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Dispute Settlement Body
27 March 2018

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD
ON 27 MARCH 2018

Chairman: Mr. Junichi Ihara (Japan)

Prior to the adoption of the Agenda, the representative of China indicated that China would like to make a statement under "Other Business" concerning the US Section 301 investigation against China. The representative of the United States thanked China for providing advance notice of its intention to make a statement under "Other Business", which was called for under Rule 6 of the General Council Rules of Procedure, which the DSB also applied. The United States said that under those Rules, in particular, Rule 25, "[r]epresentatives should avoid unduly long debates". Rule 25 also provided that "[d]iscussions on substantive issues … shall be avoided, and the [DSB] shall limit itself to taking note of the announcement by the sponsoring delegation" and any reaction by another delegation "directly concerned". The United States trusted that any statement made under "Other Business" would be consistent with this rule. As a delegation "directly concerned", the United States would provide a reaction to China's statement under "Other Business".

The DSB took note of the statements.

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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.180)

B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.155)

C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.118)

D. United States – Anti-dumping and countervailing measures on large residential washers from Korea: Status report by the United States (WT/DS464/17/Add.2)

E. China – Anti-dumping measures on imports of cellulose pulp from Canada: Status report by China (WT/DS483/7/Add.1)

1.1. The Chairman noted that there were five 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 of the DSU required that, "[u]nless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the Agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time and shall remain on the DSB's Agenda until the issue is resolved". Under this Agenda item, he invited delegations to provide up

to date information about compliance efforts and to focus on new developments, suggestions and ideas on progress towards the resolution of disputes. He also reminded delegations that, as provided for in Rule 27 of the Rules of Procedure for DSB meetings: "[r]epresentatives 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.181)

1.2. The Chairman drew attention to document WT/DS184/15/Add.181, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case "US – Hot-Rolled Steel".

1.3. The representative of the United States said that the United States provided a status report in this dispute on 15 March 2018, 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 Japan thanked the United States for the latest status report and the statement made at the present meeting. Japan, once again, called on the United States to fully implement the DSB's recommendations and rulings so as to resolve this matter.

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.156)

1.6. The Chairman drew attention to document WT/DS160/24/Add.156, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case "US – Section 110(5) Copyright Act".

1.7. The representative of the United States said that the United States had provided a status report in this dispute on 15 March 2018, 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 that his delegation thanked the United States for its status report and its statement at the present meeting. The EU referred to its previous statements, and reiterated that it would like to resolve this case as soon as possible.

1.9. The representative of China said that according to the Panel Report in DS160, Section 110(5) of the US Copyright Act had not met the requirements of the exception under Article 13 of the TRIPS Agreement, and was thereby inconsistent with Articles 11bis(1)(iii) and 11(1)(ii) of the Berne Convention, as incorporated into Article 9.1 of the TRIPS Agreement. The United States had not complied with the DSB's recommendations and rulings 17 years after the Panel Report had been adopted. The United States was the only WTO Member who failed to comply with the DSB's recommendations and rulings with regard to the TRIPS Agreement, this long after the expiry of the reasonable period of time. China reiterated its concerns over the fact that Intellectual Property right holders were still denied their legitimate rights and that the United States failed to provide minimum standards of protection as required by the TRIPS Agreement. China asked the United States to elaborate, in its subsequent status report, the specific action that it had taken so far to ensure its compliance with the DSB's recommendations and rulings. China, once again, urged the United States to implement the DSB's recommendations and rulings either by amending or withdrawing the law in question.

1.10. The representative of the United States said that, as the United States had previously stated, these criticisms were completely unfounded. The intellectual property protection that the United States provided within its own territory equalled or surpassed that of any other Member. The United States indeed found it interesting that a Member that continued to criticize the US commitment to strong intellectual property rights had a domestic record of protecting intellectual property rights that appeared less than robust, to say the least.

1.11. The representative of China said that his country took note that the United States seemed to be accusing other WTO Members of not providing enough protection for intellectual property rights. China reminded the United States that the matter under this Agenda item was whether the United States had implemented the DSB's recommendations and rulings in "US – Section 110(5) Copyright Act" (DS160). China therefore urged the United States to implement the DSB's recommendations and rulings in this dispute as soon as possible.

1.12. 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.119)

1.13. The Chairman drew attention to document WT/DS291/37/Add.119, which contained the status report by the European Union on progress in the implementation of the DSB's recommendations in the case "EC – Approval and Marketing of Biotech Products".

1.14. The representative of the European Union said that the EU continued to progress with the authorizations where the European Food Safety Authority had finalized its scientific opinion and concluded that there were no safety concerns. On 19 March 2018, the draft authorization for the renewal of one GM sugar beet for food and feed had been submitted for a vote to the member States Committee, resulting in "no opinion". This measure would be submitted for a vote to the Appeal Committee in April 2018. The EU continued to be committed to acting 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.

1.15. The representative of the United States said that the United States thanked the EU for its status report and its statement at the present meeting. The United States reiterated its ongoing concerns that the EU measures affecting the approval of biotech products continued to involve prolonged, unpredictable and unexplained delays at every stage of the approval process. These delays had affected the products that had been previously approved by the EU, and continued to affect the dozens of applications that still awaited approval. Further, even when the EU finally approved a biotech product, the EU had facilitated the ability of individual EU member States to impose bans on the supposedly approved product. In particular, the EU had adopted legislation that allowed EU member States to "opt out" of certain approvals, even where the European Food Safety Authority had concluded that the product was safe. The United States urged the EU to ensure that all of its measures affecting the approval of biotech products, including measures that had been adopted by individual EU member States, were supported by scientific evidence, and that decisions were taken without undue delay.

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

D. United States – Anti-dumping and countervailing measures on large residential washers from Korea: Status report by the United States (WT/DS464/17/Add.3)

1.17. The Chairman drew attention to document WT/DS464/17/Add.3, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case "US – Washing Machines".

1.18. The representative of the United States said that the United States had provided a status report in this dispute on 15 March 2018, in accordance with Article 21.6 of the DSU. On 15 December 2017, the United States Trade Representative had requested that the US Department of Commerce make a determination under Section 129 of the Uruguay Round

Agreements Act to address the DSB's recommendations relating to the Department's countervailing duty investigation of washers from Korea. On 18 December 2017, the Department of Commerce had initiated a proceeding to make such determination. Since that time, the Department had issued initial and supplemental questionnaires seeking additional information necessary to conduct the Section 129 proceeding. The United States continued to consult with interested parties on options to address the recommendations of the DSB relating to anti-dumping measures that had been challenged in this dispute.

1.19. The representative of Korea said that his country thanked the United States for its status report and its statement at the present meeting. Although more than 18 months since the adoption of the Panel and Appellate Body Reports had passed, Korea did not register any progress in the US status report. Korea found it difficult to understand why it had taken 18 months to simply "consult with interested parties on options to address the recommendations of the DSB relating to anti-dumping measures challenged in this dispute" before the US Department of Commerce officially initiated the proceedings as required under US law. Korea, once again, urged the United States to make progress in its implementing measures, so that it could fully comply with the DSB's recommendations and rulings in this dispute.

1.20. The representative of Canada said that his country was concerned that the United States had not implemented the DSB's recommendations and rulings in this dispute. In particular, Canada was deeply disappointed that, despite the expiry of the reasonable period of time, the United States continued to collect cash deposits from Canadian exporters based on a methodology that had been found to be "as such" inconsistent with WTO obligations in this dispute.

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

E. China – Anti-dumping measures on imports of cellulose pulp from Canada: Status report by China (WT/DS483/7/Add.2)

1.22. The Chairman drew attention to document WT/DS483/7/Add.2, which contained the status report by China on progress in the implementation of the DSB's recommendations in the case "China – Cellulose Pulp".

1.23. The representative of China said that her country had provided a status report in this dispute on 15 March 2018, in accordance with Article 21.6 of the DSU. China intended to comply with the DSB's recommendations and rulings within the agreed reasonable period of time, which would expire on 22 April 2018. China had launched a re-investigation, which was ongoing. Interested parties were invited to submit their comments.

1.24. The representative of Canada said that his country thanked China for its status report in respect of its implementation efforts in this dispute. Canada noted that the reasonable period of time in this matter would expire next month, on 22 April 2018. As a result, Canada would take this opportunity to make the following points. First, in conducting its reinvestigation, China had to fully take into account the key DSB's rulings and recommendations. Fundamental to the Panel's conclusion had been the investigating authority's failure to adequately explain how changes in the prices and volumes of the alleged dumped imports had affected the domestic like product prices. Another key aspect of this dispute had been the investigating authority's failure to adequately explain its consideration of price depression in light of the undisputed fact that the prices of subject imports had been considerably higher than those of the domestic like product during the period, in which the alleged price depression had been found.

1.25. The Panel had also found that the investigating authority had failed to demonstrate that there had been a causal relationship between the alleged dumped imports and the alleged injury to the domestic industry. China should also take into account a number of more likely causes of injury to the Chinese domestic industry. These had included positive evidence of the decline in the prices of the primary downstream good, viscose staple fibre and of cotton. There had also been evidence of the Chinese domestic industry's own over-expansion, over-production and inventory build-up, and the impact of imports of cellulose pulp from non-subject countries. Canada was confident that through its review of the record of the original investigation, the investigating authority would see that there was insufficient evidence to make findings of price depression or

causation. As a result, the appropriate compliance measure was to rescind this anti-dumping order against imports from Canada, which had been in place since April 2014. Canada looked forward to the completion of China's review of this matter as soon as possible. Canada expected that a negative injury finding prior to the expiry of the reasonable period of time would resolve this dispute.

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

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

A. Statement by the European Union

2.1. The Chairman said that this item was on the Agenda of the present meeting at the request of the European Union and invited the representative of the EU to speak.

2.2. The representative of the European Union said that his delegation requested, once again, that the United States stopped transferring anti-dumping and countervailing duties to the US industry. Each disbursement that still took place was clearly an act of non-compliance with the DSB's recommendations and rulings. The EU renewed its call on the United States to abide by its obligation under Article 21.6 of the DSU to submit implementation reports in this dispute. The EU would continue requesting this Agenda item, for as long as the United States had not implemented the WTO ruling.

2.3. The representative of Canada said that his country thanked the EU for keeping this item on the DSB Agenda. Canada shared the EU's view that the Byrd Amendment dispute should remain under surveillance by the DSB until the United States complied with the DSB's recommendations and rulings.

2.4. The representative of Brazil said that her country, once again, thanked the EU for keeping this item on the DSB Agenda. As an original party to the Byrd Amendment dispute, Brazil referred to its previous statements made on this matter and called on the United States to fully comply with the DSB's recommendations and rulings in this dispute.

2.5. The representative of the United States said that as the United States had noted at previous DSB meetings, the Deficit Reduction Act, which included a provision repealing the Continued Dumping and Subsidy Offset Act of 2000, was enacted into law in February 2006. Accordingly, the United States had taken all actions necessary to implement the DSB's recommendations and rulings in these disputes. The United States recalled, furthermore, that the EU had acknowledged that the Deficit Reduction Act did not permit the distribution of duties collected on goods entered after 1 October 2007, more than 10 years ago. With respect to the EU's request for status reports in this matter, as the United States had already explained at previous DSB meetings, there was no obligation under the DSU to provide further status reports, once a Member announced that it had implemented the DSB's recommendations and rulings, regardless of whether the complaining party disagreed about compliance. As the United States had noted many times previously, the EU had demonstrated repeatedly that it shared this understanding, at least when it was the responding party in a dispute. Once again, this month the EU had provided no status report for disputes in which there was a disagreement between the parties on the EU's compliance.

2.6. The representative of the European Union said that his delegation had provided status reports on all cases, in which the EU was involved, currently, "EC – Approval and Marketing of Biotech Products" (DS291).

2.7. The DSB took note of the statements.

3 EUROPEAN UNION – ANTI-DUMPING MEASURES ON BIODIESEL FROM INDONESIA

A. Statement by the European Union

3.1. The Chairman said that this item was on the Agenda of the present meeting at the request of the European Union. He then invited the representative of the EU to speak.

3.2. The representative of the European Union said that the EU intended to implement the DSB's recommendations and rulings in this dispute in a manner that respected its WTO obligations. The EU required a reasonable period of time to do so, which had already been agreed by the EU and Indonesia. The EU referred to its communication to the DSB, circulated as document WT/DS480/7 on 1 March 2018. The reasonable period of time was set to expire on 28 October 2018.

3.3. The representative of Indonesia said that her country would like to confirm the statement that had just been made by the EU with regard to the agreed reasonable period of time of eight months. Indonesia stood ready to work closely with the EU to ensure a prompt settlement of this dispute.

3.4. The DSB took note of the statements.

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

A. Second recourse to Article 21.5 of the DSU by the Philippines: Request for the establishment of a panel (WT/DS371/22)

4.1. The Chairman drew attention to the communication from the Philippines, contained in document WT/DS371/22, and invited the representative of the Philippines to speak.

4.2. The representative of the Philippines recalled that her country had first requested consultations in 2008, with regard to the concerns it had raised about customs and fiscal measures in Thailand. The Philippines regretted that, one decade later, Thailand had still not taken the necessary steps to comply with the DSB's recommendations and rulings. While the Philippines recognized that Thailand had taken a number of steps to remove WTO-inconsistent measures over the years, the Philippines, however, regretted that Thailand had also introduced new WTO-inconsistent measures that prolonged this dispute. These second compliance proceedings concerned two principal measures: one measure was criminal charges concerning the customs valuation of entries for the period from 2002 to 2003, which were an example of Thailand's pattern of non-compliance with its WTO customs valuation obligations. Thailand had wrongly rejected the transaction values and had established alternative values in a manner contrary to the WTO Customs Valuation Agreement. A first set of criminal charges, which had been brought against this importer, was already the subject of compliance proceedings in this dispute, and these were at an advanced stage. The Philippines considered that both sets of criminal charges were WTO-inconsistent. The second measure concern notices of assessment for 1'052 entries for the period from 2000 to 2003, which sought payment of customs duties and internal taxes exceeding US$800 million. Thailand had improperly rejected the transaction values and had established alternative values in a manner contrary to the WTO Customs Valuation Agreement.

4.3. The Philippines had been informed by Thailand that some or all of these notices would be withdrawn or revised. The Philippines welcomed such developments, which demonstrated a step into the right direction. The Philippines hoped that such developments foreshadowed the resolution of all aspects of this longstanding dispute with Thailand, a valued ASEAN partner, encompassing the issues that had been raised in both compliance proceedings, including any inconsistent criminal or administrative proceedings. The Philippines noted that it requested the establishment of a compliance panel only reluctantly at the present meeting. Nevertheless, the Philippines also recalled the Philippines-Thailand Sequencing Agreement. Pursuant to that Agreement, Thailand would not object to the first request for the establishment of a compliance panel in this dispute. The Philippines reiterated that it remained ready to seek an amicable solution to this dispute with its ASEAN partner, Thailand.

4.4. The representative of Thailand said that her country regretted the Philippines' decision to request the establishment of a panel in this second recourse to Article 21.5 of the DSU. Pursuant to the Sequencing Agreement between the Philippines and Thailand, Thailand did not object to this first panel request at the present meeting. Thailand noted that the notices of assessment, which had been referred to in paragraphs 9 to 16 in the Philippines' panel request, had been withdrawn and, thus, would not form part of the Panel's terms of reference. Concerning the other measure at issue, Thailand would defend its interests before a panel. Thailand reiterated its willingness to continue engaging in discussions with the Philippines on possible amicable solutions to this dispute.

4.5. The DSB took note of the statements and agreed, pursuant to Article 21.5 of the DSU, to refer to the original Panel, if possible, the matter raised by the Philippines, contained in document WT/DS371/22. It was agreed that Panel would have standard terms of reference.

4.6. The representatives of Australia; China; the European Union; India; Indonesia; Japan; the Russian Federation; Singapore and the United States reserved their third-party rights to participate in the Panel's proceedings.

5 AUSTRALIA – ANTI-DUMPING MEASURES ON A4 COPY PAPER

A. Request for the establishment of a panel by Indonesia (WT/DS529/6)

5.1. The Chairman drew attention to the communication from Indonesia, contained in document WT/DS529/6, and invited the representative of Indonesia to speak.

5.2. The representative of Indonesia said that, on 1 September 2017, her country had requested consultations with Australia regarding Australia's anti-dumping duties on A4 copy paper from Indonesia. As had been noted in Indonesia's request for consultations, Australia's anti-dumping determination appeared to be inconsistent with Australia's obligations under the GATT 1994 and the Anti-Dumping Agreement. Indonesia and Australia had held consultations on 31 October 2017, which, unfortunately, had not resolved the dispute. Indonesia, therefore, requested the DSB to establish a panel. As set out in Indonesia's request for the establishment of a panel, a number of substantive deficiencies existed in Australia's anti-dumping determination, which appeared to be inconsistent with its obligations under the GATT 1994 and the Anti-Dumping Agreement. Indonesia requested that the DSB establish a panel to examine the matter that had been set out in Indonesia's panel request, with the standard terms of reference.

5.3. The representative of Australia said that her country considered it unfortunate that Indonesia had requested a WTO panel on this matter at this time. In Australia's view, the ability to take remedial action against dumped imports that were causing or threatening material injury to a domestic industry formed part of the critical balance of Members' rights and obligations provided under WTO rules. The WTO Anti-Dumping Agreement was designed to remedy injurious dumping, which had been caused or threatened to be caused, by goods being exported at a price below their normal value. The WTO Anti-Dumping Agreement was drafted in a manner, which accommodated a range of scenarios, which could arise in an anti-dumping investigation and flexibility ought to be maintained to ensure investigating authorities could exercise discretion, where appropriate, based on the specific evidence and facts of an investigation. Australia considered the investigation and the subsequent imposition of dumping duties on certain imports of A4 copy paper from Indonesia had been entirely consistent with the WTO Anti-Dumping Agreement.

5.4. Australia was of the view that its anti-dumping system provided due process to all interested parties, and noted that the Government of Indonesia and affected Indonesian exporters had availed themselves of Australia's system of merits review. This system enabled interested parties to seek a review of the decisions of the investigation to ensure the correct and preferable decision was made. Australia highlighted that to demonstrate that its anti-dumping system was open, transparent and evidence-based, fully consistent with Australia's WTO obligations. While Australia acknowledged Indonesia's rights under the WTO Agreement to seek the establishment of a panel, it noted that Indonesia had yet to exhaust all the domestic review options available to it. For example, Indonesia had 28 days from the date of decision to seek judicial review, or seek a review of the measures by the Anti-Dumping Commission 12 months after the imposition of the measure. Australia, therefore, encouraged Indonesia and affected Indonesian exporters to exhaust these

review options before engaging the resources of the WTO dispute settlement system. Australia reiterated its willingness to engage bilaterally on the domestic review options available to Indonesia and affected exporters. Australia, thus, rejected Indonesia's panel request at the present meeting.

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

6 UNITED STATES – COUNTERVAILING MEASURES ON SOFTWOOD LUMBER FROM CANADA

A. Request for the establishment of a panel by Canada (WT/DS533/2)

6.1. The Chairman drew attention to the communication from Canada, contained in document WT/DS533/2, and invited the representative of Canada to speak.

6.2. The representative of Canada said that, on 16 December 2016, the US Department of Commerce had announced the initiation of an investigation into the alleged subsidization of certain softwood lumber products from Canada. The US Department of Commerce had announced its preliminary and final countervailing duty determinations on 24 April 2017 and 2 November 2017, respectively, resulting in the imposition of countervailing duties of up to 17.99% on imports of softwood lumber from Canada. As had been outlined in Canada's request for the establishment of a panel, Canada considered that the US measures were inconsistent with its obligations under the Agreement on Subsidies and Countervailing Measures and the GATT 1994. In particular, Canada considered that the United States had violated its obligations under these Agreements by improperly initiating an investigation, incorrectly determining the existence and amount of any benefit, improperly conducting the underlying investigation, improperly determining countervailing duty rates, and improperly attributing to the production of softwood lumber certain alleged subsidies that had been bestowed on the production of products that had not been under investigation. The duties that had been imposed, as a result of the United States' countervailing measures, were having a negative impact on Canadian softwood lumber producers in various Canadian provinces. Canada had held consultations with the United States on these measures on 17 January 2018. Unfortunately, Canada and the United States had been unable to resolve their differences. Consequently, Canada was now requesting that a WTO panel be established to examine this matter with standard terms of reference. Canada remained open to continue its dialogue with the United States in a manner that would address Canada's concerns.

6.3. The representative of the United States said that the United States was disappointed that Canada had chosen to move forward with a request for panel establishment. The United States had explained to Canada that the measures in its request were fully consistent with US obligations under the WTO Agreement. The United States also would like to point out that the panel request before the DSB at the present meeting identified a measure that had not existed at the time that Canada had requested consultations with the United States, namely the countervailing duty order on softwood lumber from Canada. This measure had been published more than one month after Canada had requested consultations. Canada could not request the establishment of a panel to review a measure that had not existed at the time of its consultations request, and which necessarily had not been the subject of consultations. For these reasons, the United States urged Canada to reconsider its decision to pursue a panel in this dispute, and the United States was not in a position to agree to the establishment of a panel at this time.

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

7 UNITED STATES – ANTI-DUMPING MEASURES APPLYING DIFFERENTIAL PRICING METHODOLOGY TO SOFTWOOD LUMBER FROM CANADA

A. Request for the establishment of a panel by Canada (WT/DS534/2)

7.1. The Chairman drew attention to the communication from Canada, contained in document WT/DS534/2, and invited the representative of Canada to speak.

7.2. The representative of Canada said that, on 16 December 2016, the US Department of Commerce had announced the initiation of an investigation into the alleged dumping of softwood

lumber products from Canada. The US Department of Commerce had announced its preliminary and final anti-dumping determinations on 26 June 2017 and 2 November 2017, respectively, resulting in the imposition of anti-dumping duties of up to 7.28% on imports of softwood lumber from Canada. As outlined in Canada's request for the establishment of a panel, Canada considered that the United States' application of the Differential Pricing Methodology was inconsistent with its obligations under the Anti-Dumping Agreement and the GATT 1994. More specifically, Canada considered that the United States had violated its obligations under these Agreements by applying zeroing in its weighted-average-to-transaction calculation methodology and, in applying the weighted-average-to-transaction calculation methodology, improperly aggregated random and unrelated price variations and had failed to identify a pattern of export prices. Combined with the countervailing measures that the United States had imposed on Canadian softwood lumber, these anti-dumping duties represented a considerable hardship for Canadian softwood lumber producers and communities across Canada that relied on this industry to serve as their main economic anchor. Canada had held consultations with the United States on these measures on 17 January 2018. Unfortunately, Canada and the United States had been unable to resolve their differences. As a result, Canada was now requesting that a WTO panel be established to examine this matter. Canada was also requesting that this matter be referred to the original panel that considered the Differential Pricing Methodology in "US – Washing Machines" (DS464) in accordance with Article 10.4 of the DSU. Canada remained open to continue its dialogue with the United States in a manner that would address Canada's concerns.

7.3. The representative of the United States said that, as for the prior Agenda item, the United States was disappointed that Canada had chosen to move forward with a request for panel establishment. The United States had explained to Canada that the measures in its request were fully consistent with the US obligations under the WTO Agreement. In addition, the United States observed that Canada had identified in its panel request a measure that had not existed at the time that Canada had requested consultations with the United States, namely, the anti-dumping order on softwood lumber from Canada. This measure had been published more than one month after Canada had requested consultations. It was not appropriate for a Member to request the establishment of a panel to review a measure that had not existed at the time of its consultations request, and which necessarily had not been the subject of consultations. The United States took note of Canada's references to Articles 4.9 and 10.4 of the DSU in its panel request. The United States did not see the basis on which Canada considered that Articles 4.9 and 10.4 of the DSU were relevant to this matter. First, Canada's panel request made no attempt to explain why it considered this to be a case of urgency under Article 4.9. Softwood lumber from Canada was not a perishable good. Second, Canada had no basis for relying on Article 10.4 of the DSU. That Article concerned measures already the subject of a panel proceeding. Canada's panel request referred to "[t]he US anti-dumping measures applying the Differential Pricing Methodology ('DPM') to certain softwood lumber products from Canada". As the final determination in the anti-dumping investigation of softwood lumber from Canada had been issued this past November, clearly it was not the case that those measures were already the subject of a panel proceeding. For these reasons, the United States was not in a position to agree to the establishment of a panel.

7.4. The representative of Korea said that Korea took note of Canada's statement at the present meeting. Korea believed that Canada would not have requested the establishment of a panel if the United States had already completed its implementation in "US – Washing Machines" (DS464) dispute because the measure at issue in the dispute with Canada (DS534) would not have existed if the United States had fully complied with "as such" violation with regard to its anti-dumping measures in the dispute with Korea (DS464). Korea was, thus, of the view that full implementation of the DSB's recommendations by the United States in DS464 would have made Canada's request in DS534 unnecessary.

7.5. The representative of Canada said that, with regard to the urgent character of this dispute, Canada noted that there was no procedural requirement in Article 4.9 of the DSU. Communities from across Canada struggled daily because of the unwarranted and unjustified duties, which had been imposed by the United States on certain Canadian softwood lumber imports. Canada believed that the continued use of zeroing through the Differential Pricing Methodology in the final anti-dumping determination was clearly inconsistent with the Anti-Dumping Agreement and the GATT 1994. The United States had been required to bring its anti-dumping measures related to softwood lumber from Canada into conformity with the DSB's rulings and recommendations in DS464 by 26 December 2017. As the United States had failed to do so, Canada was requesting that this matter be treated as urgent. Regarding Canada's request that this matter be referred to

the original panel, Canada noted that Article 10.4 of the DSU stipulated that if a third party considered that a measure already the subject of a panel proceeding nullified or impaired benefits accruing to it under any covered agreement, the Member in question could have recourse to normal dispute settlement procedures and that, wherever possible, the dispute should be referred to the original panel. The measures Canada was challenging had already been the subject of a Panel proceeding in "US – Washing Machines" (DS464), which Canada had joined as a third party. As a result, Canada believed that Canada's current dispute with the United States regarding anti-dumping measures should be referred to the original Panel in "US – Washing Machines" (DS464).

7.6. The representative of the United States said that the assertion that Canadian producers would suffer irreparable harm lacked foundation. Such alleged harm was no different from the harm that had been alleged by nearly all complainants in WTO dispute settlement. If mere assertion of an alleged harm had been sufficient to invoke Article 4.9 of the DSU, as Canada appeared to suggest, then every WTO dispute would be a case of urgency. The existence of Appellate Body findings or DSB recommendations in prior disputes concerning allegedly similar issues did not make this a case of urgency within the meaning of Article 4.9 of the DSU. With respect to Article 10.4 of the DSU, the United States continued to struggle to understand Canada's assertion that measures, which had been issued in November 2017, had been somehow already subject to a panel proceeding that occurred several years prior.

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

8 PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS (WT/DSB/W/618)

8.1. The Chairman drew attention to document WT/DSB/W/618, which contained additional names proposed by the EU (Sweden), for inclusion on the Indicative List of Governmental and Non-Governmental Panelists, in accordance with Article 8.4 of the DSU. He then proposed that the DSB approve the names contained in document WT/DSB/W/618.

8.2. The DSB so agreed.

9 APPELLATE BODY MATTERS

A. Appellate Body Appointments: Proposal by Argentina; Australia; the Plurinational State of Bolivia; Brazil; Canada; Chile; China; Colombia; Costa Rica; Dominican Republic; Ecuador; El Salvador; the European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Kazakhstan; Korea; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Panama; Paraguay; Peru; the Russian Federation; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey; Ukraine; Uruguay and Viet Nam (WT/DSB/W/609/Rev.2)

9.1. The Chairman said that this item was placed on the Agenda of the present meeting at the request of Mexico, on behalf of several delegations. He drew attention to the proposal, contained in document WT/DSB/W/609/Rev.2, and invited the representative of Mexico to speak.

9.2. The representative of Mexico said that the delegations of Argentina; Australia; Plurinational State of Bolivia; Brazil; Canada; Chile; China; Colombia; Costa Rica; Dominican Republic; Ecuador; El Salvador; the European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Kazakhstan; Korea; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Panama; Paraguay; Peru; the Russian Federation; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey; Ukraine; Uruguay and Viet Nam had agreed to submit the joint proposal dated 15 February 2018, contained in document WT/DSB/W/609/Rev.2, to launch the Appellate Body selection processes. Mexico was making a statement, on behalf of 64 Members, as well as Indonesia, which had recently expressed its intention to co-sponsor the proposal. Mexico said that the large number of co-sponsors of this proposal reflected the collective concern about the current situation in the Appellate Body. This situation was affecting the WTO's work and the functioning of the dispute settlement system and was against the best interest of WTO Members. Mexico noted that WTO Members had a responsibility to safeguard and preserve the Appellate Body, the dispute settlement system and the multilateral trading system. Thus, it

was the WTO Members' duty to launch the selection processes for new Appellate Body members, as set out in the proposal that was before the DSB at the present meeting. This proposal sought to, first, start three selection processes, namely, one to replace Mr. Ricardo Ramírez-Hernández, whose second term of office had expired on 30 June 2017; a second process to fill the vacancy that had arisen with the resignation of Mr. Hyun Chong Kim with effect from 1 August 2017; and a third process to replace Mr. Peter Van den Bossche, whose second term of office had expired on 11 December 2017. Second, to establish a Selection Committee. Third, to set a deadline of 30 days for nominations of candidates. Fourth, to request the Selection Committee to make its recommendations to the DSB within 60 days after the deadline for nominations of candidates. While the proponents were flexible with regard to the deadlines for the selection processes, these should, however, take into account the urgency of the situation. The co-sponsors of the proposal urged all Members to support this proposal in the interest of safeguarding the multilateral trade system and the dispute settlement system.

9.3. The representative of the European Union said that his delegation referred to its statements made on this issue at previous DSB meetings, starting in February 2017. With each passing month, the gravity and urgency of the situation increased. WTO Members had a shared responsibility to resolve this issue as soon as possible. The EU thanked all Members that had co-sponsored the proposal, and invited all other Members to endorse this proposal to ensure that the Appellate Body appointments could be made as soon as possible.

9.4. The representative of the United States said that the United States thanked the Chairman for his continued work on these issues. The United States was not in a position to support the proposed decision. The United States had listened carefully to the interventions of other Members at recent meetings and appreciated the willingness expressed by some Members to engage on the important issues and concerns that the United States had raised. However, the DSB had not yet addressed the problem of persons continuing to serve on appeals well after their terms had expired. Under the DSU, it was the DSB that had the authority to appoint Appellate Body members and to decide when their term in office expired[1], and so it was up to the DSB to decide whether a person who was no longer an Appellate Body member could continue to serve on an appeal. At the 28 February 2018 DSB meeting, the United States had drawn Members' attention to questions raised by the Appellate Body's unsolicited "Background Note on Rule 15". The United States noted that, in several respects, the document had failed to provide a correct or complete presentation of the issue, and therefore had failed to contribute to Members' consideration of this issue. In light of the troubling omissions that the United States had identified, the United States would request additional information to understand the reasons for these omissions. For example, the United States had called Members' attention to the statements in the background note that "[m]any international adjudicative bodies follow transitional rules or practices similar to Rule 15" and "the statutes of some international tribunals contemplate that the term of office of an adjudicator is automatically extended until a successor is appointed".[2] The background note had only acknowledged that no rule providing for the extension of a member's term until a successor was appointed existed in the DSU.[3] However, in analogizing to the rules of "some international tribunals", which remained unnamed, the document had failed to acknowledge a key fact apparent from even a cursory review of such rules, which one would assume had been undertaken to support the analogy, that the rules for those other tribunals were based on their constitutive texts. Last month, in February 2018, the United States had pointed to the example of the Statute of the International Court of Justice, which was annexed to and an integral part of the United Nations Charter.[4] For the benefit of other Members, the United States would like to share what it had learned reviewing the rules applying to other international tribunals. This review confirmed that the issue of who may continue to serve and decide a dispute was not a mere "working procedure" to be decided by the tribunal. For example, like in the case of the International Court of Justice, the Statute of the International Tribunal for the Law of the Sea set out for that Tribunal in

[1] Understanding on Rules and Procedures Governing the Settlement of Disputes, Articles. 17.1, 17.2 ("DSU").

[2] Background Note, para. 3.

[3] Background Note, para. 3.

[4] Statute of the International Court of Justice, Art. 13(3) ("The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun."); UN Charter, Art. 92 ("The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.").

Article 5(3) a transition rule for departing members.[5] Similarly, for the European Court of Human Rights, Article 23(3) of the European Convention on Human Rights set out a rule for judges who had been replaced.[6] Unlike those other tribunals, Rule 15 was not set out in the constitutive text of the WTO dispute settlement system, the DSU. It had therefore not been agreed to by WTO Members. The United States would appreciate understanding from the Appellate Body why this basic difference between the DSU and "some international tribunals" had not been reflected in what had been purported to be a background document.

9.5. The United States had also previously called Members' attention to the Appellate Body's assertion in the Background Note that "[u]ntil recently, the application of Rule 15 has never been called into question by any participant or third participant in any appeal, nor has it been criticized by any Member in the DSB when an Appellate Body report signed by an AB member completing an appeal pursuant to Rule 15 was adopted by the DSB".[7] This statement was misleading at best. The language appeared to have been very carefully crafted to avoid mentioning that Rule 15 had been, in fact, "criticized by [a WTO] Member in the DSB" and was "called into question" at the time of its adoption. In particular, India had stated explicitly that Rule 15 and, specifically, the continuation of an Appellate Body member after the expiry of his or her term without the approval of the DSB, had raised a "systemic concern" and "was contrary to Article 17.1 of the DSU".[8] The criticism of Rule 15 in the DSB by a WTO Member at the time of its adoption was the type of basic information one would expect to be included in a document with the intention to make an objective presentation of the issue. Its omission raised serious concerns. The United States would appreciate receiving information from the Appellate Body explaining why India's intervention had not been drawn to the attention of WTO Members in this document. The United States would further appreciate understanding why the Appellate Body's statement had been drafted in the manner it had been.

9.6. Finally, as the United States had also noted at the last meeting, only one Member had attempted to offer a substantive explanation of the legality of Rule 15. China had asserted that the "rotation" required by the DSU provided the legal basis for Rule 15. As the United States had explained, this argument exhibited a fundamental misunderstanding of the DSU. Article 17.1 provided, in relevant part, that the Appellate Body "shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the working procedures of the Appellate Body". Rotation, as used in this provision, was concerned with ensuring variation among the individuals serving in different appeals. But the very provision speaks of "[p]ersons serving on the Appellate Body", not "person[s] who [have] cease[d] to be a member of the Appellate Body".[9] The DSU provision on "rotation" had no relevance to the question raised by Rule 15, continued service on an appeal by an individual who had ceased to be a member of the Appellate Body. In conclusion, as the United States had noted previously, some WTO Members may be comfortable with the situation of former members continuing to act as though they were still members of the Appellate Body, but it was not legal under the multilaterally agreed rules. The United States remained resolute in its view that Members needed to resolve that issue first before moving on to the issue of replacing such a

[5] Statute of the International Tribunal for the Law of the Sea, Art. 5(3) ("The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any proceedings which they may have begun before the date of their replacement.").

[6] European Convention on Human Rights, Art. 23(3) ("The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration.").

[7] Background Note, para. 2.

[8] DSB Meeting Minutes for 21 February 1996 at 12 (WT/DSB/M/11) (19 March 1996): India raised "a systemic concern with regard to Rule 15 which implied that the Appellate Body could authorize a member to continue to be a member after it ceased to be a member. This was contrary to Article 17.1 of the DSU which, *inter alia*, provided that a standing Appellate Body shall be established by the DSB and that it shall be composed of seven persons. Rule 15 would lead to a situation where the Appellate Body could consist of more than seven members or an Appellate Body member continued after the expiry of his term without the approval of the DSB. While the practical need for the provision contained in Rule 15 was understandable, he would be seriously concerned if a member of the Appellate Body could continue without concurrence or approval by the DSB. This Rule provided for notification to the DSB instead of approval and therefore was in violation of Article 17.1 of the DSU".

[9] Working Procedures for Appellate Review, Rule 15: "A person who ceases to be a member of the Appellate Body may, with the authorization of the Appellate Body and upon notification to the DSB, complete the disposition of any appeal to which that person was assigned while a member, and that person shall, for that purpose only, be deemed to continue to be a member of the Appellate Body".

person. The United States therefore would continue its efforts and its discussions with Members and with the Chairman to seek a solution on this important issue.

9.7. The representative of Canada said that his country deeply regretted that the DSB had been unable to fulfil its legal obligation under Article 17.2 of the DSU to appoint Appellate Body members as vacancies arose. Canada agreed that it was time to start a process or, if necessary, several processes to select new Appellate Body members for the three current vacancies. Canada was pleased to join the proposal submitted by more than 30 delegations and urged the DSB to adopt it without further delay. Like other Members, Canada was disappointed that the United States had linked the start of the Appellate Body selection processes to the resolution of certain procedural concerns that it had shared with the WTO Membership. Canada invited the United States to engage in discussions with interested Members with a view to expeditiously developing a solution to the concerns that it had raised. Canada remained committed to working with other interested Members, including the United States, with a view to finding a way to address those concerns, so as to allow the selection processes to start and be completed as soon as possible.

9.8. The representative of Brazil said that her country welcomed Indonesia as co-sponsor. The proposal was now co-sponsored by 65 Members. These Members were from diverse regions, and the large number of co-sponsors demonstrated that the current impasse was of concern to all WTO Members. Brazil invited those Members that had not yet joined the proposal to support it to ensure that the WTO Membership could continue benefitting from a well-functioned dispute settlement system. The importance of a well-functioned dispute settlement system had never been more evident than now. With the resurgence of unilateral measures and protectionism, the only appropriate means to avoid conflicts was to have recourse to a rules-based, efficient and neutral WTO dispute settlement system. Brazil had carefully read recent documents containing concerns about the multilateral trading system. There were certainly issues that could be improved at the WTO in general and its dispute settlement system in particular. Brazil was willing to engage in conversations with interested Members in order to find solutions that were acceptable to the WTO Membership. Brazil, however, reiterated that it was unfortunate that the concerns, which had been raised, were linked to the mandate to fill Appellate Body vacancies, as they arose.

9.9. The representative of India said that her country supported the proposal to launch the selection processes to fill current Appellate Body vacancies, on a priority basis. India recognized that the WTO dispute settlement system was a central element in providing security and predictability to the multilateral trading system. India regretted that the DSB had been unable to fulfil its legal obligation under Article 17.2 of the DSU to appoint new Appellate Body members as vacancies arose. This was a serious and urgent concern for the multilateral trading system, and threatened to undermine the rights and obligations of WTO Members. India, therefore, urged all Members to engage constructively to resolve this issue as early as possible. India remained committed to work with other interested WTO Members with a view to finding a way to launch and complete the selection processes as soon as possible.

9.10. The representative of Pakistan said that the issue of Appellate Body selection processes remained a serious concern for his country, and Pakistan regretted that the DSB had been, once again, unable to fulfil its obligation under the DSU to appoint new Appellate Body members, as vacancies arose. Currently, there were three Appellate Body vacancies. In light of the WTO Membership's failure to act on this matter, a situation would arise whereby a party, against whom a determination had been made at the panel stage in a dispute, could adversely affect the entire dispute settlement process by simply filing an appeal regardless of its merits, as this would further delay the implementation of the DSB's recommendations, as well as the ultimate resolution of the dispute. Such a situation was contrary to the very principle of the prompt settlement of disputes enshrined in the DSU. As co-sponsor, Pakistan supported the proposal, as introduced by Mexico, to launch the Appellate Body selection processes, and thanked those Members that supported the proposal to fill the three Appellate Body vacancies. Delaying the launch of the Appellate Body selection processes would mean that the appellate proceedings in any new appeals could be delayed and take months, if not more than a year, to complete. This would erode Members' confidence in the WTO's dispute settlement system. Pakistan reiterated, once again, that it was the responsibility of the entire WTO Membership, acting as the DSB, to ensure the proper functioning of the WTO dispute settlement system in a manner consistent with the DSU.

9.11. The representative of Korea said that his country referred to its previous statements under this Agenda item and reiterated its support for Mexico's statement made on behalf of 65 proponents. The Appellate Body, and the WTO dispute settlement system as a whole, constituted the very backbone of the multilateral trading system. Failure to fill the three Appellate Body vacancies would weaken the entire multilateral trade system and make it vulnerable. Korea was of the view that most WTO Members shared its view, and called on the entire WTO Membership to engage in the discussions to find ways to protect and preserve the dispute settlement system.

9.12. The representative of Australia said that her country thanked the Chairman for his continued efforts in making progress on this key issue. Australia also thanked all the WTO Members, now more than 60, which had co-sponsored the proposal for the DSB to launch immediately a process to make Appellate Body appointments. As had been repeated in this forum over many months, this proposal gave effect to the DSB's responsibility under Article 17.2 of the DSU requiring that Appellate Body vacancies were to be filled as they arose. Australia invited other Members to show their support for this proposal, and join the long list of co-sponsoring Members. Like others, Australia was disappointed that no progress had been made on the Appellate Body appointments. Australia was concerned that, first, the DSB continued a discussion which was now over a year old. Second, during this time, the Appellate Body's caseload had grown. Third, a system, which Australia supported, and had helped build with other WTO Members, was no longer functioning as it should and that this situation was only set to worsen. This stalemate within the DSB posed a systemic threat to the WTO's ability to settle disputes in accordance with the DSU. In light of such risks, Australia, like other Members, was now grappling with many questions about the immediate and long-term impact on the WTO's dispute settlement system, including on how to assure the ability as Members to enforce other Members' obligations under the WTO Agreements and provide security and predictability to the multilateral trading system in the absence of a properly functioning dispute settlement system; and did the WTO Membership need to review elements of the WTO dispute settlement system.

9.13. Australia believed that, among the WTO Membership, there was a group of Members with the will and commitment to find a way forward. Australia had heard the concerns raised by one Member regarding the operation of the transitional provisions for outgoing Appellate Body members. However, the WTO Membership had to move beyond discussing the "problem", and turn its energy to discussing solutions. To this end, Australia had also heard other Members indicate their willingness to explore options for addressing the concerns that had been identified. Many WTO Members had been engaged in working with others to find positive solutions. Australia remained committed to such efforts and invited all WTO Members, including the United States, to join, so that the WTO Membership could move forward together and find ways to ensure the ongoing integrity and functioning of the WTO's valued dispute settlement system.

9.14. The representative of Colombia, speaking on behalf of the GRULAC, said that the WTO was undergoing a delicate period due to the blockage with regard to the Appellate Body selection processes. At the outset, Colombia wished to acknowledge the Chairman's efforts to seek a solution to the current problem, and thanked the Chairman for the opportunities that he had provided to Members to exchange views on this matter. Colombia reiterated its deep concern about the present situation, which affected the functioning of a key WTO body. If this problem prevailed without resolution, it would bring about the paralysis of the Appellate Body in the near future. This would, in turn, put the entire dispute settlement system at risk. With the continued delay in launching the selection processes, the WTO Membership was failing to comply with an existing mandate, and thus, breached its legal obligations under a covered agreement. This had serious systemic consequences and set a bad precedent for the WTO. This situation caused damage and affected the image and credibility of the WTO; in particular, given the complex international environment that was adversely affecting the multilateral trading system. Concerns had been raised regarding the functioning of the dispute settlement system and some specific issues regarding the decision-making process. These concerns had been linked to, present and future, Appellate Body vacancies, and thus, barred the WTO Membership from meeting its legal obligation. The proper functioning of the system should not be undermined because the concerns of some Members had not been addressed. Colombia called on the WTO Membership to understand the gravity of a continued blockage. The selection processes should be delinked from unrelated concerns and should be addressed on the basis of their own merit. In this regard, Colombia urged WTO Members to find a solution that would allow the WTO Membership to meet its legal obligation. Colombia requested the Chairman to continue to seek a solution on this matter.

9.15. The representative of Indonesia recalled the statement made by the Indonesian Minister at the Informal WTO Ministerial Meeting in New Delhi from 19 to 20 March 2018. Indonesia confirmed its support to, and the co-sponsorship of, the joint proposal to launch the selection processes for the Appellate Body vacancies. The DSB had been entrusted to resolve trade disputes between Members since its establishment and it had also been widely recognized as the essential component to safeguard the WTO. Indonesia was of the view that the dispute settlement system was at the heart of the WTO. If one's heart was not functioning well, the entire system of one's body did not function. The current impasse on the Appellate Body selection processes should be of concern to all WTO Members, as the credibility of the rules-based multilateral trading system was at stake. The WTO Membership should seek to resolve this issue as quickly as possible, and find a way to keep the system effective and functional. With regard to the Appellate Body selection processes, Indonesia was of the view that any systemic concern raised by any Member should not be linked to the decision to fill Appellate Body vacancies, which, according to Article 17 of the DSU, "shall be filled as they arise". If a WTO Member considered that Rule 15 was the real issue, Indonesia would invite that WTO Member to submit a concrete proposal, which would facilitate the discussion on this matter. Indonesia stood ready to engage in discussions and work with others to improve the dispute settlement system to make it more effective in the future.

9.16. The representative of China said that his country welcomed Indonesia as a co-sponsor, and encouraged all Members to co-sponsor this proposal, so that the selection processes could be launched and vacancies filled in a timely manner. WTO Members had discussed this matter, over and over again, at previous DSB meetings. While the importance of the matter could not be stressed any further at the present meeting, China did remind WTO Members, once again, that the dispute settlement mechanism was one of the fundamental WTO functions, if not the most important one. By establishing the dispute settlement system, Members were assured that negotiating outcomes would be enforceable; regardless of their economic strength or trade volume, Members would have equal rights before independent adjudicators; disputes would be adjudicated based solely on the merit of claims and facts; and, retaliation would not be implemented unilaterally and used as a weapon against others in order to achieve a goal that would serve only sovereign interests. The WTO dispute settlement system, after its establishment, had resolved hundreds of disputes between WTO Members, and had proven to be the most efficient and effective international dispute resolution mechanism throughout the history. This system had contributed immensely to the international law jurisprudence. China, therefore, hoped, together with other WTO Members, that this system would live up to the high expectations of the legal practitioners in the area of international law.

9.17. Currently, the WTO Membership was unable to fill the Appellate Body vacancies because of the reasons that all Members were aware of. China was particularly concerned with the current situation where, by seeking to disable the functioning of the Appellate Body, the United States appeared to intend to dismantle the enforceable dispute settlement system, and thereby, potentially impair the key function of the WTO. China reminded the United States that if the operation of the Appellate Body was disabled, not only the functionality of the multilateral trading system but also the interests of the United States would be severely jeopardized. While China reiterated its position that it did not share the position of the United States that Rule 15 of the Working Procedures for Appellate Review raised any concerns, it nevertheless remained open to engage in discussions about Rule 15. The United States had raised an issue of interpretation of Article 17.1 of the DSU during the present meeting, and China stood ready to discuss this issue with the United States and other WTO Members. China was of the view that blocking the selection processes was a wrong approach, and thus called on the United States to delink the concerns it had raised from the start of the selection processes. China invited the United States to reconsider its position. While many WTO Members, including China, had demonstrated their willingness to engage in a discussion on this matter, the discussion would not be productive without the constructive engagement by the United States. China urged the WTO Membership to strengthen the dispute settlement mechanism instead of undermining its operation. China looked forward to working with all WTO Members to launch the selection processes as soon as possible.

9.18. The representative of Panama said that his country thanked the Chairman for his continued efforts in holding consultations with Members on this matter. This matter had been on the agenda for quite some time. Panama was one of the 65 WTO Members that supported the proposal to break the deadlock on the Appellate Body selection processes. Unfortunately, Panama had to make yet another statement on this matter. The inability to launch the selection processes gravely affected and threatened the functioning of the WTO and the rules-based multilateral trading

system as a whole. This situation was threatening WTO Members' economies and would eventually also lead to economic losses of WTO Members. Panama was of the view that there was no reason to continue delaying the three Appellate Body selection processes. The WTO Membership could launch and carry out the selection processes, and, at the same time, review the Working Procedures for Appellate Review, which appeared to give rise to concern to some WTO Members. Panama called for flexibility and pragmatism to achieve consensus, which would allow the WTO Membership to launch and conclude the process as soon as possible.

9.19. The representative of Thailand said that her country thanked the proponents for submitting the joint proposal. Thailand welcomed Members' efforts and dedication in an attempt to find a way forward on the Appellate Body matters. Thailand shared the view that the current impasse gave rise to a serious systemic concern over the proper functioning of the WTO dispute settlement mechanism, as well as the credibility and sustainability of the rule-based multilateral trading system as a whole. The DSB was entrusted with a duty to establish a standing Appellate Body, and therefore, the WTO Membership had a shared responsibility to exercise this important function. Thailand was of the view that the Appellate Body selection processes should be launched as soon as possible. It appeared, however, that divergent views continued to keep the DSB away from reaching consensus on this matter. Despite the fact that the impasse over the current Appellate Body remained, Thailand was encouraged by Members' willingness to engage in a constructive manner. In particular, Thailand appreciated the points made by the United States at the previous DSB meeting, as well as at the present meeting, which had further clarified the US concerns over the Appellate Body's authority and long-standing practice, which allowed former Appellate Body members to continue to serve on appeals, and its consistency with the DSU. Thailand welcomed this constructive engagement and was of the view that it was important to clearly understand what the problem was, before the DSB could, properly and collectively, address the question of how to address the concerns raised. Thailand encouraged the continued engagement by the entire WTO Membership, and looked forward to the US suggestions on a possible way forward on how to address the concerns raised and help unlock the current impasse. Thailand stood ready to work with WTO Members in order to find a prompt resolution of this matter.

9.20. The representative of Norway said that, as her country had stated at previous meetings, a well-functioning WTO dispute settlement system was Norway's primary interest. Norway encouraged all WTO Members to support the proposal, which had been co-sponsored by over 60 WTO Members. Norway referred to its previous statements on this issue, and urged all WTO Members to work together and show flexibility and commitment to find solutions to surpass this deadlock. Norway reiterated its openness and willingness to listen seriously and engage constructively with all and any WTO Member on any grievances with the dispute settlement system.

9.21. The representative of Hong Kong, China said that her delegation was pleased to co-sponsor the proposal on Appellate Body selection processes, which was supported by more than 60 WTO Members. Hong Kong, China encouraged other WTO Members to support the proposal. As Hong Kong, China referred to its statements at previous DSB meetings, and reiterated that Appellate Body vacancies should be filled as quickly as possible without any delay. A prolonged impasse over the selection processes was threatening the proper functioning of the WTO dispute settlement system. While Hong Kong, China understood that some procedural concerns had been raised by a WTO Member, however, it did not see a linkage between launching the selection processes and addressing these procedural concerns. Hong Kong, China was prepared to engage with all WTO Members in further discussions on a possible way forward that may address the concerns raised by the WTO Member. Hong Kong, China, once again, urged WTO Members to exercise maximum flexibility in order to reach an agreeable solution to end the current impasse, so as to minimize the impact on the WTO dispute settlement system.

9.22. The representative of New Zealand said that her country, once again, thanked Mexico and the co-sponsors for their efforts to launch the Appellate Body selection processes as soon as possible. New Zealand welcomed Indonesia as a co-sponsor and hoped others would join the proposal too. New Zealand wished to underscore, once again, the urgency of appointing new Appellate Body members. A predictable, rules-based trading system was critical. The Appellate Body needed to be given the resources to function and New Zealand stood ready to work constructively to ensure that the WTO dispute settlement mechanism continued its essential role within the broader WTO system. New Zealand disagreed that discussions on the concerns, which had been raised, should prevent the launch of the Appellate Body selection processes. The

selection processes would require time to be carried out and concluded. New Zealand did, however, acknowledge the concerns, which had been raised, regarding the Appellate Body, and was willing to engage constructively in discussions with all WTO Members, which sought to resolve these concerns.

9.23. The representative of Switzerland said that his country thanked the Chairman for his much appreciated efforts on this matter throughout his tenure as DSB Chairman. Like others, Switzerland deeply regretted that the DSB continued to be unable to launch the processes towards filling the three accumulated Appellate Body vacancies. Switzerland referred to its previous statements and, once again, called on all WTO Members, and particularly the major ones, to seriously engage in discussions on concerns that had been raised, with a view to building trust and finding a solution to this stalemate with a sense of urgency.

9.24. The representative of Peru said that his country called on the WTO Membership to review the present situation, which was a result of the deadlock to initiate the Appellate Body selection processes. This deadlock had already lasted more than a year. From a practical point of view, WTO Members were faced with a situation whereby it would become impossible to lodge an appeal in the future. This situation was, thus, eroding one of the fundamental pillars of the WTO. Since the outset of the discussion on this matter, Peru had disagreed with those who wished to link certain concerns and conditions to the issue of the selection processes of new Appellate Body members. WTO Members had the right to appeal. Peru had been carefully following detailed statements recently made by the United States before the DSB as well as in other for a. While the recent statements had clarified the concerns that had been raised by the United States, Peru was of the view that it was nevertheless essential to start and conclude the selection processes without further delay. A solution should be sought through dialogue, in a collaborative manner. To block the selection processes undermined the functioning of the WTO and it was, thus, vital to start the Appellate Body selection processes as soon as possible. More than a year had been dedicated to this matter, it was important that WTO Members remain flexible in their individual positions in order to ensure that the WTO dispute settlement system continued to function properly. Peru, thus, urged all WTO Members, in particular the United States, to remain flexible and creative, and to think outside the box, as suggested by the DSB Chairman, so that a prompt solution could be found to the current impasse, which undermined the proper functioning of the WTO dispute settlement system.

9.25. The representative of the Bolivarian Republic of Venezuela said that his country wished to reiterate its deep concern with regard to the unacceptable delay in appointing new Appellate Body members due to the lack of consensus. Like many other WTO Members, Venezuela reiterated the importance it attached to the Appellate Body, and the major contribution that the Appellate Body made to the multilateral trading system, and in particular, to the smooth functioning of the system. Venezuela also hoped that WTO Members would be able to overcome their differences and, as a result, rapidly appoint new Appellate Body members. This action was needed urgently, as it would not only bring back Members' confidence in the WTO dispute settlement system but also strengthen it.

9.26. The representative of Chinese Taipei said that her delegation echoed the views of other WTO Members that had made statements on this matter. Chinese Taipei regretted that, once again, the DSB could not initiate the selection Appellate Body processes. The delay had already serious implications on the proper functioning of the Appellate Body and the entire system. Chinese Taipei reiterated that it stood ready to work with other WTO Members and that it remained flexible in finding a solution.

9.27. The representative of Turkey said that his country, a co-sponsor of the joint proposal, wished to be associated with the statement made by Mexico, on behalf of the proponents. Turkey thanked the United States for the explanations. Nevertheless, Turkey regretted that the DSB had, once again, failed to launch the Appellate Body selection processes. As for other WTO Members, Turkey's concerns about the workload of the Appellate Body, the WTO dispute settlement system and the WTO as a whole, increased after each DSB meeting. The failure to launch Appellate Body selection processes had lasted for over a year. Turkey was of the view that the concerns, which had been raised by the United States, about the Working Procedures for Appellate Review should be dealt with separately and should not block the immediate start of the selection processes. Turkey urged all WTO Members to endorse the joint proposal.

9.28. The representative of Singapore said that his country reiterated its systemic concerns with regard to the delays in launching the Appellate Body selection processes. Singapore had co-sponsored the joint proposal to launch the selection processes since it had been first introduced at the November 2017 DSB meeting, and the growing number of co-sponsors since then indicated the serious concern that Members had over the present impasse. With only four out of seven Appellate Body positions filled, and with the term of another Appellate Body member set to expire in September 2018, the WTO Membership would be facing an imminent paralysis if the vacancies were not filled. Given its heavy workload and significance, a fully-staffed Appellate Body was crucial to the proper functioning of the WTO dispute settlement mechanism, which in turn was an integral part of the rules-based multilateral trading system. The continued impasse adversely affected the credibility and functioning of the WTO, and it was essential that the Appellate Body vacancies were filled expeditiously. Systemic issues, which had been raised, could be discussed in a separate process. Singapore stood ready to engage constructively and work with other WTO Members, as well as the Chairman, to help resolve this impasse.

9.29. The representative of Japan said that his country thanked the Members who had placed the proposal contained in document WT/DSB/W/609/Rev.2 on the Agenda of the present meeting. Japan referred to its statements made at previous DSB meetings under this Agenda item, and reiterated that it was the responsibility of the entire WTO Membership, acting as the DSB, to ensure the proper functioning of the WTO dispute settlement system in a manner consistent with the DSU.

9.30. The representative of Mexico, speaking on behalf of the 65 co-sponsors of the proposal, said that the proponents regretted that, for the tenth time, the WTO Membership had still not achieved consensus to start the Appellate Body selection processes and had, thus, failed to fulfil their duty as WTO Members. No discussion should prevent the Appellate Body from continuing to function fully and WTO Members should comply with their obligation under the DSU, to fill the vacancies as they arose. By failing to act at the present meeting, the DSB would sustain the current situation, which was seriously affecting the work of the Appellate Body against the best interest of its Members.

9.31. The Chairman thanked delegations for their statements under this Agenda item. The DSB was not in a position at the present meeting to reach a consensus to launch the selection processes. At the 27 February 2018 DSB meeting, he had expressed his intention to continue informal consultations on this matter to hear the views of Members and to facilitate a dialogue on this matter. He had, however, not received any requests for consultations. While he had some personal thoughts on this matter, he was of the view that it would not be appropriate to share these under this Agenda item. He hoped that the DSB would revert to this matter and address it in the coming meetings, in a more constructive and creative manner, and that the sense of crisis and urgency, which had been shared by many Members at the present meeting, would be translated into meaningful and concrete actions.

9.32. The DSB took note of the statements.

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

A. Statement by Indonesia

10.1. The representative of Indonesia, speaking under "Other Business", said that Brazil and Indonesia had agreed that the reasonable period of time to implement the DSB's recommendations and rulings in DS484 would be eight months, starting from 22 November 2017, which was the date of adoption of the Panel Report. The reasonable period of time would expire on 22 July 2018. A joint communication by Brazil and Indonesia to this effect had been circulated to the DSB on 19 March 2018.

10.2. The representative of Brazil said that her country thanked Indonesia for its statement and welcomed its commitment to implement the DSB's recommendations and rulings in this dispute. Brazil also thanked Indonesia for its engagement in the negotiations concerning the reasonable period of time, and hoped that Indonesia would implement the DSB's recommendations and rulings expeditiously. Brazil stood ready to work with Indonesia in order to achieve this goal. Brazil

expected that, by the expiry of the reasonable period of time, chicken meat and chicken products from Brazil would be granted access to the Indonesian market.

10.3. The DSB took note of the statements.

11 US SECTION 301 INVESTIGATION OF CHINA'S LAWS, POLICIES, PRACTICES, OR ACTIONS RELATED TO TECHNOLOGY TRANSFER, INTELLECTUAL PROPERTY, AND INNOVATION

A. Statements by China and the United States

11.1. The representative of China, speaking under "Other Business", said that, on 22 March 2018, the United States had published the report of its Section 301 investigation. As a result of the findings of the said report, the United States had issued a list of measures that it would be implement against China. China strongly opposed this unilateral action. Sections 301-310 of the Trade Act of 1974, commonly referred to as Section 301, specifically authorized the United States to make a unilateral determination of inconsistency of trade measures of other countries and take unilateral actions accordingly where the proceedings at the WTO had not been exhausted. The legality of such provisions had been challenged by the EU in "US – Section 301 Trade Act" (DS152). In January 2000, the DSB had adopted the Panel Report in this dispute. The Panel's key finding had been that under certain circumstances, Section 301 was not inconsistent with Article 23 of the DSU. The Panel had concluded that "should the undertakings articulated in the Statement of Administrative Action and confirmed and amplified by the US to this Panel be repudiated or in any other way removed by the US Administration or another branch of the US Government, this finding of conformity would no longer be warranted". In that dispute, the United States, through both representations before the Panel and the Statement of Administrative Action, which had been submitted to the Panel, "explicitly, officially, repeatedly and unconditionally confirmed" its commitments that the United States would take a Section 301 decision or action only in line with the adopted DSB's recommendations and rulings. Eighteen years later, by taking the actions mentioned above on 22 March 2018, the United States was repudiating the commitment it had once made. China was very concerned about this situation, and the unilateral action that would have profound and negative implications. China was strongly against the irresponsible action taken by the United States, and called on all WTO Members to safeguard the rules-based multilateral trading system. China was ready to defend and safeguard its legitimate interests and, in this regard, work with all WTO Members.

11.2. The representative of the United States said that the United States would be pleased to discuss at length the seriously trade distorting policies adopted by China that were the subject of the ongoing Section 301 investigation mentioned in China's statement. It was these policies, and not responses by the United States or other Members, that were a threat to the international trading system. As Members were aware, however, pursuant to DSU rules, substantive discussions under Other Business were to be avoided. Accordingly, the United States would keep its comments brief. All interested Members, however, were invited to engage in a careful review of the detailed factual report issued in the course of the investigation. The report was approximately 200 pages in length, and was available on the USTR website. The report contained extensive evidence that China engaged in the following four types of practices involving technology transfer. First, China used foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from US companies. Second, China's regime of technology regulations forced US companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favour Chinese recipients. Third, China directed and unfairly facilitated the systematic investment in, and acquisition of, US companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generated the transfer of technology to Chinese companies. Fourth, China conducted and supported unauthorized intrusions into, and theft from, the computer networks of US companies to access their sensitive commercial information and trade secrets. These policies harmed every Member, and every industry in every Member, that relied on technology for maintaining competitiveness in world markets and increasing its people's standards of living.

11.3. Instead of addressing its harmful policies, China accused the United States of "unilateralism". This criticism had absolutely no validity. The United States had made no findings in the Section 301 investigation that China had breached its WTO obligations. From the outset of the

investigation, the United States had been clear that where an act, policy, or practice appeared to involve WTO rules, the United States would pursue the matter through WTO dispute settlement. In fact, one of the areas of investigation, involving technology licensing, appeared to be amenable to WTO dispute settlement. In particular, certain technology licensing measures adopted by China appeared to deny patent rights to foreign IP holders and discriminated against foreign IP holders. Thus, China's measures appeared to be inconsistent with China's obligations under the TRIPS Agreement. Accordingly, on 23 March 2018, the United States had initiated a WTO dispute on this issue.[10] The consultation request had been circulated, and WTO Members may review the request to see the TRIPS Agreement issues involved. To be absolutely clear, the United States had made no findings in the Section 301 investigation that the licensing measures at issue were inconsistent with China's TRIPS Agreement obligations. Rather, as for any WTO dispute, the matter would be resolved by the parties or findings may be sought through WTO dispute settlement. In contrast, the three other categories of measures covered in the US investigation did not appear to implicate specific WTO obligations. Nonetheless, if China wished to inform the DSB that the three other sets of acts, policies, and practices covered in the Section 301 investigation did amount to breaches of WTO rules, it may do so now. Accordingly, China's argument that the United States had somehow acted inconsistently with Article 23 of the DSU was completely lacking in foundation. Indeed, by asserting that the United States had breached the DSU, it was China itself that was acting inconsistently with Article 23. More broadly, the WTO system was not threatened, as China claimed, where a Member took steps to address harmful, trade distorting policies not directly covered by WTO rules. To the contrary, what did threaten the WTO was where a Member, such as China, asserted that the mere existence of the WTO prevented any action by any Member to address unfair, trade-distorting policies, unless those policies were currently subject to WTO dispute settlement. If the WTO was seen instead as protecting those Members that chose to adopt policies that could be shown to undermine the fairness and balance of the international trading system, then the WTO and the international trading system would lose all credibility and support among Members' citizens.

11.4. The representative of Pakistan said that his country echoed the systemic concerns on the matter, which had been raised by China, on measures taken by the United States under Section 301 of the Trade Act of 1974. Pakistan was of the view that such measures could bear serious consequences from a global perspective and, in particular, from a developing country perspective. This action had the potential to spur full-scale protectionist retaliation by other WTO Members, which would not only lead to dire consequences for developing countries but, more importantly, would weaken the entire edifice of the global trading system. The WTO faced already so many challenges, Pakistan, therefore, urged all WTO Members to continue to work towards trade multilateralism and openness, as this was the only way for all Members, especially the smaller economies, to flourish through trade.

11.5. The representative of Japan noted that China had raised this matter under "Other Business". Japan noted that Rule 25 of the Rules of Procedure for Meetings of the DSB, which provided that "[r]epresentatives should avoid unduly long debates under 'Other Business'" and "[d]iscussions on substantive issues under 'Other Business' shall be avoided". Rule 25 also provided that the "[DSB] shall limit itself to taking note of the announcement by the sponsoring delegation, as well as any reactions" from others. Japan understood that China was not seeking any action by the DSB with regard to the matters it had raised at the present meeting, and noted that China had raised similar matters under "Other Business" at the 26 March meeting of the Council for Trade in Goods. At that meeting, Japan had stated that Japan was reviewing the USTR report, which had been released on 22 March 2018. Japan also noted that it shared the views of the United States that stronger and enforceable intellectual property protection was important. Japan also shared the concerns raised by the United States about the disclosure requirement of technological information and discriminatory licensing practices. Nevertheless, Japan reiterated that any trade measure had to be consistent with the WTO Agreement, and Japan, thus, expected that the United Sates would implement such measures in a manner consistent with the WTO Agreement.

11.6. The DSB took note of the statements.

[10] "China – Certain Measures Concerning the Protection of Intellectual Property Rights" (DS542).

12 DISPUTE SETTLEMENT WORKLOAD

A. Statement by the Chairman

12.1. The Chairman, speaking under "Other Business", said that, as he had announced at the beginning of the meeting, he would like to make a report to provide the DSB with information about the number of disputes before panels and at the panel composition stage, the Appellate Body's workload and the ability of the Secretariat to meet expected demand over the coming period. This information reflected the status of disputes up until the present meeting. Other developments in the course of that meeting would be reflected in the information posted on the Members' website. Currently, there were 12 active panels (including two panels under Article 21.5 of the DSU) that had not yet issued a final report to the parties. Multiple disputes being considered simultaneously by the same panel were 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 a further four panels at the composition stage. This did not count panels, for which there had been no composition activity in the last twelve months. In addition, five final panel reports, which had been issued to the parties, were currently being translated. The Appellate Body was currently dealing with six appeals, including the extremely complex compliance proceedings in "EC and Certain Member States – Large Civil Aircraft (Airbus)" and in "US – Large Civil Aircraft (Boeing)". Submissions had been filed by the participants and third participants in all these six appeals. Divisions hearing these appeals had been composed and they were working on these appeals. All pending cases were staffed with Secretariat teams. Additional appeals could be filed within the next three months. Finally, four matters had been referred to arbitration under Article 22.6 of the DSU.

12.2. The DSB took note of the statement.

13 ELECTION OF CHAIRPERSON

13.1. The outgoing Chairman noted that this was the last meeting of the DSB that he would have the privilege of chairing and said that he would like to make some personal remarks. He first thanked the CTNC Division, headed by Mr. Victor do Prado, for their support over the past year. He paid special tribute to Ms. Bozena Mueller-Holyst who had taken good care of him to ensure that the important functions of the DSB were respected. In the beginning, he had wondered as to why he should follow so faithfully the way business had been conducted in the DSB in the past. However, it had not taken long for him to realize why the DSB followed its traditions and well-established practices. The DSB was an active decision-making body, which regularly took actions, such as establishing panels, adopting panel and Appellate Body reports and authorizing suspensions of concessions and other obligations. Given the importance and far-reaching significances of DSB decisions, it was prudent that the DSB acted in an orderly and predictable manner. He had realized at the same time that while perpetuating these noble rituals, the DSB had had an elephant in the room growing larger, whose existence the DSB had been aware of, but which it had somehow avoided facing squarely. However, the moment of truth had finally come, and the issue of filling the Appellate Body vacancies had unveiled the elephant in our midst. It had been a challenging year for the DSB and he, as the Chair, had kept his door open and tried to consult with WTO Members as much as possible, while having also put forward some ideas himself. This, however, had not worked and WTO Members were still unable to find a consensus on the Appellate Body selection processes. The "elephant" was obviously much larger than Rule 15 of the Working Procedures for Appellate Review. Open-minded conversations among WTO Members would be indispensable to any further efforts. Professional discussion in the DSB could help, as long as WTO Members secured political engagement from their Capitals. While he would hand over this difficult file to his successor, he assured the WTO Membership that he would continue to stay engaged on this important matter in his capacity as Ambassador of Japan and also as the Chairman of the General Council. Finally, he took the opportunity to thank the interpreters for their valuable contributions. The outgoing Chairman then recalled that, on the basis of the understanding reached by the General Council on 7 March 2018 with regard to the appointment of officers to WTO bodies with respect to the Chairperson of the DSB, he proposed that the DSB elect by acclamation Ambassador Sunanta Kangvalkulkij of Thailand as Chairperson of the DSB.

13.2. The DSB so agreed.

13.3. The incoming Chairperson expressed her gratitude to the outgoing Chairman, for his tireless efforts and hard work during 2017 and noted that his leadership, as Chairman of the General Council, would continue to guide WTO Members in carrying out the functions of the WTO. She wished him success for his new role, and looked forward to working closely with him over the course of 2018. She then expressed her sincere gratitude to all WTO Members for their support and confidence in appointing her as the new DSB Chairperson. She considered it a great honour to have an opportunity to work with all WTO Members during a period of unprecedented challenges. In this regard, she reiterated her pledge to devote efforts and dedication to serve the DSB in an impartial and transparent manner. Her door would always be open and all voices would be heard. She was convinced that, with Members' constructive engagement, coupled with Secretariat support, it was not beyond the WTO Membership's reach to find a way forward to the present challenge.

13.4. The representative of the European Union said that his delegation thanked the outgoing Chairman for his work in 2017, including his efforts to address the current crisis related to new Appellate Body appointments. The EU also welcomed the new Chairperson, and wished her success in this important and challenging role. In these difficult times, it was all the more important that the DSB continued to properly exercise its functions, as had been envisaged by the DSU. The EU trusted in the new Chairperson's ability to ensure that, and reaffirmed her of the EU's full support.

13.5. The representative of Brazil said that her country warmly welcomed the new Chairperson of the DSB, and looked forward to working with her in 2018. Brazil also thanked the outgoing Chairman for his work and service to the DSB in 2017. Brazil wished him all the best in his new capacity as Chairman of the General Council.

13.6. The representative of Peru said that his country wished the incoming Chairperson every success in taking on this great responsibility. Peru assured the new Chairperson of Peru's unwavering support and its readiness to work with her and the WTO Membership. Peru also acknowledged the work of the outgoing Chairman, and thanked him for his contributions in tackling, with exceptional skill and patience, the institutional challenges faced by the DSB, in particular the issues linked to the Appellate Body. Peru said that in addressing this sensitive issue, the outgoing Chairman had demonstrated initiative and dedication, and his approach had been characterized by transparency, openness and leadership. Peru thanked the outgoing Chairman for the attention that he had devoted to the sensitive issue related to the AB matters and to other duties that he had carried out in the course of his tenure.

13.7. The representative of China said that his country thanked the outgoing Chairman for his hard work in 2017 and wished him every success for his future endeavours as the Chairman of the General Council. China congratulated the incoming Chairperson on her appointment and looked forward to working with her in 2018.

13.8. The representative of Chinese Taipei said that his delegation joined others in thanking the outgoing Chairman for his contributions to the DSB, and wished him success in his new capacity as the Chairman of the General Council. Chinese Taipei also congratulated the incoming Chairperson on her appointment as DSB Chairperson and noted that, as had been mentioned by the outgoing Chairman, 2017 had been a challenging year for the DSB. Chinese Taipei was of the view that 2018 could be even tougher. The WTO Membership would rely on the incoming Chairperson's leadership and would need to work with her to safeguard the valuable dispute settlement system.

13.9. The representative of Canada said that his country warmly welcomed the incoming Chairperson, and wished her and the DSB every success for 2018 in navigating through the challenging times that were ahead of the WTO. Canada also thanked the outgoing Chairman, for the time and efforts, which he had dedicated in resolving the current situation that the DSB was facing.

13.10. The representative of Thailand said that her country joined other Members in thanking the outgoing Chairman for his leadership and his efforts in 2017, and wished him all the best in his new role as Chairman of the General Council. Thailand also welcomed Ambassador Sunanta's new responsibilities as the DSB Chairperson, and looked forward to working closely with her and the rest of the WTO Membership in yet another challenging year for the DSB and the WTO dispute settlement system.

13.11. The representative of India said that his country joined other WTO Members in thanking the outgoing Chairman for the time and painstaking effort that he had dedicated to tackle various issues before the DSB. India also wished him a very productive tenure as Chairman of the General Council. India also congratulated the incoming Chairperson and warmly welcomed her in her new capacity as DSB Chairperson, in very challenging times. India hoped that, under her guidance, the DSB would soon find a way out of some of the challenges that the DSB was facing.

13.12. The representative of Korea said that his country wished to express its gratitude to the outgoing Chairman for his endless efforts and hard work, and wished him good luck in his new responsibilities as Chairman of the General Council. Korea also warmly welcomed the new Chairperson, hoping that under her leadership, the DSB could successfully address the challenges, which the DSB was facing at present.

13.13. The representative of Japan said that his country joined others in welcoming the new DSB Chairperson. Japan looked forward to working with her. Japan also joined others in thanking the outgoing Chairman for his service in 2017.

13.14. The representative of Mexico said that her country joined others in thanking the outgoing Chairman and wishing him success for his next post, as Chairman of the General Council. Mexico welcomed the new Chairperson and was committed to continue its work with the new Chairperson in this challenging period. Mexico congratulated her on her appointment as new DSB Chairperson.

13.15. The representative of the Philippines said that her country joined others in thanking the outgoing Chairman for his able leadership in 2017, especially since it had been a very challenging year. The Philippines wished him all the best in his new capacity as Chairman of the General Council. The Philippines also congratulated and warmly welcomed the incoming Chairperson in her new capacity as the DSB Chairperson and looked forward to working with her in 2018.

13.16. The representative of Indonesia said that, like others, her country thanked the outgoing Chairman for all his efforts, contributions and leadership during his Chairmanship in 2017. Indonesia wished him all the best in his new capacity as Chairman of the General Council. On this occasion, Indonesia also warmly welcomed the new DSB Chairperson. Indonesia looked forward to working with her and wished her every success as DSB Chairperson in 2018.

13.17. The representative of Nepal said that her country joined other WTO Members in thanking the outgoing DSB Chairman. Nepal also extended its congratulations to Ambassador Sunanta on her appointment as new DSB Chairperson. Nepal believed in her leadership and wished her all the best.

13.18. The representative of the Russian Federation said that her country welcomed the new Chairperson and wished her all the best in his new position and looked forward to working together in the present challenging times and reassured her of Russia's support. The Russian Federation also thanked the outgoing Chairman for all his hard work, his wisdom and leadership, and wished him all the success for his new appointment.

13.19. The representative of Singapore said that his country was deeply grateful to the outgoing Chairman for his great efforts in 2017 as DSB Chairman. Singapore also warmly welcomed the new DSB Chairperson and looked forward to working with her in 2018.

13.20. The representative of Pakistan said that his country appreciated the efforts of the outgoing Chairman and wished him all the best for the future in his new assignment as Chairman of the General Council. Pakistan also welcomed the new DSB Chairperson and wished her all the best.

13.21. The Chairperson said that she would like to thank all Members for their warm welcome. She assured delegations that she did not assume this role and the responsibility entrusted to her lightly. She said that she looked forward to a fruitful collaboration with all Members in the year to come.

13.22. The DSB took note of the statements.