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Dispute Settlement Body
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MINUTES OF MEETING

Held in the Centre William Rappard
on 25 June 2012

Chairman: Mr. Shahid Bashir (Pakistan)

Prior to the adoption of the Agenda, the Chairman informed delegations that the United States had requested, by letter addressed to the Chair, that item 4 of the proposed Agenda entitled: "China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products: Statement by the United States on Implementation of the Recommendations Adopted by the DSB" be removed from the proposed Agenda. Therefore, he said that, in light of the US request, item 4 was withdrawn from the proposed Agenda.

The representative of the United States said that his country thanked the Chairman for the statement. The United States said that it would like to confirm that it had, through a letter earlier that day, withdrawn item 4 from the proposed Agenda in light of bilateral communications between the United States and China, and without prejudice to any systemic views regarding status reports.

The Agenda was adopted as amended.

Subjects discussed: Page

1. Surveillance of implementation of recommendations adopted by the DSB 2
(a) United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States 2
(b) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States 6
(c) United States – Section 110(5) of the US Copyright Act: Status report by the United States 6
(d) European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union 7
(e) United States – Anti-dumping administrative reviews and other measures related to imports of certain orange juice from Brazil: Status report by the United States 8
(f) United States – Definitive anti-dumping and countervailing duties on certain products from China: Status report by the United States 8
(g) Thailand – Customs and fiscal measures on cigarettes from the Philippines: Status report by Thailand 9
(h) United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States 10

2. United States – Measures concerning the importation, marketing and sale of tuna and tuna products 10
(a) Implementation of the recommendations of the DSB 10
3. United States – Continued Dumping and Subsidy Offset Act of 2000: Implementation of the recommendations adopted by the DSB 11
(a) Statements by the European Union and Japan 11
4. India – Measures concerning the importation of certain agricultural products 12
(a) Request for the establishment of a panel by the United States 12
5. Report on the progress of the Digital DS Registry initiative 13
6. Proposed nominations for the indicative list of governmental and non-governmental panelists 20

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.115)

(b) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.115)

(c) United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.90)

(d) European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.53)

(e) 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.6)

(f) United States – Definitive anti-dumping and countervailing duties on certain products from China: Status report by the United States (WT/DS379/12/Add.5)

(g) Thailand – Customs and fiscal measures on cigarettes from the Philippines: Status report by Thailand (WT/DS371/15/Add.2)

(h) United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States (WT/DS404/11/Add.1)

1. The Chairman 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. He proposed that the eight 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.115)

2. The Chairman drew attention to document WT/DS176/11/Add.115, 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 14 June 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.

4. 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.

5. The representative of Brazil said that his country thanked the United States for its status report, but noted that, once again, the United States reported lack of progress on this issue. 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 rules.

6. The representative of Cuba said that recent events in the United States concerning Section 211 were not encouraging and only confirmed the US violation and non-compliance with the DSB's rulings and recommendations in this dispute. In light of the short status report (115th report) submitted by the United States, Cuba felt obliged to inform the DSB of the most recent action taken by the United States. That action, instead of ensuring compliance with the DSB's rulings, only strengthened Section 211. More than ten years ago, the DSB had ruled that Section 211 was inconsistent with the TRIPS Agreement and the Paris Convention. On 14 May 2012, the US Supreme Court had refused the CUBAEXPORT company the possibility of reviewing previous court rulings in favour of the Office of Foreign Assets Control (OFAC) of the Department of the Treasury, which in 2006 had refused CUBAEXPORT a licence to renew the registration of the prestigious Havana Club trademark with the US Patent and Trademark Office (USPTO). Cuba noted that until the introduction of Section 211 in 1998, this trademark had been renewed in 1986 and 1996 without any problem. The refusal to grant CUBAEXPORT this licence resulted from the unfair application of Section 211, as it was based on Executive Branch provisions (Title 31, Part 515, of the Code of Federal Regulations) that had been amended in 1999 on the basis of Section 211. Moreover, Section 211 served the interests of the Miami-based anti-Cuba faction and its allies in the US Congress, which received considerable financial contributions from the Bacardi company in return for ensuring that no changes were made to the legislation that protected the aberrant actions aimed at usurping the trademark and markets of this genuinely Cuban rum.

7. Since 1995, CUBAEXPORT, together with the French company Pernod Ricard, distributor of Havana Club rum, had defended its right to register the renowned trademark. Its actions had been supported by the WTO panel, which had ruled against the United States. However, the US Congress' commitment to magnates and politicians was stronger than its responsibility to implement the DSB's decisions and meet its commitments to the international community and the WTO. Cuba reiterated its determination to continue to condemn, in each of the relevant WTO bodies and in the forums it considered appropriate, the unjustifiable arbitrariness of the United States. The United States was entirely responsible for the violations against Cuban patents and trademarks and, in particular, for legalizing the theft of the Havana Club trademark in the United States. Despite the negative US attitude and in accordance with the primacy given to the full respect for the rule of law, Cuba respected, without any discrimination, its obligations under international legal instruments relating to industrial property. This meant that more than 5,000 US trademarks and patents had benefited, and continued to benefit, from their registration in Cuba. Therefore, Cuba would continue to assert its sovereign rights and attributes, and it would continue to request the United States to fulfil its legal and moral duty to repeal Section 211 immediately. Furthermore, Cuba requested the United States to grant, without further delay, the licence allowing CUBAEXPORT to renew the Havana Club trademark. The United States should understand that neither its economic, financial and commercial blockade against Cuba, nor the aberrations of its foreign policy towards Cuba, constituted extenuating

circumstances or justified its violation of WTO rules. The US policy against Cuba could not be considered to be an excuse for disrespect of the system of rules that other Members made an effort to honour. It was time to put an end to the demagogic claim that the issue was being examined by Congress.

8. The representative of the Plurinational State of Bolivia said that his country had, once again, heard the status report by the United States which did not report on any progress. 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. Some delegations had stated that Cuba could initiate a new dispute on this matter, but this would involve high costs and would result in the same ruling. Once again, Bolivia urged the United States to comply with the DSB's recommendations and rulings and to repeal Section 211, as stated by Cuba in its statement made at the present meeting.

9. The representative of Angola said that her country thanked the United States for its status report. Once again, Angola regretted that no concrete progress had been made in the implementation of the DSB's decision and the Appellate Body's conclusion of 12 February 2002, which had found that Section 211 was inconsistent with WTO rules and principles. Angola hoped that concrete actions would be undertaken to resolve this matter and send a positive signal of respect for WTO rules.

10. The representative of the Bolivarian Republic of Venezuela said that her country wished to reiterate what it had stated in many previous DSB meetings. Ten years had passed since the DSB had ruled on the inconsistency of Section 211 with Article 42 of the TRIPS Agreement and the principles of national treatment and most-favoured-nation treatment. However, Section 211 remained in force. This undermined the dispute settlement system, which was considered to be one of the main achievements of the Uruguay Round. Venezuela welcomed the US status report but regretted, once again, that the report contained the same information as the previous reports. Venezuela was concerned about the US failure to comply with the Appellate Body's ruling. Venezuela fully supported Cuba's statement made at the present meeting. As it had already done on numerous occasions, Venezuela urged the United States to end its policy of economic, commercial and financial blockade against Cuba and to meet its obligation to comply with the DSB's recommendations.

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

12. The representative of China said that his country thanked the United States for its status report and the statement made at the present meeting. The prolonged situation of non-compliance in this dispute 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. China urged the United States to implement the DSB's rulings and recommendations without further delay.

13. The representative of Nicaragua said that, as her country had done on numerous occasions, Nicaragua remained concerned about the US failure to comply with Article 42 of the TRIPS Agreement. Nicaragua noted that ten years had passed since the DSB had ruled that Section 211 was inconsistent with WTO rules and principles. However, the United States had yet to comply with the DSB's recommendations and rulings. Once again, Nicaragua emphasized that delay in complying with the DSB's decisions in this case undermined the credibility of the DSB and the multilateral trading system and could set a precedent affecting other Members, in particular developing countries.

Nicaragua supported the statement made by Cuba and urged the United States to respect its obligations under the TRIPS Agreement and to find a prompt and satisfactory solution to this dispute.

14. The representative of Viet Nam said that his country thanked the United States for its status report and the statement made at the present meeting. Once again, Viet Nam was concerned about the lack of progress in the implementation of the DSB's recommendations and rulings pertaining to this dispute. Thus, Viet Nam urged the United States to promptly comply with the DSB's recommendations.

15. The representative of Argentina said that his country thanked the United States for its status report. However, Argentina regretted that that status report was similar to the previous reports submitted by the United States over the past ten years. As Argentina had mentioned at previous meetings, when Members with greater economic weight failed to comply with the DSB's rulings, this put into question the credibility of the multilateral trading system. A Member's failure to comply with the DSB's rulings affected trade interests of other Members and demonstrated the DSB's inability to rectify situations where measures were found to be inconsistent with WTO rules to the detriment of developing countries. Argentina supported the statements made by Cuba and other delegations, and urged the parties to this dispute, in particular the United States, to do their upmost so that this item could finally be removed from the DSB's Agenda.

16. The representative of the Dominican Republic said that her country thanked the United States for its status report on implementation of the DSB's rulings and recommendations regarding Section 211, which was inconsistent with Article 42 of the TRIPS Agreement. The Dominican Republic urged the United States to step up its internal procedures so as to comply with the DSB's decision. The long period of time that had passed with no implementation undermined the WTO's credibility.

17. The representative of the United States said that his country thanked the EU for its comments, and would of course relay these to capital. With respect to the other comments, the United States believed that they contained a number of inaccuracies that it would like to address. In response to the comments about "systemic" concerns about the dispute settlement system, the facts simply did not support Members' assertions or justify such systemic concerns. The United States had come into compliance, fully and promptly, in the vast majority of its disputes. As for the remaining few instances where US efforts to do so had not yet been entirely successful, the United States had been working actively towards compliance, such as in this dispute. As had been noted at several past meetings and again at the present meeting, several legislative proposals had been introduced in the current Congress: in the Senate, S.603; in the House of Representatives, H.R. 1166, H.R. 255, H.R. 1887, and H.R. 1888. These proposals would either modify or repeal Section 211. These proposals and continuing efforts demonstrated the US commitment to the dispute settlement system. In this regard, the United States could not help but note that most speakers under this Agenda item had been conspicuously silent when the United States had announced solutions to the zeroing issue that had occupied so much of the WTO's time and resources. Having failed to credit US actions in those disputes, their statements at the present meeting regarding the credibility of the dispute settlement system themselves lacked balance and credibility.

18. Finally, in relation to comments on repealing Section 211, the United States said that it would like to recall that Section 211 addressed the uncompensated expropriation of assets or businesses. As set forth in paragraphs 362-63 of the Appellate Body Report, the WTO had never challenged the right of the United States – or any other Member – to refuse recognition "in its own territory [to] trademarks, trade names or other rights relating to any intellectual property or other property rights that ... have been expropriated or otherwise confiscated in other territories". Instead, the DSB had held that when a WTO Member chose not to recognize intellectual property rights in its own territory relating to an expropriation or confiscation of rights in another territory, its measures must comport

with the national treatment and most-favoured nation (MFN) obligations of the TRIPS Agreement. The United States continued to make efforts to address these inconsistencies.

19. The representative of Cuba said that the facts did not support what had just been alleged by the United States. The United States had stated that it worked intensively to try to resolve this matter for the past ten years, but with no result. Cuba wished to see results and a satisfactory solution to this long-standing dispute as quickly as possible.

20. The representative of the Bolivarian Republic of Venezuela said that her delegation supported the statement that had just been made by Cuba.

21. 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.115)

22. The Chairman drew attention to document WT/DS184/15/Add.115, 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.

23. The representative of the United States said that his country had provided a status report in this dispute on 14 June 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.

24. The representative of Japan said that his country thanked the United States for, and took note of, its statement and status report. Japan, once again, called on the United States to fully implement the DSB's recommendations in this long-standing dispute without further delay.

25. 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.90)

26. The Chairman drew attention to document WT/DS160/24/Add.90, 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.

27. The representative of the United States said that his country had provided a status report in this dispute on 14 June 2012, in accordance with Article 21.6 of the DSU. The US Administration would continue to confer with the European Union, and to work closely with the US Congress, in order to reach a mutually satisfactory resolution of this matter.

28. The representative of the European Union said that the EU thanked the United States for its status report of which it took note. As it had stated many times in the past, the EU wished to resolve this case as soon as possible.

29. 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.53)

30. The Chairman drew attention to document WT/DS291/37/Add.53, 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.

31. The representative of the European Union said that the EU, once again, wished to express its hope that it would continue on the constructive path of dialogue with the United States. Three technical meetings had taken place since 2011. The meetings had offered a good opportunity to discuss directly issues of concern to both sides and to follow up closely on developments in the biotech field. In 2012, the European Commission had already authorized three more GMOs[1] and had renewed the authorization of a fourth one.[2] Two of those decisions[3] had been adopted only six months after the relevant EFSA opinions had been published. Furthermore, on 2 May 2012, the Commission had submitted to the relevant Committee a decision for authorization of a soybean.[4] No qualified majority had been reached and the Commission had convened an appeal committee on 13 June 2012 and again there had been no qualified majority. The Commission expected that this authorization would be adopted in the coming weeks. In addition, EFSA had adopted an opinion on MIR 162 maize, but the opinion was not yet published. Regarding the concerns expressed by the United States on the back-log of approvals, the EU once again 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 just 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 on the time needed by applicants to answer requests from EFSA on additional scientific information.

32. The representative of the United States said that his country thanked the EU for its status report and its statement made at the present meeting. As the United States had explained at past meetings of the DSB, the United States said that it continues to have substantial concerns regarding EU measures affecting the approval of biotech products. These concerns included delays in the approval of biotech products. An important source of delay was the failure of the EU biotech regulatory committee to act in accordance with the findings of the EU's own scientific authority. For example, as the EU had noted in its statement at the May 2012 meeting of the DSB and again at the present meeting, on 2 May 2012, the EU regulatory committee had considered an application for approval of a biotech soybean variety.[5] The application had been supported by a risk assessment issued by the European Food Safety Authority (EFSA). Nonetheless, the application had not been approved. Instead, action on the application was delayed. After the regulatory committee's failure to act, the application had been sent to an EU appeals committee. The United States understood from the EU's statement that the appeals committee had also failed to act in accordance with the EU risk assessment. This would result in yet further delays. These types of delays were, unfortunately, routine in the EU approval system. As a result, the EU measures, including delays in approvals, continued to result in substantial restrictions on the importation of US agricultural products. The United States looked forward to the EU making progress on this issue.

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

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[1] A5547-127 soybean, 356043 soybean, MON87701 soybean.
[2] 40-3-2 soybean.
[3] Authorization decision for 356043 and MON87701 soybeans.
[4] MON87701xMON 89788.
[5] Soybean MON87701xMON89788.

(e) 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.6)

34. The Chairman drew attention to document WT/DS382/10/Add.6, 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.

35. The representative of the United States said that his country had provided a status report in this dispute on 14 June 2012. As had been previously noted, in February 2012, the US Department of Commerce had published a modification to its procedures in order to implement the DSB's recommendations and rulings regarding the use of "zeroing" in all anti-dumping reviews, including those concerning the products of Brazil covered in this dispute. In April 2012, as a result of a determination by the US International Trade Commission, the anti-dumping duty order on the products covered in this dispute was revoked. The revocation was effective as of 9 March 2011. In May, the United States had rescinded the administrative review of the anti-dumping duty order for the period 1 March 2011, through 8 March 2011. The notice of rescission had been published on 23 May 2012.[6] In light of the fact that imports of orange juice from Brazil currently entered the United States free from anti-dumping duties or cash deposits, and pursuant to the agreement between Brazil and the United States[7], the United States was ready to engage with Brazil on any further questions regarding this matter.

36. The representative of Brazil said that his country thanked the United States for its status report. Brazil was following attentively the implementation of the final rule published by the US Department of Commerce, which modified the calculation of dumping margins in reviews. Brazil intended to consult with the United States with a view to achieving a solution to this dispute.

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

(f) United States – Definitive anti-dumping and countervailing duties on certain products from China: Status report by the United States (WT/DS379/12/Add.5)

38. The Chairman drew attention to document WT/DS379/12/Add.5, 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.

39. The representative of the United States said that his country had provided a status report in this dispute on 14 June 2012, in accordance with Article 21.6 of the DSU. As had been noted at the May 2012 meeting of the DSB, the US Department of Commerce ("Commerce") had issued preliminary determinations with respect to certain issues in this dispute on 6 April 2012, on 9 April 2012, and on 18 May 2012. Subsequently, on 31 May 2012, the Department of Commerce had issued to interested parties a preliminary determination with respect to the issue of "double remedy" in the anti-dumping and countervailing duty investigations of circular welded pipe, light walled rectangular pipe and tube, certain new pneumatic off the road tires, and laminated woven sacks. The Department had provided an opportunity for interested parties to provide comments on those preliminary determinations and to provide rebuttal comments on any comments submitted by other interested parties. Members would recall that on 14 May 2012, the United States and China had notified the DSB that they had reached an agreement on procedures under Articles 21 and 22 of the

[6] 77 Fed. Reg. 30504.
[7] WT/DS382/11.

DSU.[8] The United States would continue to work on solutions to implement fully the DSB's recommendations and rulings.

40. The representative of China said that his country thanked the United States for its status report and statement made at the present meeting. China took note that the US Department of Commerce had issued to interested parties a preliminary determination with respect to the issue of "double remedy" in some anti-dumping and countervailing duty investigations on 31 May 2012. However, 15 months had lapsed since the adoption of the Appellate Body Report and the Panel Report in this dispute, and the implementation process was being seriously delayed. China urged the United States to expedite its work and fully implement the DSB's rulings and recommendations without any further delay. China would also study carefully the preliminary determinations that had been issued by the US Department of Commerce during the previous months. China reserved its right to take further action in accordance with the DSU provisions.

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

(g) Thailand – Customs and fiscal measures on cigarettes from the Philippines: Status report by Thailand (WT/DS371/15/Add.2)

42. The Chairman drew attention to document WT/DS371/15/Add.2, which contained the status report by Thailand on progress in the implementation of the DSB's recommendations in the case concerning Thailand's customs and fiscal measures on cigarettes from the Philippines.

43. The representative of Thailand said that her country had provided a status report in this dispute on 14 June 2012, in accordance with Article 21.6 of the DSU. As explained in that status report, Thailand had recently issued the Customs Regulation on Administration Regarding the Customs Guarantees, which established an independent review process for the review of decisions to require customs guarantees. Thailand's Board of Appeals was meeting in the coming weeks with a view to completing the appeals on the valuation of the entries at issue in this dispute. Thailand also continued to work towards completion of the revision of the administrative requirements for VAT reporting by the expiration of the reasonable period of time on 15 October 2012. As explained in the status report, Thailand had concluded a sequencing agreement with the Philippines covering the DSB's recommendations and rulings for which the reasonable period of time was ten months, and had expired on 15 May 2012. This sequencing agreement had been circulated to Members on 7 June 2012 in document WT/DS371/16. Thailand reiterated its commitment to fully implement the DSB's recommendations and rulings and to achieve a satisfactory resolution of this dispute.

44. The representative of the Philippines said that his country thanked Thailand for its third status report and for the statement made at the present meeting. As Thailand had noted in its status report, on 1 June 2012, the parties had concluded a sequencing agreement, which covered those findings for which the reasonable period of time had expired on 15 May 2012. The Philippines was currently assessing the implementation efforts undertaken and would continue to consult with Thailand.

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

[8] WT/DS379/14.

(h) United States – Anti-dumping measures on certain shrimp from Viet Nam: Status report by the United States (WT/DS404/11/Add.1)

46. The Chairman drew attention to document WT/DS404/11/Add.1, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US anti-dumping measures on certain shrimp from Viet Nam.

47. The representative of the United States said that his country had provided a status report in this dispute on 14 June 2012, in accordance with Article 21.6 of the DSU. In October 2011, the United States and Viet Nam had jointly notified the DSB of their agreement that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on 2 July 2012.[9] In February 2012, the US Department of Commerce had published a modification to its procedures in order to implement the DSB's recommendations and rulings regarding the use of "zeroing" in anti-dumping reviews. This modification addressed certain findings in this dispute. The United States would continue to consult with interested parties as it worked to address the recommendations and rulings of the DSB.

48. The representative of Viet Nam said that his country thanked the United States for its status report. Viet Nam expected the United States to fully comply within the reasonable period of time, as agreed by the parties. Viet Nam reiterated its right to pursue any legal proceeding under the WTO in order to protect the legitimate interests of Vietnamese enterprises and farmers, who were affected by the US WTO-inconsistent measures.

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

2. United States – Measures concerning the importation, marketing and sale of tuna and tuna products

(a) Implementation of the recommendations of the DSB

50. The Chairman recalled that, in accordance with the DSU provisions, the DSB was required to keep under surveillance the implementation of recommendations and rulings of the DSB, in order to ensure effective resolution of disputes to the benefit of all Members. In that respect, Article 21.3 of the DSU provided that the Member concerned shall inform the DSB, within 30 days after the date of adoption of the panel or Appellate Body report, of its intentions in respect of implementation of the recommendations and rulings of the DSB. He recalled that at its meeting on 13 June 2012, the DSB had adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report, pertaining to the dispute on: "United States – Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products". He invited the United States to inform the DSB of its intentions in respect of implementation of the DSB's recommendations.

51. The representative of the United States said that, on 13 June 2012, the DSB had adopted its recommendations and rulings in this dispute. As provided in the first sentence of Article 21.3 of the DSU, the United States wished to inform the DSB that the United States intended to implement the recommendations and rulings of the DSB in a manner that respected its WTO obligations. The United States would need a reasonable period of time in which to do so.

[9] WT/DS404/10.

52. The representative of Mexico said that his country thanked the United States for the statement made. Mexico wished to point out that it was ready to discuss the reasonable period of time necessary for the United States to comply with the DSB's recommendations. Mexico hoped that the United States would be able to comply soon.

53. The DSB took note of the statements, and of the information provided by the United States 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 Chairman said that this item was on the Agenda of the present meeting at the request of the European Union and Japan. He then invited the respective representatives to speak.

55. The representative of the European Union said that, as it had done many times before, the EU requested the United States to stop transferring anti-dumping and countervailing duties to the US industry. Every disbursement that still took place was clearly an act of non-compliance with the DSB's recommendations and rulings. Once again, the EU renewed its call on the United States to abide by its clear obligation under Article 21. 6 of the DSU to submit status reports pertaining to this dispute.

56. The representative of Japan said that, on 1 June 2012, US Customs and Border Protection had announced FY 2012 Preliminary CDSOA Amounts Available.[10] This showed that the CDSOA remained operational. 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.

57. The representative of India said that his country thanked Japan and the EU for keeping this item on the DSB's Agenda. India shared their concerns and supported their views.

58. The representative of Canada said that his delegation wished to simply refer to Canada's previous statements made under this Agenda item at past DSB meetings. He said that Canada's position on this matter had not changed.

59. The representative of Brazil said that his 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 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.

60. The representative of Thailand said that her country thanked Japan and the EU for continuing to bring this item before the DSB. Thailand supported the statements made by previous speakers and urged the United States to cease the disbursements and fully implement the DSB's rulings and recommendations in this dispute.

[10] http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/

61. The representative of the United States said that, as his country had already 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, including the EU and Japan, 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. The United States, therefore, did not understand the purpose for which the EU and Japan had inscribed this item on the Agenda of the present meeting. With respect to comments regarding further status reports in this matter, the United States may have a disagreement regarding this matter, but the United States failed to see what purpose would be served by further submission of status reports repeating, again, that the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes.

62. The DSB took note of the statements.

4. India – Measures concerning the importation of certain agricultural products

(a) Request for the establishment of a panel by the United States (WT/DS430/3)

63. The Chairman recalled that the DSB had considered this matter at its meeting on 24 May 2012 and had agreed to revert to it. He then drew Members' attention to the communication from the United States, contained in document WT/DS430/3, and invited the representative of the United States to speak.

64. The representative of the United States said that, as his country had explained at the May DSB meeting, the United States – and other WTO Members – had raised concerns with India's avian influenza measures for several years. These measures prohibited the importation of various agricultural products into India from Members reporting outbreaks of Low Pathogenic Notifiable Avian Influenza ("LPAI"). These restrictions appeared to lack scientific justification and were not consistent with the guidelines of the World Organization for Animal Health. The measures appeared to be inconsistent with a number of India's WTO obligations. At the May DSB meeting, India had asserted that its measures did not currently prohibit imports from the United States because the United States had not had an outbreak of LPAI in the past few months. As the United States had explained then, neither the measures nor any other document stated this, and the United States was not aware of any current US shipments. But in any event, India did not dispute that its measures imposed nationwide import prohibitions on a Member as soon as it reported an outbreak of LPAI. These measures created a substantial impediment to trade. While the United States appreciated India's engagement during consultations, India had made clear that it intended to maintain its measures in force. Therefore, the United States made this second request for the DSB to establish a panel to examine the matter set out in the US panel request, with standard terms of reference.

65. The representative of India said that his country was disappointed that the United States had made its second request for the establishment of a panel in this dispute. During the consultations, India had provided detailed explanation and the scientific rationale for the measures being challenged. India had continuously demonstrated its willingness to engage on this matter and to arrive at a mutually-acceptable solution. With that in mind, India had proposed a technical-level dialogue. However, the United States had chosen to litigate rather than to negotiate. India considered that its measures were consistent with WTO law and relevant international guidelines and would be able to defend its measures before the panel.

66. 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.

67. The representatives of China, Colombia, Ecuador, the European Union, Guatemala, Japan and Viet Nam reserved their third-party rights to participate in the Panel's proceedings.

5. Report on the progress of the Digital DS Registry initiative

68. The Chairman said that, under this Agenda item, as requested by Argentina, Australia, Canada, Chile, Colombia, Costa Rica, Guatemala, Hong Kong, Japan, Korea, Mexico, New Zealand, Norway, Thailand, Turkey, Ukraine and the United States, he wished to invite the representative of the Secretariat, Ms Valerie Hughes, Director of the Legal Affairs Division, to report to Members on the progress of the Digital DS Registry initiative.

69. The Director of the Legal Affairs Division, Ms Valerie Hughes, made the following statement:

"The Secretariat is pleased to provide a report to the DSB on the Digital Dispute Settlement Registry initiative, as requested by the delegations referred to by the Chair. I will start with a general description of the project, followed by an explanation as to why it is being developed and when it is to be completed. I will also report what work has been undertaken thus far to develop and design the project, in consultation with an open-ended working group of WTO Members. First: what is the Digital Dispute Settlement Registry initiative? Essentially, the project has three elements: (i) development of a central *electronic storage facility* for all dispute settlement records; (ii) design of a *research facility* for Members and the Secretariat to search for dispute settlement information; and (iii) creation of a *secure electronic registry* for filing and serving dispute settlement documents on line. I will explain these elements in more detail momentarily. Second: why is this being developed? Following discussions in 2009 with Members who have been frequent users of the dispute settlement mechanism, we have been investigating options for leveraging more recent technological capabilities in order to increase efficiency, reduce costs including for courier services, reduce paper, and enhance document security. We have also been working to develop a more complete, user-friendly and accurate dispute settlement research tool than is currently available through Documents Online or the Dispute Settlement Gateway section of the website. As you may know, a number of institutions, both domestic and international, currently require or offer the possibility to file and serve dispute settlement documents electronically in a central electronic location. We have consulted a number of these institutions to determine what benefits may be derived by moving from our current practice, which is essentially filing submissions through e-mail attachments followed by hard copy service to the Secretariat, to a system that involves uploading documents into a central, secure web-based system to be accessed by Members involved in the dispute. Third: what is the timing for completion? At this stage, we do not have a definite timeline for moving to a Digital Dispute Registry system. This is being discussed by Members participating in the open-ended Working Group. It may be that we would be ready to proceed to a test phase early in 2013, and sometime thereafter to broad usage once any necessary adjustments have been made. At this point, we envision using both the current practice together with the new system for a phase-in period to be determined. We will also need to consider any amendments that would be required to the Working Procedures for Appellate Review, which involve following certain procedures.

Turning back to the first of the three elements I mentioned above – a central electronic storage facility – the Digital DS Registry will be a secure electronic facility for the storage of dispute settlement records (both panel and Appellate Body records). In other words, it will centralize all dispute settlement records (past, present and future) in one place in electronic format. Currently, we have paper records for *past* disputes in different locations in the Centre William Rappard, as well as off site. *Current* dispute records are stored in different electronic drives and in hard copy in different Divisions. In the future, we plan to have one set of paper records located in a secure archive facility on site, where access will be controlled. In addition to this paper archive, the electronic records of past, current and future disputes will be centralized in the electronic Registry, where access will be

controlled and limited to those entitled to see the records. Past records must be scanned and then entered into the system, and the Secretariat has made good progress in this work. A side benefit is that this work has enabled us to put more order in our dispute settlement paper records, eliminate numerous boxes of duplicates collected by Secretariat staff over time, and create real space savings so that we will be able to store everything on site in the new archive space. Future dispute records will be uploaded directly by Members into the system. The process for uploading submissions onto the site is virtually identical to sending an e-mail attaching submissions.

Turning to the second element mentioned above – a research facility – once past records have been scanned and uploaded into the system and the electronic Registry is up and running with future dispute settlement records being uploaded directly onto the site, the Registry will serve as a searchable digital record for all disputes. Members will be able to easily find accurate, complete and up-to-date information about disputes, such as the claims addressed, the subjects covered (such as national treatment), procedural rulings, and even what agreements certain panelists have adjudicated in the past. Of course, nothing will change in terms of the current practice with respect to confidentiality. Access to dispute records will be limited to those entitled to have such access in the same way as it is under the current system. What will be new is that, contrary to what is available now under Documents Online or the Dispute Settlement Gateway section of the website, the information will not be limited to claims set out in the request for consultations and will reflect how a dispute evolves and how claims change through the different stages of dispute settlement.

Turning to the third element – electronic registry – as noted earlier, the system will have a facility for parties to disputes to upload their submissions (and possibly some or all exhibits) directly into the system. Filing via the Digital Dispute Settlement Registry is anticipated to provide additional security for Members' submissions to that provided by the current system, which relies on e-mail attachments. The system will be password protected and encrypted, and will be maintained behind the WTO firewall. The system will also facilitate secure paperless service on other parties, third parties, and distribution to panel and Appellate Body Members. Parties entitled to receive documents will receive an electronic notification that a document has been served and is ready for downloading from the registry site. The system will also assist Members and the Secretariat in managing dispute settlement workflow by providing comprehensive calendars of deadlines across all relevant disputes. Thus if a delegate logs into the system, in addition to being able to upload documents or download others' documents for disputes in which access is permitted, he or she will be able to see all of his or her dispute settlement deadlines and meeting dates for each dispute in which he or she is involved. As I will explain below, the Working Group is discussing the appropriate means for controlling access.

Let me now turn to the process for developing the Digital Dispute Settlement Registry. With respect to the design of the database and the development of the e-filing facility, the Secretariat designed an initial 'look and feel' prototype. In July 2011, the Secretariat shared this prototype with a focus group of Members active in dispute settlement to get some initial feed-back and further suggestions. The Secretariat also sent written questions about design and desirable features to those Members. The Secretariat provided a briefing on and demonstration of this same prototype to all interested Members in an open meeting following the 27 September 2011 DSB meeting. All Members were invited to provide answers to the Secretariat's questions and to participate in a 'Working Group' of Members interested in providing comments and advice to the Secretariat in the development of the Digital DS Registry. Several Members have been participating actively in the Working Group.

The Working Group has met regularly since its first meeting in October 2011 (twice in November 2011 and then once each in February, March, April, and May of 2012). It has discussed several design issues and desirable features including account management, security of the system as a whole and of particular documents, the process of electronic filing, research, and statistics. In addition, some Members have requested one-on-one briefings. In addition, a presentation of the prototype was provided by the Secretariat at MC8 and all Members and delegates had an opportunity

to try the prototype during MC8. The Working Group's input has been invaluable in assisting the Secretariat in ensuring that the ultimate design of the Digital DS Registry is one that satisfies Members' needs and the needs of the dispute settlement system more generally. As part of the Working Group process and in order to learn of best practices for the development and design of a Digital Registry, the Secretariat contacted several other organizations and institutions that use electronic filing in dispute settlement. In particular, the Secretariat has met or had teleconferences with the World Intellectual Property Organization Arbitration and Mediation Centre, the Canadian International Trade Tribunal, the North American Free Trade Agreement Secretariat, the European Court of Justice, the Supreme Court of Singapore, and the United States Department of Commerce. A telephone consultation with the International Centre for the Settlement of Investment Disputes (ICSID) will take place next month. The Secretariat has presented the findings of its consultations with these organizations and institutions to the Working Group and in one instance the institution in question (the Supreme Court of Singapore) provided a briefing by telephone to the Working Group. These consultations have proved highly useful.

Following a procurement process concluded in December last year, the Secretariat retained a software development company this Spring to build the Digital Dispute Settlement Registry in the light of suggestions and input of Members and the information gleaned through consultations with other organizations and institutions. The development of the system is under way. As of now, the system is being developed in the light of the following suggestions:

- passwords would be used to gain access and they would have to be renewed periodically;
- there will be a distinction between 'read' access and the ability to upload documents into the system;
- access to the system would be limited to government officials in the light of Members' preference at this time;
- e-filing should not be used to replace the government-to-government nature of dispute settlement;
- e-filing would not remove personal responsibility for documents filed;
- each Member should be accorded access through a master account, and that Member will have the ability to provide access via a user name and password to selected staff members for a particular dispute; 'group' accounts should not be used as they could prove difficult for accountability, transparency, and security;
- the system will have a test-phase that could involve a few Members agreeing to e-file in all cases in which they participate over a period of time, and manual filing would continue in parallel for those cases.

Several other issues are in discussion, including:

- how to provide additional security to the Member account that will administer sub-accounts; IP Address limiting and randomly generated passwords were discussed;
- how to provide transparency to the other parties and third parties in the dispute as to who will have access to the documents they file. The prototype contemplates that each case will have a list of users so that the other parties and third parties can know who has access to their documents. Further discussion is needed to see whether this is sufficient to accommodate Members' concerns. One suggestion was that this issue could be discussed by the parties on a case-by-case basis at the organizational meeting where the Working Procedures are set. This would replicate the current system where each party gives the other a list of e-mail addresses for those they want included in service of documents;
- how to enable special features for additional protection of the various types of confidential information that gets filed in some disputes.

The Secretariat would be pleased to provide immediately after this meeting a demonstration of an updated prototype of the system reflecting features and design developed by the software developer in the light of input from the Working Group. We would also be pleased to respond to Members' questions at that time."

70. The DSB took note of the report, and the Chairman invited delegations to take the floor to make statements if they so wished.

71. The representative of the United States said that his country thanked the Chairman for requesting this report and the Secretariat for providing this information. The United States had joined 16 other delegations in supporting a request that this information be brought to the DSB. The United States and various others had been actively participating in the Working Group in which delegates and the Secretariat had been exchanging information and views on the process of developing an e-filing system and the possible elements of such a system. The United States wanted to thank the Secretariat for organizing these informal meetings, which it had found to be very valuable in deepening the US understanding and clarifying its thinking on elements of such a system. The United States viewed the informal Working Group process as a useful addition to but not a substitute for consideration of this issue by the DSB. WTO Members had expressed their desire recently to reinvigorate the bodies and committees of this organization. And as the DSB was charged with oversight of the dispute settlement system, this was the appropriate meeting of WTO Members for consideration of a Digital DS Registry, including an e-filing system. The United States also considered that bringing this issue to the DSB promoted even greater transparency, inclusiveness, and participation by Members, including those that may not be able to participate in the informal Working Group meetings, for example, due to other time commitments. The United States considered that it was important, for the development and success of the system, for all Members to have received the same information about the system. As an e-filing system would affect participation in disputes by all Members, all Members should have an opportunity to provide input on the same basis and with the same information. All Members had an equal stake in the dispute settlement system.

72. The United States recalled the very extensive and useful materials provided to participants in the Working Group, for example, in relation to other e-filing systems. One important lesson the United States had learned already from the information shared in the informal Working Group was the importance of developing an e-filing system in phases. That is, the experience of developing other e-filing systems, including that of organizations within the United States, was that it required time and significant input from stakeholders to understand the relevant issues for a system and then to develop appropriate responses. Once a basic model had been developed, further phases of development would serve to identify inevitable problems with the original design or further enhancements. Development in phases permitted stakeholders to gain confidence in that system and an understanding that their interests were well reflected in the system. The potential benefits of an e-filing system could be realized, the United States believed, through a sufficiently robust process of development, with adequate input from Members. The United States also noted that, based on the experiences of other e-filing systems, it would be important that adequate resources be allocated to support such an undertaking from within existing WTO resources. With respect to particular elements of the Secretariat presentation made at the present meeting, including elements of an e-filing system and timeline, the United States took note of the information and would reflect further on it.

73. In sum, the United States wished to reiterate its thanks to the Secretariat for the report provided at the present meeting. The United States considered that this report and Agenda item benefitted the entire Membership. The United States looked forward to future opportunities to discuss the issue both in the informal Working Group setting and in the DSB as work continued on this important initiative. The United States believed that an e-filing system could bring benefits to Members, and looked forward to continuing with a process for its development that permitted Members to realize those benefits.

74. The representative of Brazil said that his country welcomed the inclusion of this item on the Agenda of the present meeting and the report provided by the Secretariat, which enhanced the awareness of the broader Membership regarding the Digital DS Registry initiative. Brazil welcomed the efforts of Members and the Secretariat to create a secure, predictable and user-friendly digital DS registry in order to simplify procedures and avoid the unnecessary use of paper. Brazil was confident that the new system would be implemented in a gradual manner and would take into account any difficulties faced by developing-country Members.

75. The representative of Japan said that her country welcomed the inclusion of this matter on the Agenda of the present meeting. Japan also appreciated the detailed report provided by the Secretariat on the progress of the Digital DS Registry initiative made thus far in collaboration with several Members. Given the progress in digital and information technology, Japan generally found this Digital DS Registry initiative to be a positive development. At the same time, the introduction of a Digital DS Registry would affect the operation of the WTO dispute settlement system and would possibly change the way in which day-to-day business in the system currently worked. Therefore, it was important that the entire Membership be properly informed of any progress made thus far and to be made in the future on the initiative. Transparency on the initiative would serve to promote Members' participation in, and contribution to, the initiative. On the substance of the system to be developed, Japan wished to emphasize, as the report by the Secretariat noted, that such a system must be flexible enough to accommodate the needs of Members and be able to adapt to particular situations that may arise in each individual dispute. Furthermore, Japan was of the view that any development of a system of this kind must be evolutionary and incremental in nature so that any experiences to be obtained in the actual use of the system could be taken into account in the further development of the system. Japan would continue to participate in discussions on this initiative.

76. The representative of the European Union said that the EU thanked the Chairman and the Secretariat for the information provided. Although the EU was not among the Members that had requested the inscription of this item on the Agenda of the present meeting, it welcomed the e-filing initiative and looked forward to a system that would facilitate its work and allow it to transmit dispute settlement documents in an easy, cheap and, hopefully, secure way. The EU also appreciated the Secretariat's efforts in ensuring full transparency on this initiative and the numerous technical meetings open to all Members. As the Secretariat continued its reflections on the design of the system, the EU trusted that the Secretariat would give all necessary thought to the technical details and ensure that the system would be secure, and that it would have sufficient physical and technical capacity to handle all dispute settlement documents of past, present and future disputes. The EU also considered that it may be desirable to plan a transitional period during which the system would be tested with a view to ensuring that Members were fully comfortable with its functioning. Finally, and depending on its security capabilities, it may also be necessary for the system to provide some flexibility in dealing with strictly confidential documents, which required extra protection.

77. The representative of Canada said that, like other delegations, his country also welcomed the inclusion of this item on the Agenda of the present meeting and thanked the Secretariat for the progress report. Canada had been involved in the work of the Working Group and, therefore, the content of the report was not new to it. Canada wished to register its support for the initiative in general and to commend the Secretariat team and the Working Group, in particular, for the progress they had made. In Canada's view, it seemed an anomaly that in 2012 the WTO dispute settlement system still functioned with a largely paper-based registry system, supplemented informally with e-mail communications. There were many benefits to be gained from the digital registry. Those benefits had been outlined by the Secretariat and there did not seem to be too much debate about them. In that regard, Canada would not elaborate any further on what those benefits were. The Working Group discussions had been a useful vehicle for bringing the views of the users of this system to the table and had resulted in what Canada saw as a number of notable improvements to the planned functionality of the registry. Canada noted that Members would not get it perfectly right

from the outset. No project of this nature was ever perfect right at the outset. Nonetheless, a quest for perfection should not hold Members back from moving forward with experimentation on elements known to be necessary and that would work well. There was nothing that Members could not change based on their initial experiences. Canada expected that, even when the system was fully implemented, it would retain a degree of flexibility in how it would be used in given cases as it was going to be decided by the working procedures. Therefore, Canada encouraged the Secretariat to continue to consult frequently with Members and to continue to inform the broader Membership of progress made. For its part, Canada would continue to engage in the Working Group process and in the DSB as necessary. Canada looked forward to the launch of a pilot or a test stage to the extent that the timing corresponded with any of its activities related to dispute settlement. There was no guarantee of that but if it did, Canada would be willing to participate in such a pilot project.

78. The representative of Singapore said that her country thanked the Secretariat for its report on the Digital DS Registry. Singapore agreed with previous speakers that it was important for the wider Membership to be kept informed of this initiative, and welcomed the inclusion of this item on the Agenda of the present meeting. The Digital DS Registry had important storage, research and filing functions. It had the potential to save time and costs for both the Secretariat and the Membership. However, Singapore stressed that the dispute settlement mechanism was an important pillar of the WTO. For Members to be able to rely on an automated system like this, it was important to develop a good and robust system, which was accessible to the entire Membership. Having had the experience of e-filing in its domestic courts, Singapore recognized that putting a system like this in place was not an easy task. Singapore appreciated the Secretariat's effort, it would assist wherever it could and looked forward to future updates.

79. The representative of Mexico said that his country welcomed the ongoing initiative, which would improve the administration of disputes and thanked the Secretariat for its work.

80. The representative of China said that his country thanked the Secretariat for its report and for the fruitful work done on the Digital DS Registry initiative. As a Member of the Working Group, China had attended the group's meetings and agreed that progress had been achieved. China believed that the digital system would improve the efficiency of submissions by the parties to a dispute, facilitate the management of documents, and reduce the human and financial costs of both Members and the Secretariat. All those benefits would depend on the secure, stable and reliable operation of the system. China hoped that the system would also respond to the different needs of Members and provide the necessary flexibility. For example, Members should be allowed to submit their submissions through alternative means in cases where the digital registry was not accessible. China would continue to engage in this work, together with the Secretariat and other Members, to develop the system and hoped that it would contribute to the WTO dispute settlement system.

81. The representative of Chile said that, as a participant in the Working Group, his country welcomed the fact that this matter was on the Agenda of the present meeting. Chile supported the work of the Working Group and highlighted the importance of the work that was being carried out. As indicated by other delegations, Chile was also surprised that the WTO was still using a paper-based system while the rest of the world seemed not to. Papers could get lost or damaged. Therefore, for several reasons Chile supported the DS Registry initiative.

82. The representative of Australia said that his country supported most of the comments made by previous speakers and welcomed the Secretariat's initiative. As mentioned by Chile and Canada, in this modern age it seemed strange that WTO Members continued to operate under a paper-based system. For all the reasons that had been outlined, there were many benefits that could be gained through the Digital DS Registry. Thus, Australia supported the idea and would continue to participate actively in the Working Group to see it through. As mentioned by other delegations, it would be important for the registry, when it was up and running, to provide the required level of security for all Members. It was also important for the system to have sufficient flexibility to be able to adapt to

changes that may take place over time in the dispute settlement process. Australia had been an active Member of the Working Group thus far and looked forward to continuing to participate in the Working Group and also to further discussions in the DSB, as this moved hopefully towards a quick conclusion.

83. The representative of Costa Rica said that his country thanked the Secretariat for the report. Costa Rica was interested in, and supported, the initiative which would reduce costs and improve the efficiency of the dispute settlement system. Bearing in mind the progress made on this initiative, Costa Rica understood the challenges involved and hoped that Members would be able to continue working together on this in a flexible manner.

84. The representative of Indonesia said that, like other delegations, her country welcomed and appreciated the Secretariat's report on the DS Registry. This initiative was a positive breakthrough in making a comprehensive and advanced way of securing confidential information, especially during the dispute settlement process. Indonesia sought clarification as to whether the Secretariat anticipated making this system work appropriately for all Member countries, including countries whose technology information infrastructure was not yet at an advanced stage, as was the case of developing countries and LDCs. Therefore, Indonesia hoped that this initiative could contribute significantly to the benefit and interest of all Members. In that regard, Indonesia looked forward to further progress of the Working Group.

85. The representative of Argentina said that his country thanked the Secretariat for the report. Argentina was one of the countries that had requested the inclusion of this item on the Agenda of the present meeting. Argentina had been participating in the Working Group and, while being aware that this was not something that could easily be implemented, it was the 21st century and perhaps it was time for the WTO to modernize. Argentina noted that the implementation of the system would be a step-by-step process which would be flexible, user-friendly, and easy for developing countries. Argentina thanked the Secretariat for the work done thus far.

86. The representative of Nigeria said that his country thanked those Members who had requested the inscription of this item on the Agenda of the present meeting. Nigeria supported the effort to enhance transparency on the Digital DS Registry initiative. As mentioned by previous speakers, Nigeria believed that the system should be flexible and user-friendly in order to allow developing countries and LDCs to make use of it. Nigeria recalled that in 2011, it had requested the Legal Affairs Division to brief the African Group, the ACP Group and the LDCs on this issue. Nigeria believed that by raising this matter at the formal DSB meeting, the transparency and credibility of the initiative would be enhanced. Nigeria, therefore, requested that this matter be included on the Agenda of every regular DSB meeting so that all Members were kept informed of developments.

87. The representative of Turkey said that his country thanked the Secretariat for its detailed and comprehensive report on the Digital DS Registry. Furthermore, Turkey thanked the Secretariat and Members for their efforts to improve this system. As pointed out by previous speakers, it was important for the entire Membership that the system be secure, user-friendly and efficient. As a participant in the Working Group, Turkey would continue to engage and participate in the ongoing work.

88. The representative of Nigeria said that his delegation wished to add that it was not sure about regular reporting to the DSB and whether it would be feasible to provide regular reports, since this item had been inscribed on the Agenda of the present meeting at the request of some Members. In Nigeria's view, keeping this item on the Agenda of regular DSB meetings would allow all Members to be informed of developments on the Digital DS Registry and would enhance the credibility of the exercise.

89. The representative of Canada said that, with regard to the request that this item be placed on the DSB's Agenda regularly, Canada did not oppose or disagree with that and thought that it might be the best course. However, Canada wondered whether it would be better to have the Secretariat's reports on the work of the Working Group circulated to the larger Membership. Reporting at every DSB meeting may become cumbersome, especially if the progress to be reported was fairly marginal. It was not Canada's intention to oppose the inclusion of this item on the Agenda, but if Members agreed, reports could be circulated electronically.

90. The Chairman asked whether delegations had any views on Canada's proposal to circulate the reports on the work of the Working Group electronically.

91. The representative of Nigeria said that his country believed that if substantial progress was made, it would be in the interest of the system that reports were to be presented in the DSB and reflected in the minutes of the DSB meetings. This would enhance the credibility of the exercise, rather than just circulating such reports. In Nigeria's view, the initiative could result in possible amendments to the Appellate Body's Working Procedures and, if so, it would require Members' agreement. Therefore, regular reporting to the DSB would help Members, in particular those with capacity constraints.

92. The Chairman said that this matter could be placed on the Agenda of a DSB meeting whenever substantial progress was made. As Members were aware, the DSB meetings were held once a month. Therefore, this matter could be placed on the Agenda of a DSB meeting sometime in the Autumn.

93. The representative of India sought clarification regarding the Chairman's suggestion. If this matter were to be placed on the Agenda in the Autumn, he wished to know whether delegations would have to make the request to place it on the Agenda, or whether it would be the Chairman's responsibility to do so.

94. The Chairman said that he would monitor the situation and, if substantial progress was made, he would include this matter on the Agenda of a DSB meeting to enable the Secretariat to make a progress report.

95. The DSB took note of the statements.

6. Proposed nominations for the indicative list of governmental and non-governmental panelists (WT/DSB/W/483)

96. The Chairman drew attention to document WT/DSB/W/483, which contained additional names proposed for inclusion on the indicative list of governmental and non-governmental panelists, in accordance with Article 8.4 of the DSU. He proposed that the DSB approve the names contained in document WT/DSB/W/483.

97. The DSB so agreed.