. 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.112)

13. The Chairperson drew attention to document WT/DS184/15/Add.112, 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.

14. The representative of the United States said that his country had provided a status report in this dispute on 12 March 2012, in accordance with Article 21.6 of the DSU. As of 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. With respect to the recommendations and rulings of the DSB that had not already been

addressed by the US authorities, the US Administration would work with the US Congress with respect to appropriate statutory measures that would resolve this matter.

15. The representative of Japan said that his country thanked the United States for its statement and its most recent status report. Japan noted that the United States had taken certain measures to implement part of the DSB's recommendations in November 2002. Japan hoped that the United States would soon be in a position to report to the DSB on more tangible progress with respect to the implementation of the remaining part of the DSB's recommendations. Once again, Japan called on the United States to fully and promptly implement the DSB's recommendations in this long-standing dispute without further delay.

16. 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.87)

17. The Chairperson drew attention to document WT/DS160/24/Add.87, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning Section 110(5) of the US Copyright Act.

18. The representative of the United States said that his country had provided a status report in this dispute on 12 March 2012, 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.

19. The representative of the European Union said that the EU noted and thanked the United States for its status report. As it had stated many times in the past, the EU remained keen to resolve this dispute.

20. 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.50)

21. The Chairperson drew attention to document WT/DS291/37/Add.50, which contained the status report by the European Union on progress in the implementation of the DSB's recommendations in the case concerning its measures affecting the approval and marketing of biotech products.

22. The representative of the European Union said that the EU hoped that it could continue on the constructive path of dialogue with the United States. A technical meeting had taken place on 20 March 2012. At that meeting, the EU and the United States had discussed directly issues of concern for both sides as well as recent developments in the biotech field. In 2012, the Commission had already authorized three more GMOs[1] and had renewed the authorization of a fourth one.[2] Two of these decisions[3] had been adopted only six months after the relevant EFSA opinions had been published. Furthermore, on 15 February 2012, EFSA had issued its opinion on the safety of a GM

[1] A5547-127 soybean, 356043 soybean, MON87701 soybean.
[2] 40-3-2 soybean.
[3] Authorization decision for 356043 and MON87701 soybeans.

soybean for food and feed uses.[4] Regarding the concerns expressed by the United States on the backlog of approvals, the EU recalled that its approval system was not covered by the DSB's recommendations and rulings. The EU underlined that the GMO regulatory regime was working normally as evidenced by the approval decisions mentioned. The functioning of the GMO regime should not be rigidly assessed purely quantitatively and in the abstract, in terms of the number of authorizations per year, since this was dependent on various product and case-specific elements and in particular on the quality of applications and the time needed by applicants to answer requests from EFSA on additional scientific information.

23. 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 it had explained at past meetings of the DSB, the United States had substantial concerns regarding EU measures affecting the approval of biotech products. The EU measures had resulted in substantial restrictions on the importation of US agricultural products. Earlier that week, as the EU had noted, the United States held useful discussions with EU officials regarding these concerns and related issues.

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

(e) China – Measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products: Status report by China (WT/DS363/17/Add.14)

25. The Chairperson drew attention to document WT/DS363/17/Add.14, which contained the status report by China on progress in the implementation of the DSB's recommendations in the case concerning China's measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products.

26. The representative of China said that her country had provided a status report in this dispute on 12 March 2012, in accordance with Article 21.6 of the DSU. China had made tremendous efforts to implement the DSB's rulings and recommendations, and had completed amendments to most measures at issue. Through those steps, China had ensured full implementation of the DSB's recommendations and rulings, except those concerning film for theatrical release. As regard to the measures concerning film for theatrical release, China had been discussing with the United States and had recently reached an agreement towards resolving this matter which would soon be signed and notified to the DSB.

27. The representative of the United States said that his country thanked China for its status report and its statement made at the present meeting. The United States and China had recently reached agreement on a Memorandum of Understanding regarding films for theatrical release. The United States looked forward to the formal signing of the MOU soon. In response to China's statements in its status report regarding products other than films for theatrical release, the United States noted that it continued to review China's measures relating to reading materials, audiovisual home entertainment products, and sound recordings to assess whether the steps taken by China implement the DSB rulings and recommendations. At the present time, the United States was not in a position to conclude that China had fully implemented the recommendations and rulings in this dispute in all areas other than for films for theatrical release. The United States continued to review the steps that China had taken in those areas.

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

[4] MON87701×MON 89788.

(f) United States – Anti-dumping administrative reviews and other measures related to imports of certain orange juice from Brazil: Status report by the United States (WT/DS382/10/Add.3)

29. The Chairperson drew attention to document WT/DS382/10/Add.3, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US anti-dumping administrative reviews and other measures related to imports of certain orange juice from Brazil.

30. The representative of the United States said that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB in this dispute, as had been agreed upon by Brazil and the United States, had ended on 17 March 2012. On 14 February 2012, the US Department of Commerce had published a modification to its procedure in order to implement the DSB's recommendations and rulings regarding the use of "zeroing" in anti-dumping reviews. The United States and Brazil were at the present time engaging in discussions regarding the 14 February 2012 notice. The United States wished to take the opportunity to inform Members that, following a five-year "sunset" review, the US International Trade Commission had recently made a determination to revoke the existing anti-dumping duty order on orange juice from Brazil as of 9 March 2011.

31. The representative of Brazil said that her country thanked the United States for its status report. Brazil and the United States had held consultations regarding the impact of the final rule published recently by the US Department of Commerce regarding the orange juice anti-dumping proceedings in the United States and, consequently, the "Orange Juice" dispute at the WTO. According to that rule, the US Department of Commerce would no longer use "zeroing" in all reviews pending before it for which preliminary results would be issued after 16 April 2012. The final rule did not redress the illegal use of "zeroing" in reviews completed before 16 April for which anti-dumping duties had not yet been collected. The consultations with the US authorities had confirmed to Brazil that the change in policy was only prospective. Furthermore, it seemed that the final rule would not be applicable to the fifth orange juice administrative review, despite the fact that this review was still ongoing and that its preliminary results would be published after the end of the reasonable period of time, which was 17 March 2012. Supported by WTO jurisprudence on the matter, Brazil understood that, in order to fully comply with the DSB's recommendations and rulings in the "Orange Juice" dispute, the United States would be required not only to not use "zeroing" in the fifth review, but also to revise the calculation of assessment rates applying to past entries that remained unliquidated at the end of the reasonable period of time. However, as the United States had informed Members, such implementation actions would not be covered by the final rule. The United States had also reported that the anti-dumping order on orange juice had been revoked by the International Trade Commission on 14 March 2012. This was certainly a positive development for the Brazilian exporters who had been subject to an unfair anti-dumping order since 2006. However, this revocation had no connection to the "Orange Juice" dispute and did not bring relief to the Brazilian exporters in addition to that brought by the final rule, which determined the abandoning of "zeroing" in future reviews. Brazil was still assessing whether the implementing measure taken by the United States would allow it to conclude the dispute, or whether, on the contrary, Brazil would need to pursue its rights through implementation and retaliation panels. Brazil would inform Members of its decision in due course.

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

(g) United States – Definitive anti-dumping and countervailing duties on certain products from China: Status report by the United States (WT/DS379/12/Add.2)

33. The Chairperson drew attention to document WT/DS379/12/Add.2, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US definitive anti-dumping and countervailing duties on certain products from China.

34. The representative of the United States said that his country had provided a status report in this dispute on 12 March 2012, in accordance with Article 21.6 of the DSU. The United States drew Members' attention to a new US law enacted on 13 March 2012, which clarified the application of US countervailing duties to non-market economies. The new legislation made clear that where countervailing duties were applied to exports from a non-market economy country at the same time that anti-dumping duties, calculated using a "surrogate value" methodology, were applied to the exports, and evidence was presented that this had resulted in an increase in the dumping margin, the Department of Commerce may reduce the anti-dumping duty to avoid what had been referred to as a "double remedy". The Department of Commerce was currently working to implement this new law, including as part of US efforts to implement the recommendations and rulings of the DSB in connection with this dispute. A copy of the law was currently available on the Internet.[5] The United States would notify the law to the Committee on Anti-Dumping Practices and the Committee on Subsidies and Countervailing Measures in due course. The United States would continue to work on solutions to implement the DSB's recommendations and rulings.

35. The representative of China said that her country thanked the United States for its status report and statement made at the present meeting. As almost 12 months had lapsed since the adoption of the Appellate Body Report and Panel Report pertaining to this dispute, China urged the United States to expedite its work and fully implement the DSB's rulings and recommendations by the end of the reasonable period of time. With respect to the new countervailing law that had been adopted on 13 March 2012 by the United States, China was seriously assessing it to ensure that it complied with WTO rules and would inform the DSB of further steps that it would take in due course.

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

2. Implementation of the recommendations of the DSB

(a) China – Measures related to the exportation of various raw materials

(b) European Union – Anti-dumping measures on certain footwear from China

(c) Dominican Republic – Safeguard measures on imports of polypropylene bags and tubular fabric

37. The Chairperson 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 this 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. She proposed that the three sub-items under Agenda item 2 be considered separately.

[5] http://www.gpo.gov/fdsys/pkg/BILLS-112hr4105enr/pdf/BILLS-112hr4105enr.pdf

(a) China – Measures related to the exportation of various raw materials

38. The Chairperson recalled that at its meeting on 22 February 2012, the DSB had adopted the Appellate Body Reports with regard to the disputes on: "China – Measures Related to the Exportation of Various Raw Materials" and the Panel Reports on the same matter, as modified by the Appellate Body Reports. The 30-day period under Article 21.3 of the DSU pertaining to these disputes would expire on 23 March 2012. She invited China to inform the DSB of its intentions in respect of implementation of the DSB's recommendations.

39. The representative of China said that, at its meeting on 22 February 2012, the DSB had adopted the Panel Reports and the Appellate Body Reports in this dispute. At that meeting, China had made a statement regarding the Reports. As stated by China at the February DSB meeting, some part of the rulings and recommendations of the Reports constituted misinterpretations of certain provisions and may not be fair to China due to its status as a newly acceded Member. However, considering the overall function of the DSB and its vital importance to the multilateral trading system enshrined in the WTO, China, in accordance with Article 21.3 of the DSU, informed the DSB of its intention to implement the DSB's recommendations and rulings pertaining to the DS394, DS395 and DS398 disputes. China would need a reasonable period of time to evaluate options and take steps to implement the DSB's recommendations. In that regard, China would discuss this matter with the United States, the EU and Mexico, in accordance with Article 21.3(b) of the DSU.

40. The representative of the European Union said that the EU thanked China for stating its intention to comply. The EU recalled that the Chinese export restrictions at issue had distorted and continued to significantly distort the market. They had created competitive advantages for the Chinese manufacturing industry to the detriment of foreign competitors. The EU hoped that China would swiftly comply with the ruling by removing those export restrictions. The EU stood ready to discuss with China with a view to agreeing on a reasonable period of time to comply with the DSB's recommendations and rulings.

41. The representative of the United States said that his country thanked China for its statement made at the present meeting, indicating that it intended to implement the DSB's recommendations and rulings in this dispute. China's raw materials export restraints had been and continued to be of significant concern to the United States. The United States, therefore, looked forward to China moving promptly to bring its measures into compliance with its obligations through the removal of those restraints. The United States stood ready to discuss with China, under Article 21.3(b) of the DSU, a reasonable period of time for its implementation.

42. The representative of Mexico said that his country welcomed China's statement that it intended to comply with the DSB's recommendations pertaining to these disputes. Mexico hoped that China would comply adequately with these recommendations through the immediate elimination of tariff and export quotas. Mexico was ready to discuss with China the reasonable period of time for compliance.

43. 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.

(b) European Union – Anti-dumping measures on certain footwear from China

44. The Chairperson recalled that at its meeting on 22 February 2012, the DSB had adopted the Panel Report with regard to the dispute on: "European Union – Anti-Dumping Measures on Certain Footwear from China". The 30-day period under Article 21.3 of the DSU pertaining to this dispute would expire on 23 March 2012. She then invited the European Union to inform the DSB of its intentions in respect of implementation of the DSB's recommendations.

45. The representative of the European Union said that the EU intended to implement the DSB's recommendations and rulings pertaining to this dispute in a manner that respected its WTO obligations. The EU would need a reasonable period of time in which to do so and stood ready to discuss this matter with China, in accordance with Article 21.3(b) of the DSU.

46. The representative of China said that her country thanked the EU for its statement made at the present meeting, informing the DSB of its intentions to implement the DSB's recommendations and rulings pertaining to this dispute. China took note that the EU would need a reasonable period of time for implementation, and was ready to discuss this matter with the EU at the earliest convenience. China called upon the EU to implement the DSB's rulings and recommendations as soon as possible.

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

(c) Dominican Republic – Safeguard measures on imports of polypropylene bags and tubular fabric

48. The Chairperson recalled that at its meeting on 22 February 2012, the DSB had adopted the Panel Report with regard to the disputes on: "Dominican Republic – Safeguard Measures on Imports of Polypropylene Bags and Tubular Fabric". The 30-day period under Article 21.3 of the DSU pertaining to these disputes would expire on 23 March 2012. She invited the Dominican Republic to inform the DSB of its intentions in respect of implementation of the DSB's recommendations.

49. The representative of the Dominican Republic said that on 22 February 2012 the DSB had adopted the Panel Report pertaining to the disputes on: "Dominican Republic – Safeguard measures on imports of polypropylene bags and tubular fabric". In accordance with Article 21.3 of the DSU, the Dominican Republic informed the DSB that it intended to immediately comply with the DSB's recommendations and rulings in a manner that respected its WTO obligations by 30 April 2012.

50. The representative of Costa Rica said that his country took note of the statement made by the Dominican Republic regarding the implementation of the DSB's recommendation and rulings in these disputes. As pointed out previously, Costa Rica believed that the Dominican Republic must remove the measure immediately. Costa Rica believed that the deadline proposed by the Dominican Republic would be acceptable, but would confirm this after its consultations with the capital.

51. The representative of El Salvador said that first his country wished to thank the Panel and the Secretariat for having carried out its work in this dispute entirely in Spanish. El Salvador thanked the Dominican Republic for its statement made at the present meeting that it intended to implement the DSB's recommendations and rulings pertaining to this dispute. El Salvador took note of the statement made by the Dominican Republic and would convey that statement to its authorities.

52. The representative of Guatemala said that his country took note of the statement made by the Dominican Republic regarding its intention to comply with its obligations by 30 April 2012. Like others, Guatemala believed that the only way to implement in this dispute would be to remove the safeguard measures. Guatemala looked forward to full compliance with the DSB's rulings and recommendations.

53. The DSB took note of the statements, and of the information provided by the Dominican Republic 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

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

55. The representative of Japan said that the CDSOA remained operational as the distribution process continued.[6] Japan urged the United States to stop the illegal distributions and repeal the CDSOA, not just in form but in substance, so as to resolve this dispute. According to Article 21.6 of the DSU, the United States was under obligation to provide the DSB with a status report pertaining to this dispute.

56. The representative of the European Union said that, as it had done many times before, the EU requested that the United States stop transferring anti-dumping and countervailing duties to the US industry. Every disbursement that still took place was clearly an act of non-compliance with the DSB's recommendations and rulings. Once again, the EU renewed its call on the United States to abide by its clear obligation under Article 21.6 of the DSU and to submit status reports pertaining to this dispute.

57. The representative of Brazil said that her country thanked the EU and Japan for keeping this item on the DSB's Agenda. As it had expressed in previous meetings, Brazil was of the view that the United States was under an obligation to submit status reports in this dispute until such time as no more disbursements were made pursuant to the Byrd Amendment. Only then would the issue be "resolved" within the meaning of the DSU and the United States would be released from its obligation to provide status reports pertaining to this dispute.

58. The representative of Canada said that his country wished to refer to its previous statements made under this Agenda item and said that Canada's position on this matter had not changed.

59. The representative of India said that his country thanked Japan and the EU for their comments and shared their concerns. India urged the United States to report full compliance without any further delay. India also agreed with previous speakers that till such time that full compliance was achieved, this item should continue to remain under the surveillance of the DSB.

60. The representative of Thailand said that his country thanked Japan and the EU for continuing to bring this item before the DSB. Thailand supported the statements made by previous speakers and continued to urge the United States to cease the disbursement and fully implement the DSB's rulings and recommendations pertaining to this matter.

61. The representative of the United States said that, as his country had explained at previous DSB meetings, the 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. The United States recalled, furthermore, that Members had acknowledged during previous DSB meetings that the 2006 Deficit Reduction Act did not permit the distribution of duties collected on goods entered after 1 October 2007. With respect to comments regarding further DSB surveillance in this matter, as it had explained at previous DSB meetings, the United States failed to see what purpose would be served by further submission of status reports repeating the

[6] See US Customs and Border Protection's website at: http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/

progress the United States had made in the implementation of the DSB's recommendations and rulings.

62. The DSB took note of the statements.

4. United States – Measures affecting the cross border supply of gambling and betting services

(a) Statement by Antigua and Barbuda regarding the implementation of the recommendations adopted by the DSB

63. The Chairperson said that this item was on the Agenda of the present meeting at the request of Antigua and Barbuda. Given that the delegation of Antigua and Barbuda was not present in the meeting room and since Antigua and Barbuda was a non-resident Member, the Chairperson proposed that the consideration of this item be deferred so that if the delegation of Antigua and Barbuda arrived before the end of the meeting, the DSB would still be able to consider this item.

64. The DSB took note of the statement.

5. United States – Measures affecting trade in large civil aircraft (second complaint)

(a) Report of the Appellate Body (WT/DS353/AB/R) and Report of the Panel (WT/DS353/R)

65. The Chairperson drew attention to the communication from the Appellate Body contained in document WT/DS353/12 transmitting the Appellate Body Report on: "United States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint)", which had been circulated on 12 March 2012 in document WT/DS353/AB/R, in accordance with Article 17.5 of the DSU. She reminded delegations that the Appellate Body Report and the Panel Report pertaining to this dispute had been circulated as unrestricted documents. She said that, as Members were aware, Article 17.14 of the DSU required that: "An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within 30 days following its circulation to Members. This adoption procedure is without prejudice to the right of Members to express their views on an Appellate Body report".

66. The representative of the European Union said that the EU thanked the Appellate Body members, the panelists and the respective Secretariats for their hard work on this case. Over the past seven years, two closely linked disputes involving support for large civil aircraft (LCA) had taxed the WTO's dispute settlement system. The Panel and the Appellate Body Reports that were being considered at the present meeting completed these disputes. The Reports showed clearly that the United States provided a series of subsidies that were WTO-inconsistent and caused serious prejudice to the LCA interests of the EU, in violation of the SCM Agreement. In the parallel dispute (DS316), the EU had already taken the steps necessary to comply with the DSB's recommendations and rulings. The EU expected that in this dispute (DS353), the United States would do the same, within the six-month period provided for in Article 7.9 of the SCM Agreement. In this dispute, the EU had demonstrated, to the satisfaction of the Panel and the Appellate Body, that certain measures by US federal, state and local governments provided subsidies to Boeing that were inconsistent with the US obligations under the SCM Agreement. Over the last decades, Boeing had benefitted from billions of dollars' worth of aeronautics research and development (R&D) subsidies from the US National Aeronautics and Space Administration (NASA) and the US Department of Defense (DOD). Boeing had also benefitted from federal tax breaks under the Foreign Sales Corporation (FSC) and Extraterritorial Income Exclusion (ETI) legislation. Moreover, Boeing had benefitted from a large number of state and local subsidies in Washington State, Kansas and Illinois. As the Panel had found,

and the Appellate Body had confirmed, the aeronautics R&D subsidies had enabled Boeing to launch technologically innovative LCA, in particular the 787. Further, the Appellate Body had found that the federal FSC/ETI tax subsidies, the Washington State and City of Everett business and occupational (B&O) tax subsidies, and the industrial revenue bonds (IRBs) from the City of Wichita in Kansas together had provided Boeing with funds that had allowed it to price down its LCA in competition with Airbus.

67. The Panel and Appellate Body had vindicated the EU's position by speaking clearly on these points. Notably, the Appellate Body had confirmed that the NASA and DOD aeronautics R&D measures at issue constituted specific subsidies under the SCM Agreement. The Appellate Body had confirmed, albeit through a different reasoning, that the payments and access to facilities, equipment and employees provided to Boeing pursuant to NASA procurement contracts and DOD assistance instruments were collaborative arrangements akin to a joint venture and constituted direct transfers of funds and provision of goods and services and thus financial contributions under Article 1.1(a)(1)(i) and (iii) of the SCM Agreement. The Appellate Body had reversed the Panel's finding on benefit, but had completed the analysis and had found that the provision by NASA and DOD of funding and other support to Boeing had conferred it a benefit under Article 1.1(b) of the SCM Agreement. The EU agreed with the crux of the rationale applied by the Appellate Body. In contrast to a market transaction whereby a commissioning party paid a commissioned party to conduct R&D, here the equilibrium had not favoured NASA and DOD, but Boeing, which had retained the intellectual property rights to any inventions. As Boeing had obtained more than it would have obtained in the market, it had received a benefit. In applying this standard and by rendering moot the Panel's finding that DOD procurement contracts were not financial contributions within the meaning of Article 1.1 of the SCM Agreement[7], the Appellate Body had significantly expanded the number of DOD R&D contracts at issue that may be considered "subsidies" causing adverse effects. Moreover, the Appellate Body had found that the Panel's decision to limit its adverse effects analysis to only those DOD R&D programmes funded predominantly through assistance instruments reflected the Panel's failure to make an objective assessment in violation of Article 11 of the DSU.[8] Together, these two findings served to significantly expand the US implementation obligations with respect to the challenged DOD R&D programmes.

68. The Appellate Body had also upheld the Panel's finding that Washington B&O tax measures provided specific subsidies to Boeing, and would continue to do so for many years to come unless immediately repealed. The Appellate Body had added another tax measure, the City of Wichita Industrial Revenue Bonds ("IRBs") to the list of subsidy measures which had caused adverse effects. Concerning the NASA/DOD allocation of patent rights, the EU noted that the Appellate Body had reversed the Panel's finding of non-specificity but was not in a position to complete the analysis, which was regrettable. With regard to adverse effects, the Panel had concluded that NASA and DOD aeronautics R&D subsidies were fundamental to Boeing's ability to launch and bring to market the 787 as and when it had, and in particular with the advanced technological features that the aircraft offered.[9] The Appellate Body had confirmed this conclusion.[10] The Appellate Body had also endorsed the Panel's reasoning that "all of the programmes ... contributed to the process of technological development that eventually led to the commercialization of the 787 technologies".[11] The Appellate Body had further recalled the Panel's finding that "[i]t was the aeronautics R&D subsidies that enabled Boeing to overcome the disincentives in investing in aeronautics R&D, and

[7] Appellate Body Report, note 1298.
[8] Appellate Body Report, paras. 1144-1145.
[9] Panel Report, paras. 7.1764, 7.1773-7.1775
[10] Appellate Body Report, paras. 1012, 1350(d).
[11] Appellate Body Report, para. 970.

which therefore accelerated Boeing's launch of the 787 with all its technological advancements in 2004".[12]

69. In the EU's view, it was no exaggeration to say that these Reports had concluded that without the US federal R&D subsidies, Boeing and its current family of aircraft would not have existed as they currently did. The Panel had further concluded that the FSC/ETI tax subsidies, along with the B&O tax subsidies provided by the State of Washington and the City of Everett, had enabled Boeing to lower its prices and win sales and market share against competition from Airbus.[13] While the Appellate Body had reversed the Panel's approach, it had affirmed the general conclusion that these subsidies, as well as the Wichita IRBs, had enabled Boeing to win sales and market share from Airbus.[14] Due to deficiencies in the extent of the factual findings of the Panel, however, the Appellate Body could complete the analysis only with respect to two sales transactions.[15] In the EU's view, the Panel's approach had been reasonable in view of the size and nature of these tax subsidies, and it had not been necessary for the Appellate Body to reverse the Panel's findings on this point. In the end, however, the Panel and the Appellate Body together had made clear the immensity of the adverse effects suffered by the EU large civil aircraft industry during the 2004-2006 reference period alone. The Reports found that the US subsidies had caused Airbus to lose significant sales of its A320, A330 and original A350 LCA in the 200-300 seat LCA market, including sales to Qantas, Japan Airlines, Singapore Airlines Leasing Enterprise, Ethiopian Airlines, Icelandair and Kenya Airways. The Reports had also found that the entry of the 787 into the 200-300 seat LCA market had resulted in a significant price suppression of Airbus LCA in this market, namely, the A330 and A350. Further, the Reports found that Airbus was threatened with lost market share in the 200-300 seat LCA market in Australia. Before concluding, the EU wished to make two additional observations regarding findings by the Appellate Body of systemic importance. First, the EU was pleased with the Appellate Body's findings on the initiation of Annex V procedures. The Appellate Body had confirmed the EU's position that an Annex V procedure was automatic if a panel was established under Article 7.4 of the SCM Agreement and if it was requested by a Member. In reaching this conclusion, the Appellate Body had convincingly reversed the Panel findings which had been based on a too formalistic interpretation of the role of the DSB. In addition, the Appellate Body had confirmed that panels must assess the collective effects of all subsidies that a complaining Member challenged, and may not artificially segregate them for the purpose of their analysis, for example based on the mechanisms by which such subsidies affected the market.

70. Since it had not mentioned figures with regard to the amount of funding, the EU invited Members to read the Panel and Appellate Body Reports in this case which the EU believed spoke for themselves. However, the EU had prepared points on this matter in case the United States wished to engage in such an exchange. The EU also took note of reports that Boeing was receiving additional subsidies, including from South Carolina and Charleston, for a second final assembly line for the 787. However, the Panel and the Appellate Body's findings should make it clear to the US federal, state and local governments and to Boeing that a "business as usual" approach to subsidizing Boeing was no longer acceptable. Now that the DSB was ready to adopt these recommendations and rulings, it was time to start thinking about how to move forward. The EU expected that, in light of the long history of WTO-inconsistent adverse effects that the US federal, state and local subsidies had created, the United States would move quickly to comply with its obligations to withdraw the subsidies or remove their adverse effects within the six-month period provided under Article 7.9 of the SCM Agreement. The EU remained ready to work with the United States to achieve that end.

[12] Appellate Body Report, para. 986.
[13] Panel Report, para. 7.1823.
[14] Appellate Body Report, para. 1260.
[15] Appellate Body Report, para. 1273.

71. The representative of the United States said that his country would like to begin by thanking the members of the Panel, the Appellate Body, and the Secretariat staff assisting them for the hard work and long hours they had dedicated to what was a very lengthy proceeding. It was quite likely that many Members present had read the press accounts in which the United States and the EU both had claimed to have come out the better between this dispute and the dispute concerning the EU's subsidies to Airbus. The United States said that it would like to take the opportunity to tell Members why it was correct. The dispute being discussed at the present meeting came about because seven years ago, the United States had sought to challenge launch aid, the form of financing whereby EU member States paid for the development of Airbus aircraft, and Airbus did not have to repay if the aircraft proved unsuccessful. In the US view, and the view of the WTO Panel and Appellate Body, these subsidies had been responsible for every single Airbus aircraft ever produced, and had caused massive adverse effects to US trade. The EU had responded with this dispute, arguing that US subsidies were bigger and more distortive of trade. The Reports, which were available for all to review, had vindicated the US position. In the challenge to the EU's subsidies, the United States had identified subsidized financing from the EU amounting to approximately US$20 billion, and the Appellate Body had eventually found that the EU had granted subsidized financing amounting to approximately US$18 billion. The United States had suffered adverse effects in the form of lost sales involving 342 aircraft, valued at US$22 billion, and displacement and impedance of Boeing aircraft in several markets, including the EU and China, among the largest in the world.

72. With respect to the Reports Members would be adopting at the present meeting, the EU had alleged subsidies of US$19 billion, and a wide range of adverse effects in three market segments. The Panel and Appellate Body Reports had ultimately found a subsidy of US$2.2 billion from the FSC/ETI, which the United States had eliminated six years ago, and subsidies of US$3.1 billion from NASA, Washington state, and the City of Wichita, and somewhere between US$100 million and US$1.2 billion arising from certain US Department of Defense funding. That was significantly less than the EU had alleged. The Reports that the DSB would adopt at the present meeting also rejected most of the EU claims of adverse effects. There had been lost sales involving only 118 aircraft, rather than the hundreds that had been alleged by the EU. There had been displacement and impedance of EU aircraft in only one market, Australia. The Reports had also rejected most of the EU claims of price suppression. Perhaps the most telling comparison was in the effect on product launch. The following was what the Panels and the Appellate Body had found in the two disputes. In the "EC - Large Civil Aircraft" dispute, the Appellate Body had found two scenarios to be "plausible", and had found that "[w]ithout the subsidies, Airbus would not have existed under these scenarios and there would be no Airbus aircraft on the market. None of the sales that the subsidized Airbus made would have occurred".[16] The United States contrasted that finding with the Reports to be adopted at the present meeting, where the Appellate Body had quoted and relied upon the Panel's findings that: "[O]nce the amount of the subsidies received by Boeing between 1989 and 2006 is reduced from US$19.1 billion to our own estimate of the total amount of the subsidies, the argument that Boeing's LCA division would not have been 'economically viable' in the absence of the subsidies unless it altered its prices or product development behaviour becomes untenable".[17] And further: "We are not persuaded that the [EU] has demonstrated that Boeing inherently lacked the financial means to price and develop its LCA in the manner in which it did".[18] The Reports in these two disputes spoke for themselves, and, taken together, they spoke volumes.

73. The United States said that there was one aspect of the Appellate Body Report that it found puzzling. The discussion of Annex V in the Appellate Body Report did not appear to be necessary. The Appellate Body had criticized the Panel for failing to make a finding on the legal issue of whether initiation of Annex V was by positive consensus because that issue was necessary to resolve the

[16] EC - LCA (AB), para. 1264.
[17] US - LCA (Panel), para. 7.1759, quoted in US - LCA (AB), para. 1169, note 2386.
[18] US - LCA (Panel), para. 7.1759, quoted in US - LCA (AB), para. 1169, note 2386.

dispute. But by the end of the Appellate Body Report's discussion, it appeared that such a legal interpretation was not necessary to resolve this dispute. It would appear to have been directed instead at future disputes, but that was not the role of the Appellate Body. In addition, the decision-making rule by which the DSB would or would not initiate the Annex V process was a matter of DSB procedure, and, therefore, was for the DSB to resolve. The United States believed that the DSB, like any other political body of the WTO, should resolve these sorts of procedural matters through their own rules, and it was not the role of the dispute settlement system to write or re-write those rules. The approach of the Panel on the issue of Annex V was, in the view of the United States, more sensitive to the proper roles of the DSB and the dispute settlement system. The United States also did not understand the basis for the Appellate Body's view that the DSB Chair was some sort of "default" or "interim" facilitator for the Annex V process. If Members had wished that to be the case, they could and would have so specified in the agreement itself.

74. Finally, with respect to Article 17.5 of the DSU, the United States noted that both parties had agreed from the outset of the appeal that it would not be possible for the Appellate Body to complete its work within the 90-day deadline set out in the DSU. However, neither the Appellate Body Report nor the 60-day notice recorded the agreement of the parties. As it had remarked in relation to several of the Appellate Body's reports since the beginning of 2011, the United States believed that the Appellate Body should provide to Members the same degree of transparency on the circumstances under which a report was presented for adoption outside the 90-day period in Article 17.5 of the DSU as the Appellate Body formerly had provided to Members prior to 2011.

75. The representative of the European Union said that since the United States had included figures on subsidy amounts in its statement, the EU also needed to set the record straight at the present meeting. The amounts of subsidies provided to Boeing had been very significant. The Panel had found that they amounted to at least US$5.3 billion from 1989-2006, a figure that did not even include any estimate for the DOD R&D subsidies, or post-2006 subsidies.[19] Moreover, the Appellate Body had endorsed the Panel's view that "the aeronautics R&D subsidies were intended to have 'multiplier effects'", and had found that "the relative magnitude of the amounts spent by NASA and Boeing did nothing to reduce or diminish [the] important contribution [of the subsidies]" to Boeing's technological abilities.[20] In economic terms, the resulting adverse effects of significant lost sales, suppressed prices and displaced market share exceeded the value of those subsidies by many multiples. The EU objected, as it had done on previous occasions, to the US reference to US$18 billion in alleged subsidies to Airbus. That figure represented no more than the principal amount of loans and capital contributions received over several decades. Any benefit to Airbus from this repayable support was a small fraction of that amount, granted a long time ago. By contrast, Boeing stood to receive billions of dollars in future B&O tax subsidies, and continued to benefit from NASA and DOD aeronautics R&D subsidies, as well as Wichita IRBs, that were non-repayable subsidies causing adverse effects that must now be withdrawn. The EU was concerned about the US reference to a significant narrowing of the adverse effects findings. The exact scope of these findings in an original proceeding did not have the relevance that the United States attributed to them. The degree of adverse effects found had no impact on the obligation to withdraw the subsidies that caused those adverse effects. Nor did the degree of adverse effects found in a reference period, in particular where those findings were hampered by a lack of factual findings by the Panel, affect the US obligation to ensure that, as of the end of the implementation period, it had removed any and all adverse effects, and, indeed, avoided causing any additional adverse effects.

76. The representative of Canada said that his country thanked the Panel, the Appellate Body and the Secretariat for their work in these proceedings. Canada had been a third participant in this dispute due to its role as one of the world's major producers of civil aircraft and its systemic interest in the

[19] Panel Report, para. 7.1433.
[20] Appellate Body Report, paras. 1035, 1007.

interpretation of the SCM Agreement. At the present meeting, Canada wished to briefly register its views on two systemic issues that were considered by the Appellate Body. First, the nature of the causal analysis required to support a panel finding that subsidies caused serious prejudice; and second, the scope of the specificity analysis under Article 2.1(a) of the SCM Agreement. Canada was pleased with the Appellate Body's finding that the Panel's reasoning did not justify its broad conclusion that the tied tax subsidies led Boeing to lower its prices in a manner causing Airbus to lose sales or to secure sales only at reduced prices. According to the Appellate Body, the Panel should have explained how and when the subsidies had led Boeing to lower its prices beyond the level that would otherwise have been economically justifiable. This Appellate Body finding highlighted the importance that panels provide adequate and reasoned explanations to support findings of serious prejudice. Canada also welcomed the Appellate Body's finding that when a panel performed a *de jure* specificity analysis under Article 2.1(a) of the SCM Agreement, the scope of its inquiry was not limited to the subsidy identified in Article 1.1 but may include the whole legal framework through which that subsidy was provided. In making this finding, the Appellate Body had ensured that panels may conduct the inquiries necessary to prevent Members from manipulating the outcome of the specificity analysis by inappropriately defining the scope of the subsidy.

77. The representative of Japan said that his country thanked the Panel, the Appellate Body and the Secretariat for the Reports and their hard work in this dispute. Japan was carefully reviewing the Appellate Body Report and would not comment on its substance at the present meeting. However, Japan wished to briefly comment on the issue relating to Article 17.5 of the DSU which the United States had referred to. Japan was of the view that, for the purpose of full transparency, the parties consent should have been recorded, as had been the customary practice of the Appellate Body in the past.

78. The representative of the United States said that, in response to the comments made by the EU with regard to an alleged "multiplier effect", at one point in its Report, the "US - Large Civil Aircraft" Panel had stated that R&D subsidies tended to multiply the benefit of a given amount of money. The EU had blown that single statement out of proportion. The Appellate Body had not endorsed the EU's view. It had expressed confusion about exactly what the Panel meant by this statement, and had notably left open the possibility that other types of funding could also have multiplier effects. If a "multiplier effect" really differentiated NASA research from launch aid, one would expect to see NASA research having greater adverse effects. The Appellate Body had found the exact opposite. It had found that NASA and DOD R&D subsidies had adverse effects in only one segment of the market, the one for 200-300 seat aircraft. Lost sales in that segment amounted to only 68 aircraft. In contrast, it had found that launch aid had adverse effects in all segments of the market, resulting in lost sales of 342 aircraft for Boeing. Finally, with regard to the EU's comment that the US$18 billion figure represented the face value of the loans rather than the interest rate subsidy, as many homeowners would be able to attest, the interest on long-term financing often amounted to more than the value of the principle.

79. The DSB took note of the statements, and adopted the Appellate Body Report contained in WT/DS353/AB/R and the Panel Report contained in WT/DS353/R, as modified by the Appellate Body Report.

6. Statement by the Chairperson regarding the appointment of Appellate Body members

80. The Chairperson, speaking under "Other Business", said that, as announced at the outset of the present meeting, she wished to make a statement concerning the 2012 selection process for the appointment of a new Appellate Body member and the process for the possible reappointment of one Appellate Body member. In that regard, she recalled that at its meeting on 22 February 2012, the DSB had agreed to the Chair's proposal to launch the selection process for the appointment of a new member of the Appellate Body for the position currently held by Mr. Shotaro Oshima, and that this

new member be appointed for a four-year term beginning 1 June 2012. At its February 2012 meeting, the DSB had also agreed to set a deadline of 30 March 2012 for Members' nominations of candidates. In that regard, she noted that, on 12 March 2012, Kenya had submitted a nomination, which was circulated in document JOB/DSB/CV12/1 to all Members, and that on 22 March 2012, Japan had submitted two nominations, which would be circulated as Job documents later that day. She reminded delegations that, in accordance with past practice, nominations of candidates together with their CVs should be addressed to the Chair of the DSB in care of the Council and TNC Division. As had been agreed by the DSB, the Selection Committee, which had been established by the DSB at its meeting on 22 February 2012, based on the procedures set forth in document WT/DSB/1, would carry out its work in April and the beginning of May in order to make its recommendation no later than 11 May 2012 so that the DSB could take a decision on this matter at its regular meeting on 24 May 2012. Details regarding the process would be communicated to Members shortly after the 30 March deadline.

81. She said that, as Members were aware, the Selection Committee was comprised of the Director General and the 2012 Chairs of the General Council, Goods Council, Services Council, TRIPS Council and the DSB. In this regard, she informed delegations that the incoming Chair of the Council for Trade in Goods, H.E. Mr. Tom Mboya Okeyo of Kenya, would not participate in the work of the 2012 Selection Committee since he had taken a decision to recuse himself from the process in light of the fact that Kenya had submitted a nomination for consideration in this year's selection process.

82. Finally, she recalled that at its 22 February 2012 meeting, the DSB had agreed to ask the Chair of the DSB to carry out consultations on the possible reappointment of Ms. Yuejiao Zhang for a second four-year term beginning on 1 June 2012. In that regard, she informed delegations that she had already started the informal process of consultations, which would be continued by her successor whom she had already briefed on this subject. She invited any delegation with views on this matter to contact the Chair of the DSB by no later than 12 April 2012.

83. The DSB took note of the statement.

7. Election of Chairperson

84. The Chairperson said that, as Members were aware, at its meeting on 24 February 2012, the General Council had taken note of the consensus on a slate of names for Chairpersons to a number of WTO bodies including the DSB. On the basis of the understanding reached by the General Council, she proposed that the DSB elect by acclamation H.E. Mr. Shahid Bashir of Pakistan as Chairman of the DSB.

85. It was so agreed.

86. The outgoing Chairperson thanked Members for a very productive and interesting year. She said that it had been a great honour and pleasure to work with all Members in this very important function of the WTO. She said that the work had been interesting and challenging and Members' knowledge, discipline and cooperation in the DSB had made this year to be one of the most interesting years in her career. She thanked the Secretariat for its excellent work and support. She also thanked the outgoing Director of the CTNC Division, Mr Evan Rogerson, for his work and wished him all the best in his new functions.

87. The incoming Chairman thanked the outgoing Chairperson and Members for reposing trust in him to chair the DSB in 2012. With the support of Members and in keeping with the cardinal principles of transparency and inclusiveness, he said that he would make his best efforts to meet Members' expectations. He thanked the outgoing Chairperson for her efficient work and looked

forward to her support and to working closely with her, in her new capacity as the Chairperson of the General Council. He said that he would be available and ready to discuss any matters with delegations, if they so wished.

88. The representative of the United States said that his country congratulated the incoming Chairman for his election and welcomed him to the DSB. The United States looked forward to working with him over the coming year. The United States thanked Ambassador Johansen for her many contributions to the work of the DSB in the past year. The United States also thanked the outgoing Director of the CTNC Divison, Mr. Evan Rogerson, for his work and leadership.

89. The representative of the European Union said that the EU fully endorsed the statement made by the United States. The EU welcomed Ambassador Bashir, as the new DSB Chair and looked forward to a successful year under his leadership. The EU also thanked Ambassador Johansen for the excellent running of the DSB over the past year and wished her well in her challenging role as the Chairperson of the General Council. Finally, the EU thanked the outgoing Director of the CTNC Division, Mr Evan Rogerson, for his work over the past years.

90. The DSB took note of the statements.