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Dispute Settlement Body
23 November 2016

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD
ON 23 NOVEMBER 2016

Chairman: Mr. Xavier Carim (South Africa)

Prior to the adoption of the Agenda, the Chairman informed delegations that consultations regarding the first item on the Agenda of the present meeting concerning the Appellate Body appointments were ongoing. Therefore, he proposed that the item regarding the Appellate Body appointments be considered as the last item on the Agenda (WT/DSB/W/584).

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1 SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

A. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.166)

B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.141)

C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.104)

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

A. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.166)

1.2. The Chairman drew attention to document WT/DS184/15/Add.166, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US anti-dumping measures on certain hot-rolled steel products from Japan.

1.3. The representative of the United States said that his country had provided a status report in this dispute on 10 November 2016, in accordance with Article 21.6 of the DSU. The United States had addressed the DSB's recommendations and rulings with respect to the calculation of anti-dumping margins in the hot-rolled steel anti-dumping duty investigation at issue. With respect to the recommendations and rulings of the DSB that had yet to be addressed, the

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

1.4. The representative of the Japan said his country thanked the United States for its statement and status report submitted on 10 November 2016. Japan referred to its previous statements that this issue should be resolved as soon as possible.

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

B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.141)

1.6. The Chairman drew attention to document WT/DS160/24/Add.141, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning Section 110(5) of the US Copyright Act.

1.7. The representative of the United States said his country had provided a status report in this dispute on 10 November 2016, in accordance with Article 21.6 of the DSU. The US Administration would continue to confer with the EU, and to work closely with the US Congress, in order to reach a mutually satisfactory resolution of this matter.

1.8. The representative of the European Union said his delegation thanked the United States for the status report and its statement at the present meeting. The EU referred to its previous statements and said it would like to resolve this case as soon as possible.

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

C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.104)

1.10. The Chairman drew attention to document WT/DS291/37/Add.104, which contained the status report by the European Union on progress in the implementation of the DSB's recommendations in the case concerning measures affecting the approval and marketing of biotech products.

1.11. The representative of the European Union said that there had been no new developments since the last DSB meeting held on 26 October 2016. The EU said it continued to be committed to act in line with its WTO obligations. But more generally, and as had been stated many times before, the EU recalled that the EU approval system was not covered by the DSB's recommendations and rulings.

1.12. The representative of the United States thanked the EU for its status report and its statement at the present meeting. As the United States had noted at past DSB meetings, EU measures affecting the approval and marketing of biotech products remained of substantial concern to the United States. The EU measures were characterized by lengthy, unpredictable, and unexplained delays in approvals. The United States noted that the EU's scientific review process seemed to have slowed in recent years. For instance, many corn and soy products had now been under consideration by the EU's scientific authority for several years. Further, the United States was concerned that products that had received positive scientific evaluations continued to languish without approval by the relevant EU bodies. The delays in approvals caused adverse effects on trade, particularly with respect to soybeans and corn. The United States encouraged the EU to ensure that products in the biotech approval pipeline move forward in a timely manner, as required by EU regulations and WTO rules.

1.13. 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. India – Certain measures relating to solar cells and solar modules

B. European Union – Anti-dumping measures on biodiesel from Argentina

2.1. The Chairman recalled that, in accordance with the DSU provisions, the DSB was required to keep under surveillance the implementation of recommendations and rulings of the DSB in order to ensure effective resolution of disputes to the benefit of all Members. In this respect, Article 21.3 of the DSU provided that the Member concerned had to 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. The Chairman proposed that the two sub-items be considered separately.

A. India – Certain measures relating to solar cells and solar modules

2.2. The Chairman recalled that at its meeting on 14 October 2016, the DSB had adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report, pertaining to the dispute on: "India – Certain Measures Relating to Solar Cells and Solar Modules". As Members were aware, the 30-day time-period in this dispute had expired on 13 November 2016, and prior to this date, on 10 November 2016, India had informed the DSB in writing of its intentions with respect to implementation of the recommendations and rulings of the DSB. The relevant communication was contained in document WT/DS456/14. He then invited the representative of India to speak.

2.3. The representative of India said that, on 14 October 2016, the DSB had adopted the Reports of the Appellate Body and of the Panel in the dispute: "India – Certain Measures Relating to Solar Cells and Solar Modules" (DS456). In this dispute, the 30-day time-period stipulated in Article 21.3 of the DSU had expired prior to the present meeting. In those circumstances, the United States had agreed with India that it was appropriate for India to inform the DSB of India's intentions by letter, rather than to call for a special DSB meeting in order to do so. Accordingly, on 10 November 2016, India had informed the DSB by letter that it intended to implement the recommendations and rulings of the DSB in a manner that respected its WTO obligations. As India had noted in its letter, it would need a reasonable period of time in which to implement the DSB's recommendations and rulings. In accordance with Article 21.3(b) of the DSU, India would seek an agreement with the United States on the period of time for implementation. India looked forward to working with the United States on reaching a mutually acceptable reasonable period of time for implementation.

2.4. The representative of the United States thanked India for its letter dated 8 November 2016, and its statement at the present meeting, indicating that it intended to implement the DSB's recommendations and rulings in this dispute. The United States noted India's comments regarding the need for a reasonable period of time and stood ready to discuss with India, under Article 21.3(b) of the DSU, a reasonable period of time for implementation of the DSB's recommendations and rulings.

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

B. European Union - Anti-dumping measures on biodiesel from Argentina

2.6. The Chairman recalled that, at its meeting on 26 October 2016, the DSB had adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report, pertaining to the dispute on: "European Union – Anti-Dumping Measures on Biodiesel from Argentina" (DS473). The Chairman invited the representative of the EU to inform the DSB of its intentions in respect of implementation of the DSB's recommendations.

2.7. The representative of the European Union said his delegation wished to inform the DSB that it intended to implement the recommendations and rulings in this dispute, in a manner that respected its WTO obligations. As it was impracticable to comply immediately, the EU would need

a reasonable period of time in which to do so. The EU was ready to discuss this matter with Argentina, in due course, in accordance with Article 21.3(b) of the DSU.

2.8. The representative of Argentina said his country thanked the EU for its intention to implement the DSB's recommendations and rulings. As it had stated previously, Argentina had hoped that the EU would immediately take all actions necessary for implementation in accordance with the WTO rulings in this dispute. Since the procedures to enable the EU to implement the recommendations and rulings were not too complex, the reasonable period of time for implementation should be rather short. Argentina hoped that the EU would propose a short reasonable period of time for implementation of the DSB's rulings and recommendations in this dispute. In this regard, Argentina was ready to meet with the EU in an effort to agree on a reasonable period of time for implementation.

2.9. 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.

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

A. Statements by the European Union and Japan

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

3.2. The representative of the European Union said his delegation requested, once again, 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 DSB's recommendations and rulings. The EU renewed its call on the United States to abide by its clear obligation under Article 21.6 of the DSU to submit status reports in this dispute. The EU would continue to place this matter on the Agenda as long as the United States had not implemented the WTO ruling.

3.3. The representative of the Japan said his country wished to refer to its previous statements made under this Agenda item.

3.4. The representative of Canada said his country wished to refer to its previous statements made under this Agenda item. Canada thanked the EU and Japan for keeping this item on the Agenda of the DSB and agreed with them that the Byrd Amendment remained subject to the surveillance of the DSB until the United States ceased to administer it.

3.5. The representative of Brazil said her country, once again, thanked the EU and Japan for keeping this item on the Agenda of the DSB. As an original party to the Byrd Amendment dispute, Brazil referred to its previous statements on this matter, specifically with regard to the continuation of illegal disbursements, which should be ceased immediately. Brazil also renewed its call on the United States to fully comply with the DSB's recommendations and rulings in this dispute. Until then the United States was under the obligation to submit status reports.

3.6. The representative of China said her country wished to refer to its previous statement made under this Agenda item. China thanked the EU and Japan for placing this item on the Agenda of the present meeting and urged the United States to come into full compliance with the DSB's rulings and recommendations on this matter as soon as possible.

3.7. The representative of the United States said that, as the United States had noted at previous DSB meetings, the Deficit Reduction Act – which included a provision repealing the Continued Dumping and Subsidy Offset Act of 2000 – had been enacted into law in February 2006. Accordingly, the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. The United States recalled, furthermore, that the EU, Japan, and other Members had acknowledged that the Deficit Reduction Act did not permit the distribution of duties collected on goods entered after 1 October 2007, nearly nine years ago. The United States therefore did not understand the purpose for which the EU and Japan had inscribed this item on the Agenda of the present meeting. With respect to comments regarding

further status reports in this matter, as it had already explained at previous DSB meetings, the United States failed to see what purpose would be served by further submission of status reports which would repeat, again, that the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. Indeed, as these very WTO Members had demonstrated, repeatedly, when they had been a responding party in a dispute, there was no obligation under the DSU to provide further status reports once a Member announced that it had implemented those DSB recommendations and rulings, regardless of whether the complaining party disagreed about compliance.

3.8. The DSB took note of the statements.

4 CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

A. Statement by the United States

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

4.2. The representative of the United States said that the DSB had adopted its recommendations and rulings in this dispute more than four years ago, and the reasonable period of time had expired more than three years ago. To the present day, however, China's domestic supplier and national champion – a business set up by the People's Bank of China and other Chinese Government-related entities – remained the only entity authorized to provide electronic payment services (EPS) in China. China had issued a regulation a few months ago that appeared to set out a licensing application process for EPS suppliers to enter the domestic market. However, to date no foreign EPS supplier was permitted to operate in the domestic Chinese market. The United States urged China to ensure that approvals for foreign EPS suppliers to operate in China occurred without delay, in accordance with China's WTO obligations.

4.3. The representative of China said her country regretted that the United States had, once again, brought this matter before the DSB. China referred to its statements made at previous meetings and emphasized that it had taken all necessary actions and had fully implemented the DSB's recommendations and rulings in this dispute. China said it would also like to reiterate that the regulation referred to by the United States was not relevant to the implementation of the DSB's recommendations and rulings in this dispute. Nor was the DSB meeting an appropriate forum to discuss China's domestic regulatory action, which was irrelevant to this specific dispute.

4.4. The DSB took note of the statements.

5 UNITED STATES – COUNTERVAILING MEASURES ON CERTAIN HOT-ROLLED CARBON STEEL FLAT PRODUCTS FROM INDIA

A. Statement by India

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

5.2. The representative of India said his country was raising the issue of non-compliance, and failure to submit a status report, by the United States in this dispute, in accordance with Article 21.6 of the DSU. India reiterated the statements it had made on this issue in earlier DSB meetings. The United States, *inter alia*, was bound to remove the inconsistency in its statute to ensure that USITC could not cumulate the effects of subsidized imports with the effects of dumped, non-subsidized imports. India thus urged the United States to fully comply with the DSB's rulings and recommendations in this dispute and, until then, file status reports.

5.3. The representative of the United States said that, as the United States had explained at prior DSB meetings, the United States had completed implementation with respect to the DSB recommendations in this dispute. The United States referred to its past statements in this regard. As had been stated previously, the United States remained willing to discuss with India any questions it may have. India, however, had not contacted the United States to do so. Accordingly,

the United States failed to understand what purpose was served by India's decision to place this item on the Agenda of the present meeting.

5.4. The DSB took note of the statements.

6 INDIA – MEASURES CONCERNING THE IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS

A. Statement by the United States

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

6.2. The representative of the United States referred Members to the statements made by the United States at previous DSB meetings in which the United States had expressed concerns with India's actions. However, the United States also noted that India required a sanitary import permit before any poultry products could enter India. India had stated that it had stopped accepting paper applications for these permits in favour of online applications. However, the online portal India directed applicants to was non-functional, meaning no importer could even attempt to obtain approval to enter poultry products. Despite this situation, the United States remained open to reaching a constructive solution with India that was consistent with the DSB's recommendations. The United States said it would rather work constructively with India to resolve this dispute than make further use of the WTO dispute settlement system. However, until its concerns were resolved, the United States would continue to preserve and enforce US rights under the DSU.

6.3. The representative of India said that, in this dispute, the measure that had been found to be inconsistent by the DSB was no longer in force. It had been superseded and revised measures, consisting of S.O.2337 (E) and S.O.2998 (E) as well as the guidelines and questionnaire, were in force. In view of the above, India considered that it had brought itself into conformity with its WTO obligations. In view of the fact that India had brought itself into conformity with its WTO obligations, India urged the United States to also terminate the Article 22.6 proceedings in this dispute. India noted the US statement on working on this issue and looked forward to do so.

6.4. The DSB took note of the statements.

7 UNITED STATES – MEASURES AFFECTING THE CROSS-BORDER SUPPLY OF GAMBLING AND BETTING SERVICES

A. Statement by Antigua and Barbuda

7.1. The Chairman said that this item was on the Agenda of the present meeting at the request of Antigua and Barbuda and he invited the representative of Antigua and Barbuda to speak.

7.2. The representative of Antigua and Barbuda said her delegation very much regretted that, once again, it had to appear before the DSB regarding the dispute on: "Measures Affecting the Cross-Border Supply of Gambling and Betting Services" (DS285). It had been 12 long years since an Arbitration Panel had issued a decision that found the United States to be in violation of its international obligations under the GATS. This decision had been upheld by the Panel and the Appellate Body. Over that entire 12-year period, Antigua, with a GDP of just $1 billion had been deprived of trade revenues which now exceeded $250 million. For Antigua's tiny economy, $250 million was a meaningful sum of money. Its loss had significantly retarded Antigua's economic growth and social development. By the same token, $250 million represented the paltry sum of point nought, nought, nought, three per cent (0003%) of only one year of the US GDP. Further, over the past 12 years, the United States had enjoyed a balance of trade surplus with Antigua of over $1 billion. Over all this time Antigua had patiently engaged, in good faith, consultations with the United States in the genuine hope that the harm done to its economy by US action would be repaired through a settlement that recognized justice and fairness. Alas, the United States had not been able to propose terms for a settlement that would even remotely compensate for the harm that had been done to Antigua's economy, and continued to impact it

negatively. And while the United States continued to act in contradiction of the DSB's rulings and recommendations, it remained the most active user of the WTO dispute settlement system.

7.3. The US continued non-compliance in this matter should concern every Member of this Organization. Each Member – and all Members – were equally responsible for upholding and safeguarding the WTO's institutional integrity. Consequently, the protracted failure by the United Sates to settle this matter, despite the fact that it was not compliant with WTO rules, had the potential to undermine confidence in the efficacy and credibility of the rules-based multilateral trading system. Antigua, one of the smallest economies in the world, was yet to reap any benefit from having prevailed against the United States through the DSB's rulings and recommendations. Antigua had almost exhausted its patient efforts to reach a settlement with the United States. This was regrettable since, from its side, Antigua had always conducted its relations with the United States at a high level of regard and cooperation.

7.4. Antigua wished to inform the DSB that it was now engaged in a final effort with representatives of the US Trade Representative's Office to reach an agreed settlement. Antigua hoped that a sense of right would prevail. But, it could not go beyond the end of 2016. Its economic growth and social development had been materially, and adversely, affected by the loss of substantial trade revenues. In light of the above, Antigua informed the DSB that, if an appropriate and beneficial settlement was not reached with the United States by year-end, the Government would be compelled to take action to enforce the suspension of copyright on the sale of US intellectual property, consistent with the award of the Arbitrator. Antigua was obliged to uphold the authority of the WTO. It also had a duty of care to its people who had suffered as a result of non-compliance by the United States with the DSB rulings.

7.5. The representative of the United States said that, as the United States had noted at past meetings where Antigua and Barbuda placed this item on the Agenda, the United States remained committed to resolving this matter. That said, the United States was disappointed that Antigua characterized the United States as acting in bad faith when the United States had taken a constructive approach to resolving this matter in a way that would bring benefits to Antigua's economy and its citizens. It was notable that the United States had worked for months with Antigua on a settlement package in 2008 and thought that the parties had reached agreement, only to have Antigua subsequently repudiate it. The United States had also offered Antigua a broad range of useful suggestions to settle this dispute in November 2013, only to have Antigua ignore the US offer for a long period of time before finally indicating that it was not acceptable.

7.6. It was clear that the United States had tried repeatedly to resolve this dispute with Antigua, and considered its suggestions to the contrary to be not based on any facts. The United States also had put forth, pursuant to Article XXI of the GATS, a generous package of services concessions as compensation for removing internet gambling from the US schedule. Antigua was the only Member to block the United States from completing this process. The United States also recalled that the regulation of cross-border gambling was a matter of public morality. Indeed, the Appellate Body had confirmed that the US measures at issue were "necessary to protect public morals" under Article XIV of the GATS. The only reason for the finding against US gambling measures had involved a narrow, technical issue under the chapeau of Article XIV of the GATS. Regarding settlement, the United States had had numerous discussions with Antigua's new government in the past several months, and looked forward to future engagement. The United States was reviewing this most recent communication, which it had only recently received, and would continue to work expeditiously toward finding a realistic settlement. The United States also noted the explanation of how Antigua planned on applying a suspension of intellectual property rights. The United States would review Antigua's stated plans carefully. The United States expected further engagement with Antigua to ensure that any suspension was implemented in a transparent way and consistent with the DSB's authorization. The United States noted, however, that implementing suspension of intellectual property rights was counter to Antigua's own interests and to the interests of other WTO Members. The United States would urge that Antigua reconsider before taking this extraordinary, unprecedented step.

7.7. The representative of the Bolivarian Republic of Venezuela said his country fully supported the statement made by Antigua and Barbuda. Venezuela highlighted the importance to fully and promptly comply with the rulings and recommendations of the DSB. As it had mentioned in its previous statements, the ongoing non-compliance undermined Members' confidence in the system. It also undermined the credibility of the WTO and the DSB in their ability to resolve disputes. Venezuela urged the United States to take the necessary measures to end this situation of non-compliance, and requested that at the next DSB meeting, the United States inform Members about the measures that it intended to take to do so.

7.8. The representative of Argentina said his country shared the systemic concerns with regard to non-compliance with the DSB's rulings and recommendations by one Member. Argentina hoped that WTO Members would comply with their obligations undertaken in the framework of the multilateral trading system.

7.9. The representative of Jamaica said her country supported the statement made by Antigua and Barbuda under this Agenda item and took note of updates provided by the United States on the matter. Jamaica emphasized that this was a matter of particular concern to it, as a member state of the Caribbean Community. Jamaica was one of those Members which had consistently called for a timely conclusion to this protracted dispute, especially in the light of the clear ruling in favour of Antigua, within the context of the DSB. Jamaica was, therefore, hopeful that renewed efforts by both countries in 2015 to resolve the matter would have borne fruit, and that the removal of this item from the DSB's Agenda would have been permanent. Sadly, Jamaica was, once again, forced to reiterate its call for all WTO Members to fully comply with their obligations; including those arising from the DSB's rulings. For small vulnerable economies in particular, it was important that the integrity of the dispute settlement mechanism be preserved as a vital element within a rules based system regulating international trade. Jamaica therefore took note of the commitment of Antigua to continue bilateral consultations with the United States to resolve the matter by the end of 2016, and urged both governments to renew their efforts to implement the decision of the DSB by year end, in line with the appeal made by Antigua. Jamaica underscored the fact that resolution of this matter was critical to safeguarding the legitimacy of the multilateral trading system.

7.10. The representative of Dominica, speaking on behalf of the member States of the Organisation of Eastern Caribbean States (OECS), wished to express support for their fellow OECS member Antigua and Barbuda. It was about two years since this matter had been on the Agenda of the DSB. The last time this matter had been on the Agenda was 29 August 2014. Between 2012 and 2014 Antigua had placed this matter on the Agenda approximately 12 times, making, or having statements made on its behalf, to highlight the ongoing lack of implementation by the United States of the rulings and recommendations of the Panel, Appellate Body and the DSB. Since 2014 the OECS member States had been aware that Antigua had been engaged in discussions with the United States. The OECS member States had been hopeful that progress was being made towards a final resolution of this long outstanding matter. They therefore shared in the regret and deep disappointment of Antigua that this matter had to be placed on the Agenda once again. It was disappointing to hear from Antigua, once again in this body, that the matter remained unresolved. The countries in question had previously made statements on this matter and wished to reiterate these statements. In those statements, they had emphasized that a well-functioning rules-based multilateral trading system that was fair and equitable had to address the needs, concerns and interests of all its Members, in particular the smallest, weakest and most vulnerable. This was critical for the long term credibility and relevance of this Organization. A key element of the rules-based multilateral trading system was the dispute settlement mechanism. The DSU had to also function well. The rulings of the Panel and the Appellate Body in favour of Antigua had been seen as a clear demonstration that a tiny Member could win a case against a major Member in the hope of rectifying the situation that had led to the dispute. The inability, thus far, for those rulings to have been translated into implementation and/or for Antigua to have obtained a fair settlement of the case was however a persistent stain against the system. The countries in question, therefore, fully understood the frustration of Antigua. They hoped that the currently ongoing engagement with the United States would bring this matter to a final resolution. The OECS member States, once again, therefore called for a speedy resolution to this long-standing dispute in line with the rulings and recommendations of the DSB, and more importantly, in line with the fundamental principles, objectives and goals of the WTO and its Agreements.

7.11. The representative of Cuba said that, like previous speakers, Cuba wished to support and thank Antigua and Barbuda for the update regarding this dispute. This was a clear case of non-compliance, which affected one of the smallest economies in the world, and demonstrated the importance of maintaining the balance and stability of the dispute settlement system. Once again, Cuba urged the United States to continue its consultations with Antigua in an effort to comply with the DSB's rulings and recommendations in this dispute as soon as possible.

7.12. The DSB took note of the statements.

8 CHINA – DUTIES AND OTHER MEASURES CONCERNING THE EXPORTATION OF CERTAIN RAW MATERIALS

A. Request for the establishment of a panel by the European Union (WT/DS509/6)

8.1. The Chairman recalled that the DSB had considered this matter at its meeting on 8 November 2016 and had agreed to revert to it. He then drew attention to the communication from the EU contained in document WT/DS509/6, and he invited the representative of the EU to speak.

8.2. The representative of the European Union said that at the previous DSB meeting, the EU had requested, for the first time, the establishment of a panel to examine certain measures imposed by China on the exportation of certain raw materials. At the present meeting, the EU was requesting the establishment of the panel for a second time. In accordance with Article 6.1 of the DSU, the panel would have to be established at the present meeting. The EU referred to its statement made at the previous DSB meeting, which explained the reasons for which it was requesting the establishment of this panel. The EU noted that, at the DSB meeting, China had stated that, on 31 October 2016, it had published its Total Export Quotas of Industrial Products and Agricultural Products in 2017. The significance of China's statement was not clear. If it meant that China would remove the export quotas for the raw materials that were the subject matter of this dispute, as of 1 January 2017, then the EU welcomed this positive development. If, by this statement, China indicated that it intended to remove entirely and definitely all restrictions on the exportation of the raw materials that were the subject matter of the EU's request, both export duties and export quotas, the EU indicated its continued willingness to work with China towards a mutually satisfactory solution, even during the dispute settlement proceedings before the panel which would be established at the present meeting.

8.3. The representative of China said her country wished to express its disappointment with the EU's decision to request the establishment of a panel to examine this dispute. First, as stated at the 8 November 2016 DSB meeting, after the EU had filed the request for consultations and its supplementary request for consultations, China had held consultations in good faith and had tried to find appropriate solutions to resolve this dispute with the EU. Second, China had reiterated its steadfast stance on respecting the WTO rules and to abide by its WTO accession commitments. There was increasing pressure on the protection of exhaustible natural resources and the environment. Given this, China's policies concerning the products at issue were an integral part of the comprehensive measures taken to promote the scientific management of natural resource products and strengthen ecological environmental protection, with the purpose of achieving sustainable development. Third, on 31 October 2016, China had published its Total Export Quotas of Industrial Products and Agricultural Products of 2017. Regrettably, the EU had not carefully reviewed the new measures and had decided to bring this dispute before the panel. China stood ready to safeguard its rights under DSU and the covered agreements.

8.4. The representative of the United States said that the United States shared the concerns of the European Union that China's export duties, export quotas, and restrictions on the rights of enterprises seeking to export were inconsistent with WTO rules. In fact, the United States had also brought a dispute regarding those export restraints, in the DS508 dispute. A panel had been established in that dispute at the 8 November 2016 DSB meeting. As the United States had noted at that meeting, it would have been more efficient for China and the DSB if China had accepted establishment of a single panel at that time. The United States noted that the EU's complaint related to the same matter as was being examined by the Panel that had been established at the request of the United States in the DS508 dispute. The United States therefore considered that the provisions of Article 9.3 of the DSU applied, so that both the US and EU complaints could move

forward together. For many years, the United States, as well as other WTO Members, had actively engaged China regarding its widespread use of export restraints on raw materials. Since the "China – Rare Earths" and "China – Raw Materials" disputes, the United States had continued to raise its concerns. However, despite its repeated efforts to engage with China on those concerns, the United States had seen no movement by China to eliminate these export restraints. Regarding the 31 October 2016 measure referenced by China, it was not clear that this measure had fully addressed the concerns reflected in the United States' panel request. If China had additional information that it would like to provide, the United States would appreciate the opportunity to review that information.

8.5. 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.

8.6. The representatives of Brazil, Canada, Chile, Colombia, India, Indonesia, Japan, Kazakhstan, Korea, Mexico, Norway, Oman, the Russian Federation, Singapore, Chinese Taipei, the United States and Viet Nam reserved their third-party rights to participate in the Panel's proceedings.

9 EUROPEAN UNION – COST ADJUSTMENT METHODOLOGIES AND CERTAIN ANTI-DUMPING MEASURES ON IMPORTS FROM RUSSIA (SECOND COMPLAINT)

A. Request for the establishment of a panel by the Russian Federation (WT/DS494/4)

9.1. The Chairman drew attention to the communication from the Russian Federation contained in document WT/DS494/4, and he invited the representative of the Russian Federation to speak.

9.2. The representative of the Russian Federation said that her country had certain concerns regarding the EU's cost adjustment methodologies and certain anti-dumping measures on imports from Russia. Russia was disappointed that the EU maintained such measures despite Members' concerns formally raised in several disputes: in DS473 with Argentina and DS480 with Indonesia. Russia had held two rounds of consultations with the EU: first in June 2015 and second in May 2016 with respect to Council Regulation (EC) No. 1225/2009 of 30 November 2009 on the protection against dumped imports from countries that were not members of the EC, in particular Articles 2.3 and 2.5 thereof, the cost adjustment methodology used by the EU authorities in anti-dumping procedures, as well as anti-dumping measures imposed on imports of ammonium nitrate and certain welded tubes and pipes of iron or non-alloy steel originating in the Russian Federation (DS494). The consultations, unfortunately, had not resolved the dispute. Accordingly, Russia was requesting the DSB to establish a panel to examine this dispute.

9.3. The representative of the European Union said his delegation regretted that the Russian Federation had decided to request the establishment of a panel. After Russia had filed its request for consultations, and its supplementary request for consultations, both parties had held constructive consultations in which the EU had provided extensive explanations. The EU regretted that in its panel request Russia had raised issues, such as for example, Article 2(3) of the Basic EU Anti-dumping Regulation, which had never been raised in consultations. The EU believed that its Basic Anti-Dumping Regulation, and the measures adopted on the basis of this Regulation, were WTO-consistent. The EU, therefore, did not agree to the establishment of a panel at the present meeting.

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

10 RUSSIA – MEASURES AFFECTING THE IMPORTATION OF RAILWAY EQUIPMENT AND PARTS THEREOF

A. Request for the establishment of a panel by Ukraine (WT/DS499/2)

10.1. The Chairman drew attention to the communication from Ukraine contained in document WT/DS499/2, and he invited the representative of Ukraine to speak.

10.2. The representative of Ukraine said that since 2014, the validity of conformity assessment certificates for railway products issued to his country's producers of railway rolling stock, railroad

switches, other railroad equipment and parts thereof had systematically been suspended by the authorities of the Russian Federation without any reasonable explanation to Ukrainian producers or to the Ukrainian authorities. Furthermore, the applications filed by some Ukrainian producers to obtain new conformity assessment certificates had systematically been rejected or returned without consideration. In addition, conformity assessment certificates that had been issued by the certification bodies in other countries of the Eurasian Economic Union (the Republic of Belarus and the Republic of Kazakhstan), under the same technical regulations, had not been recognized by the authorities of Russia. As a consequence, products of certain Ukrainian producers could neither be imported nor registered for operation in the territory of Russia. As a result, certain railway products of Ukrainian origin had been effectively banned from the Russian market. The effects of the measures were clearly demonstrated by the statistics: while exports of such products from Ukraine to Russia had reached US$1.7 billion in 2013, it had decreased to US$600 million in 2014, US$110 million in 2015, and had amounted to only US$560,000 in the eight month period (January – August) in 2016. With a view to finding a mutually agreed solution, on 21 October 2015 Ukraine had requested consultations with Russia. These consultations were held on 4 December 2015 but, unfortunately, had failed to settle the dispute. On 10 November 2016 Ukraine had submitted its request for the establishment of a panel to examine this matter, with standard terms of reference. As described in more detail in Ukraine's panel request, the measures taken by Russia appeared to be inconsistent with several provisions of the GATT 1994 and the TBT Agreement.

10.3. The representative of the Russian Federation said that her country wished to express its strong disappointment with Ukraine's decision to request the establishment of a panel to examine this dispute. Ukraine had filed the request for consultations and supplementary request for consultations with Russia on 21 October 2015. Russia had had fruitful consultations with Ukraine on 4 December 2015 and had positively responded to the relevant questions. Notably, Russia had affirmed its continuing respect for the WTO rules and its accession commitments. Russia regretted Ukraine's decision to bring this dispute before the panel. At the present meeting, Russia was not in a position to accept the establishment of a panel. Russia stood ready to defend its rights under the DSU and the covered agreements.

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

11 PROPOSED NOMINATION FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS (WT/DSB/W/583)

11.1. The Chairman drew attention to document WT/DSB/W/583, which contained one additional name, proposed by Mexico, 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 name contained in document WT/DSB/W/583.

11.2. The DSB so agreed.

12 DISPUTE SETTLEMENT WORKLOAD

A. Statement by the Chairman

12.1. The Chairman, speaking under "Other Business", said that he wished to provide the DSB with information about the Appellate Body's workload, the number of disputes before panels, and at the panel composition stage, and the ability of the Secretariat to meet expected demand over the coming period. On appeals, the Appellate Body was currently dealing with three appeals[1], including the extremely complex compliance proceedings in "EC and Certain Member States – Large Civil Aircraft" (Airbus). In addition, five panel reports that were expected to be circulated in the next three months could also be appealed after their circulation.[2] Given the limited number of staff available in the Appellate Body Secretariat, there would soon likely to be a waiting period before appeals could be staffed and Appellate Body members could turn to dealing with them. With regard to panels and arbitrations, he said that there were, currently, 19 active panels (including

[1] DS316 "EC and Certain Member States – Large Civil Aircraft" (Article 21.5 – US); DS471 "US - Anti-Dumping Methodologies" (China); and DS475 "Russia – Pigs".

[2] DS442 "EU – Fatty Alcohols" (Indonesia); DS477/DS478 "Indonesia – Import Licensing Regimes"; DS479 "Russia – Commercial Vehicles"; DS482 "Canada – Welded Pipe"; and DS487 "US – Tax Incentives".

five panels under Article 21.5 of the DSU) that had not yet issued a final report to the parties. He noted that multiple disputes that were being considered simultaneously by the same panel were being counted as one. As of the present meeting, all composed panels had been assigned staff to assist them and were active or in the process of commencing proceedings. There were an additional five panels at the composition stage. This did not count panels for which there had been no composition activity in the last 12 months. In addition, two matters had been referred to arbitration under Article 22.6 of the DSU.

12.2. The DSB took note of the statement.

Note:

The meeting was suspended on the Agenda item regarding the Appellate Body appointments to allow time for further consultations. Subsequently, the meeting was reconvened in the afternoon at 3 pm to take up this matter.

13 APPELLATE BODY APPOINTMENTS

13.1. The Chairman said that, as had been announced in the fax sent out to all delegations on 3 November 2016, he intend to propose under this Agenda item that the DSB take a decision to appoint two new Appellate Body members. However, he would first like to briefly review the two separate processes that had led the DSB to this point. With regard to the first selection process, delegations would recall that a Selection Committee had been established by the DSB at its meeting on 25 January 2016 and had been requested to carry out a selection process on the appointment of a new Appellate Body member to replace Ms. Yuejiao Zhang whose second term of office had expired on 31 May 2016. The Selection Committee had also been requested to make its recommendation on a replacement before 12 May 2016, in time for the meeting of the DSB scheduled for 23 May 2016. In carrying out this request, the Selection Committee had conducted interviews with seven nominated candidates on 7 and 8 April 2016 with a view to identifying those individuals who possessed the qualifications and expertise as required by the DSU for Appellate Body members. As part of the selection process, the Committee had met individually with 50 delegations to hear their views on the candidates. The Committee had also received, in writing, the views of 23 delegations. Throughout the process, the Committee had based its work on the guidelines, rules and procedures contained in the DSU, WT/DSB/1 and WT/DSB/70 governing the selection and appointment of Appellate Body members. He recalled that on 12 May 2016, the Selection Committee had informed delegations, in writing, that it was not in a position to recommend a candidate that it believed would enjoy the consensus of the entire Membership. Thus, the Selection Committee had requested more time to consult further on this matter. At the time of sending the fax on 3 November 2016, the Selection Committee had been placed in a position where it could make a recommendation on the vacancy left by Ms. Zhang's departure.

13.2. With regard to the second selection process, he recalled that, at its meeting on 21 July 2016, the DSB had agreed to launch a new selection process to fill the vacancy left by the non-reappointment of one Appellate Body member. Pursuant to the 21 July DSB decision, Members had been invited to nominate candidates to fill that vacancy by the deadline of 14 September 2016. Furthermore, the DSB had agreed that should any of the candidates nominated for the 2016 process initiated by the DSB at its meeting on 25 January 2016 wish to participate in the second selection process, the Member who had nominated the candidate had to inform the Selection Committee of the candidate's intention by the agreed deadline and those candidates would not need to be interviewed by the Selection Committee for the second time. Pursuant to the 21 July DSB decision, the 2016 Selection Committee had been requested to carry out its work in the month of October in order to make a recommendation to the DSB as soon as possible so that the DSB could take a decision to appoint a new Appellate Body member at the latest by its regular meeting in November 2016. By the agreed deadline seven candidates had been presented to be considered in the second selection process. Five candidates from the previous selection process had been re-nominated by the respective Members and two new candidates had been submitted. Pursuant to the 21 July DSB decision, only two new candidates had been interviewed by the Selection Committee. Subsequently, as part of the selection process, the Selection Committee had met individually with 57 delegations to hear the views on the seven candidates. The Committee had also received, in writing, the views of 30 delegations. Throughout the process, the Committee had again based its work on the guidelines, rules and procedures contained in the DSU and WT/DSB/1 governing the selection and appointment of Appellate Body

members. Once again, at the time of sending the fax on 3 November, the Selection Committee had been in a position to make a recommendation on the second vacancy left by the non-reappointment of Mr. Chang. The Selection Committee's task with regard to the two processes had been a difficult one given the high quality of the candidates. Each of them had demonstrated experience, expertise, the relevant skills and a commitment to the WTO's dispute settlement system. On behalf of the Selection Committee, the Chairman commended the DSB to extend its full appreciation and gratitude to all the candidates for having participated in the two processes, and to their respective Governments for nominating them. He extended his personal thanks to the members of the Selection Committee for their cooperation, hard work and thoughtful consideration throughout the process, and for their willingness to devote their time to this process.

13.3. Finally, the Chairman proposed to turn to the matter at hand. He said that as had been communicated by fax to all delegations on 3 November 2016, the Selection Committee had recommended that Ms. Zhao Hong and Mr. Hyun Chong Kim be appointed as new members of the Appellate Body for a four-year term, respectively, starting on 1 December 2016.

13.4. The DSB took note of the statement and so agreed.

13.5. The Chairman said that, before giving the floor to delegations who would wish to make statements, on behalf of the Selection Committee and the entire WTO Membership, he would like to congratulate Ms. Zhao Hong and Mr. Hyun Chong Kim on their appointments. He also thanked the members of the Selection Committee for their hard work. The then invited delegations to make statements if they so wished.

13.6. The representative of Korea thanked the Chairman and the Selection Committee for the hard work that enabled the DSB to make this decision at the present meeting. Korea wished to express its deep appreciation to the WTO Members who had actively engaged in the selection process. All Members recognized that the Appellate Body played a very important role in the WTO dispute settlement system, which provided security, stability and predictability to the multilateral trading system. However, the workload of the Appellate Body had increased to a substantial degree due to a rising number and growing complexity of recent disputes. This had become a challenge to the proper functioning of the dispute settlement mechanism. It was for that reason that Korea had chosen to approach the selection process with a sense of responsibility, after the non-reappointment of the former Appellate Body member, Mr. Seung Wha Chang. In the same vein, Korea recognized the importance of nominating a candidate of distinguished quality and experience to ensure that the vacancy would be filled with the most qualified person. Korea believed that its candidate, Mr. Hyun Chong Kim was such a qualified person and appreciated that a large number of Members shared Korea's view. Now that Mr. Kim had become a new Appellate Body member, Korea was confident that his expertise, experience, collegiality and balanced perspective would be the foundation for him to make a substantial contribution to the Appellate Body, especially in dealing with recent challenges faced by the Appellate Body under a rapidly changing global trading environment. Korea was also confident that Mr. Kim would do his best to meet Members' expectations and live up to the faith that had been bestowed on him, in accordance with the DSU and other related provisions under the WTO Agreement. Korea also welcomed the appointment of Ms. Zhao Hong as a member of the Appellate Body. Korea believed that Ms. Zhao had demonstrated sufficient expertise and experience in international trade law through the selection process and that she would make significant contributions to the work of the Appellate Body. Korea also noted that it had taken almost six months to fill the first vacancy, creating unnecessary disruption to the continued proper functioning of the Appellate Body. With a sense of responsibility and urgency, Members should have been able to agree on a new Appellate Body member before the term of previous member had expired on 31 May 2016, pursuant to the rules and procedures to appoint Appellate Body members. Korea hoped that a similar situation would not be repeated in the future. Finally, Korea said it would like to thank two former Appellate Body members, Ms. Yuejiao Zhang and Mr. Seung Wha Chang for their excellent service in the Appellate Body. Korea believed that both of them had made invaluable contributions to the work of the Appellate Body and to the enhancement of the multilateral trading system. Korea wished them all the best in their future endeavours.

13.7. The representative of China said that, like Korea, her country warmly congratulated Ms. Zhao Hong and Mr. Hyun Chong Kim on their appointments as new Appellate Body members. China thanked the Chairman and the Selection Committee for their hard work. China also thanked the Secretariat for the good assistance they had rendered. China said that it highly appreciated the

trust and support that all Members had given to its candidate. It was Members' collective and fruitful endeavour that had made the appointments possible at the present meeting. China was confident that time would show that the DSB had made the right decision. China believed that Ms. Zhao Hong would faithfully discharge her duty as an AB member in an independent, impartial and professional manner and would serve the Appellate Body with distinction. As always, China would respect and ensure the independence and impartiality of the Appellate Body, which was the cornerstone of the rules-based multilateral trading system.

13.8. The representative of the United States said that the United States would like to thank the Chairman and the other members of the Selection Committee for their hard work and recommendation which had aided the DSB in taking its decision at the present meeting. The United States congratulated Ms. Zhao and Mr. Kim for their appointments to the Appellate Body. Given their previous extensive experience with the work of the WTO dispute settlement system, the United States was certain that they would make a major contribution to the work of the Appellate Body. The United States was a frequent participant in Appellate Body proceedings, and very much looked forward to working with Ms. Zhao and Mr. Kim in their new capacity. It was critical that the Appellate Body fulfilled the important role assigned to it by Members in the DSU. That role was to review the legal interpretations and issues of law in a panel report as appealed by a party. The panel and appellate reports together assisted the DSB in securing a positive solution to the dispute by finding whether a measure at issue was inconsistent with WTO rules and, if so, then making the recommendation to bring a WTO-inconsistent measure into compliance with WTO rules. The United States trusted that these new Appellate Body members would assist in ensuring that the Appellate Body fulfilled its important responsibilities under the DSU. The United States also thanked all WTO Members that had put forward candidates for the Appellate Body. The nominations of a diverse and well-qualified set of individuals showed the willingness of those Members, and their candidates, to contribute to building the strength of the WTO dispute settlement system. The United States appreciated those efforts and was pleased to have had the opportunity to converse with each of the candidates.

13.9. The representative of Canada said his country thanked the Selection Committee for the work that they had undertaken over the past few months. Canada congratulated the new, incoming Appellate Body members and hoped that they would provide fruitful contributions to the work of the Appellate Body.

13.10. The representative of Mexico said that his country would like to take this opportunity to thank the two outgoing Appellate Body members, Ms. Zhang and Mr. Seung Wha Chang for their work in the Appellate Body. Mexico thanked the Chairman and the other members of the Selection Committee for their hard work. Finally, Mexico thanked all Members who had put forward well-qualified candidates in the selection process. Mexico congratulated and welcomed the new incoming Appellate Body members, Ms. Zhao Hong and Mr. Hyun Chong Kim.

13.11. The representative of Australia said his country would like to express its appreciation for the dedicated work of the Selection Committee over the past eight months to finalize its recommendations for appointments to the Appellate Body. In particular, Australia thanked the Chairman for his sustained efforts to conclude this process. Australia was pleased that the Selection Committee had been able to put forward its recommendations to the DSB and joined other Members in confirming the appointment of Ms. Zhao Hong and Mr. Hyun Chong Kim, by consensus. Australia welcomed the Appellate Body regaining its full complement of seven members. This was essential to enable the Appellate Body to fully perform its functions, and so discharge its important role in the efficient and effective settlement of disputes. Naturally, Australia was disappointed that its nominee, Mr. Daniel Moulis, was, on this occasion, not successful. Australia said it would nevertheless like to thank Mr. Moulis, and the other highly-qualified candidates nominated who had, also, not been successful, for putting themselves forward to serve on the Appellate Body.

13.12. The representative of Brazil said his country wished to congratulate Ms. Zhao Hong and Mr. Hyun Chong Kim on their appointments to the Appellate Body. Both of them demonstrated knowledge of the multilateral trade rules and extensive experience in this field. Their wisdom and prudence would help the Appellate Body to perform its functions. Brazil thanked the Chairman and the other members of the Selection Committee for conducting this selection process. Brazil noted that the selection processes which were being completed at the present meeting with appointments of two excellent candidates by consensus, raised some important systemic concerns

about the appointment and reappointment mechanisms. With regard to the issue of reappointment, currently discussed in the DSB's Dedicated Session, Brazil believed that the right not to reappoint, if exercised, should be done with caution in a way that ensured the impartiality and independence of the Appellate Body. With respect to the appointment process, Members should reflect on whether the current rules allowed for the level of transparency and assessment of objective criteria in a way that reinforced the credibility and legitimacy of a process. Brazil welcomed Ms. Zhao Hong and Mr. Hyun Chong Kim as new Appellate Body members and hoped for productive years ahead in this institution that continued to be one of the pillars of the WTO and of the multilateral trading system.

13.13. The representative of the Kingdom of Saudi Arabia said his country congratulated the Chairman for leading this difficult process, and in reaching the final conclusion that satisfied all Members. Saudi Arabia thanked all seven candidates who had shown a high level of qualification and a sense of high responsibility to fill these two vacancies. Saudi Arabia congratulated Ms. Zhao Hong and Mr. Hyun Chong Kim for achieving the trust of the Membership and was confident that this result was impartial, professional and was conducted to the benefit of the system.

13.14. The representative of Argentina said his country wished to join the previous speakers who had thanked the Selection Committee for its work and welcomed the new members of the Appellate Body.

13.15. The representative of India said that, first, his delegation would like to join other Members in thanking the Chairman and the Selection Committee for completing the process and recommending Ms. Zhao Hong and Mr. Hyun Chong Kim as new Appellate Body members. It had been a long, drawn out process but ultimately the DSB had arrived at a decision at the present meeting. All the candidates for the positions had been of exceptional calibre and experience. India had had an opportunity to interact with many of them. India congratulated Ms. Zhao Hong and Mr. Hyun Chong Kim on their appointments and looked forward to working with the Membership in strengthening the Appellate Body and making the Appellate Body function in an independent and impartial manner.

13.16. The representative of Singapore said his country thanked the Selection Committee, and the Secretariat assisting the Committee, for their efforts and hard work in the selection process for the appointment of two Appellate Body members. Singapore had participated actively in the selection process and had met with all the candidates. Singapore appreciated the Selection Committee's difficult task, given the high calibre of the nine candidates from Australia, China, Japan, Korea, Malaysia, Nepal, Chinese Taipei and Turkey. Singapore thanked the Members who had presented candidates, and thanked the candidates for going through the selection process. Singapore congratulated Ms. Zhao Hung and Mr. Hyun Chong Kim on their appointments to the Appellate Body. Given their previous experience in the work at the WTO, Singapore was confident that they would make valuable contributions to the Appellate Body and the WTO dispute settlement system. Singapore wished them every success in their new positions.

13.17. The representative of Montenegro said her country wished to congratulate the Chairman and the Selection Committee for their hard work and constructive engagement with delegations and all the candidates throughout this process. Montenegro wished the new Appellate Body members, Ms. Zhao Hong and Mr. Hyun Chong Kim, a successful and productive work ahead. Montenegro wished to express appreciation that the Appellate Body would be working at full capacity again, as it saw the work of the Appellate Body as one of the pillars of the rules based multilateral trading system, and of the regular work of the WTO.

13.18. The representative of Pakistan said his country would like to appreciate the efforts of the Selection Committee, the DSB and the Secretariat. Pakistan congratulated Ms. Zhao Hong and Mr. Hyun Chong Kim as the new Appellate Body members. Pakistan believed that the dispute settlement system was the jewel in the crown of the multilateral trading system, and it should remain so. One such way was to achieve consensus on the appointments of the Appellate Body members. Pakistan was glad this was the case at the present meeting and wished the new Appellate Body members all the success in the future.

13.19. The representative of Viet Nam said that her country thanked the Selection Committee for its hard work. Like other delegations, Viet Nam congratulated Ms. Zhao Hong and Mr. Hyun Chong Kim on their appointments as new Appellate Body members.

13.20. The representative of Hong Kong, China said her delegation would like to join other Members in thanking the Chairman and the Selection Committee for their efforts made in the two selection processes over the past few months. Hong Kong congratulated Ms. Zhao Hung and Mr. Hyun Chong Kim on their appointments and was confident that they would make valuable contributions to the Appellate Body, as well as the WTO dispute settlement system. Hong Kong wished them all the success in the future.

13.21. The representative of Indonesia said her delegation wished to join other Members in thanking the Chairman and the Selection Committee for their hard work. Indonesia congratulated Ms. Zhao Hong and Mr. Hyun Chong Kim as the new Appellate Body members and wished them success in their future work.

13.22. The representative of the Republic of Moldova said that her delegation wished to thank the Chairman, the Secretariat, and the Selection Committee for their work over the past few months. Moldova congratulated the candidates and their governments as well as the new members of the Appellate Body, Ms. Zhao Hong and Mr. Hyun Chong Kim. Moldova wished those new members every success in the exercise of their functions.

13.23. The representative of New Zealand said that, first, his country wished to congratulate the Selection Committee and the Chairman for a successful process. It had been a difficult last several months but the process to get the DSB to this point over the past few months had been a very good one. New Zealand congratulated the new Appellate Body members and was pleased to see that it now had a fully operational Appellate Body at full capacity.

13.24. The representative of the Bolivarian Republic of Venezuela said his country wished to thank the Chairman and the Selection Committee for their hard work and efforts throughout this process. Venezuela wished the new members of the Appellate Body every success.

13.25. The representative of the Russian Federation said her country wished to thank the Selection Committee, the Chairman and the Secretariat for their hard work in the selection process. Russia welcomed the appointments of the two new members of the Appellate Body and extended its warmest congratulations to Ms. Zhao Hong and Mr. Hyun Chong Kim. Russia appreciated the bilateral meetings it had had with those candidates and the very insightful discussions. Russia was glad that all the vacancies of the Appellate Body were finally filled and was confident that Ms. Zhao Hong and Mr. Hyun Chong Kim would make invaluable contributions to the work of the Appellate Body. Russia wished all the best to Ms. Zhao Hong and Mr. Hyun Chong Kim in their future work.

13.26. The representative of the European Union said that, as he had stated in previous DSB meetings, it had been the EU's position throughout this crisis that the Appellate Body should be fully operational as soon as possible. This was specifically important now with the increasing workload and the likelihood that a "queue" would be formed before the Appellate Body. With these two appointments, the composition of the Appellate Body could again be complete and the EU wished the new appointees well in their challenging and important new role. The EU also wished to add that, despite the worrying events of past several months, it trusted in the ability of Appellate Body members, both present and new, to exercise their functions in an independent and impartial manner, whether or not they were eligible for re-appointment. The EU hoped that, in its new composition, the Appellate Body would continue to deliver high-quality reports. The EU also hoped that it could count on the valuable support of the Secretariat in that regard.

13.27. The DSB took note of the statements.