

**Dispute Settlement Body  
20 December 2021**

**MINUTES OF MEETING**

HELD IN THE CENTRE WILLIAM RAPPARD  
ON 20 DECEMBER 2021<sup>1</sup>

*Chairman: H.E. Mr Didier Chambovey (Switzerland)*

**Prior to the adoption of the Agenda:** (i) the Chairman welcomed all delegations participating in the meeting of the Dispute Settlement Body (DSB) both in-person and remotely, and said that he wished to recall a few technical instructions regarding the virtual participation of delegations. If a Member was unable to take the floor during the meeting because of a technical issue, the delegation could inform himself or the Secretariat and that Agenda item would remain open until the delegation could take the floor. In the alternative, the item would remain open temporarily, the meeting would proceed to the next Agenda item, and the DSB would revert to the open item after the technical issue had been resolved. If a technical issue remained unresolved, the delegation had the option to send the statement to the Secretariat with the request that it be read out by the Secretariat on behalf of that delegation during the meeting so that the statement could be reflected in the minutes of the meeting; (ii) the Chairman made a short statement regarding item 4 of the proposed Agenda of the 28 April 2021 DSB meeting pertaining to the DS574 dispute. He said that, as Members recalled, that matter had been removed from the proposed Agenda to allow time for the Chair's consultations with each interested party regarding that Agenda item. At the present meeting, he wished to inform delegations that he continued to consult with each interested party on this matter and that those consultations were ongoing; and (iii) the Chairman informed Members that, under "Other Business", in accordance with paragraph 5 of the 21 December 2020 Understanding between the Philippines and Thailand on the DS371 Facilitator-Assisted discussions contained in document WT/DS371/44, and subsequent report of the Facilitator contained in document WT/DS371/45, dated 31 March 2021, Ambassador George Mina of Australia, the Facilitator in the DS371 dispute, would make a short report on progress in this dispute.

The DSB took note of the statements and adopted the Agenda, as amended.

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<sup>1</sup> The proceedings of this meeting were held in a hybrid format.

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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.222)

B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.197)

C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.160)

D. United States – Anti-dumping and countervailing measures on large residential washers from Korea: Status report by the United States (WT/DS464/17/Add.44)

E. United States – Certain methodologies and their application to anti-dumping proceedings involving China: Status report by the United States (WT/DS471/17/Add.36)

F. Indonesia – Importation of horticultural products, animals and animal products: Status report by Indonesia (WT/DS477/21/Add.31 – WT/DS478/22/Add.31)

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

### **A. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.222)**

1.2. The Chairman drew attention to document WT/DS184/15/Add.222, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US anti-dumping measures on certain hot-rolled steel products from Japan.

1.3. The representative of the United States said that the United States had provided a status report in this dispute on 9 December 2021, 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 of the DSB that had yet to be addressed, the US Administration would confer with the US Congress with respect to the appropriate statutory measures that would resolve this matter.

1.4. The representative of Japan said that Japan thanked the United States for the most recent status report and the statement made at the present meeting. Japan, once again, called on the United States to fully implement the DSB 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.

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**B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.197)**

1.6. The Chairman drew attention to document WT/DS160/24/Add.197, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning Section 110(5) of the US Copyright Act.

1.7. The representative of the United States said that the United States had provided a status report in this dispute on 9 December 2021, in accordance with Article 21.6 of the DSU. The US Administration would continue to confer with the European Union, and 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 the European Union thanked the United States for its status report and its statement at the present meeting. The European Union referred to its previous statements and reiterated that it wished to resolve this case as soon as possible.

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

**C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.160)**

1.10. The Chairman drew attention to document WT/DS291/37/Add.160, which contained the status report by the European Union on progress in the implementation of the DSB's recommendations in the case concerning measures affecting the approval and marketing of biotech products.

1.11. The representative of the European Union said that the European Union and the United States had held a second meeting of the biotech dialogue earlier that month. The European Union considered that this dialogue was a useful forum to exchange information on biotech-related issues. During that meeting, the European Union had provided detailed updates on several priority applications, indicated by the United States. The updates showed that, on average, 85% of the time from validation of the application dossier to adoption of the scientific opinion was used by the applicants. The European Union said that the United States frequently referred to products that had successfully passed EFSA's risk assessment, but not yet received final approval through comitology. The European Union wished to point out that there were administrative procedures between the publication of EFSA's favourable opinion and the comitology vote that had to be respected. Those included, among others, procedures related to transparency, such as a one-month public consultation. The European Union failed to see how those procedures could be characterised as "undue delay". During the second meeting of the biotech dialogue, those procedures and the corresponding timelines were explained to the United States. The European Union reiterated that it had acted in line with its WTO obligations and recalled that the EU approval system was not covered by the DSB's recommendations and rulings. To update the WTO Membership concerning the progress of the applications throughout the authorisation process, the European Union noted the following. Firstly, the written procedure on the vote on the draft decision renewing GM cotton GHB614, which was presented at the online Standing Committee meeting of 22 November 2021, resulted in "no opinion" and the draft decision would be referred to the Appeal Committee. Secondly, the Standing Committee meeting was held online on 17 December 2021. The Commission had presented draft decisions authorising two GMOs: GM oilseed rape 73496 and GM cotton GHB811. The votes on those draft decisions were ongoing by written procedures.

1.12. The representative of the United States thanked the European Union for its status report and its statement made at the present meeting. The United States continued to engage with the European Union in good faith on these issues and had provided recommendations on several occasions as to how the European Union could address the undue delays in its approval procedures. It was the understanding of the United States that there were still approximately eight (8) biotech products for which the EFSA had successfully completed a risk assessment, yet which had not received final approval through comitology. The United States requested that the European Union move to issue final approvals for all products that had completed science-based risk assessments at EFSA, including those products that were with the Standing Committee and Appeals Committee. The

United States appreciated the European Union participating in the biannual EU-US Biotechnology Consultations held 9 December 2021, to discuss the approval process for biotechnology products.

1.13. 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.44)**

1.14. The Chairman drew attention to document WT/DS464/17/Add.44, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning anti-dumping and countervailing measures on large residential washers from Korea.

1.15. The representative of the United States said that the United States had provided a status report in this dispute on 9 December 2021, in accordance with Article 21.6 of the DSU. On 6 May 2019, the US Department of Commerce published a notice in the US Federal Register announcing the revocation of the anti-dumping and countervailing duty orders on imports of large residential washers from Korea (84 Fed. Reg. 19,763 (May 6, 2019)). With this action, the United States had completed implementation of the DSB recommendations concerning those anti-dumping and countervailing duty orders. The United States would consult with interested parties on options to address the recommendations of the DSB relating to other measures challenged in this dispute.

1.16. The representative of Korea said that Korea thanked the United States for its status report and its statement made at the present meeting. Korea again urged the United States to take prompt and appropriate steps to implement the DSB recommendations for the "as such" measures in this dispute.

1.17. The representative of Canada said that Canada wished to refer to statements made on this matter at previous DSB meetings.

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

**E. United States – Certain methodologies and their application to anti-dumping proceedings involving China: Status report by the United States (WT/DS471/17/Add.36)**

1.19. The Chairman drew attention to document WT/DS471/17/Add.36, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning certain methodologies and their application to anti-dumping proceedings involving China.

1.20. The representative of the United States said that the United States had provided a status report in this dispute on 9 December 2021, in accordance with Article 21.6 of the DSU. As explained in that report, the United States would consult with interested parties on options to address the recommendations of the DSB.

1.21. The representative of China said that China thanked the United States for its most recent status report. However, China was disappointed that more than three years after the expiry of the reasonable period of time for implementation, the United States still failed to implement the adopted rulings and recommendations in this dispute. Prompt compliance was critical to the effectiveness and credibility of the dispute settlement system, which was in the best interests of the entire Membership. China urged the United States to meet its obligation in line with Article 21.1 of the DSU by bringing full compliance in this dispute without further delay.

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

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**F. Indonesia – Importation of horticultural products, animals and animal products: Status report by Indonesia (WT/DS477/21/Add.31 – WT/DS478/22/Add.31)**

1.23. The Chairman drew attention to document WT/DS477/21/Add.31 – WT/DS478/22/Add.31, which contained the status report by Indonesia on progress in the implementation of the DSB's recommendations in the case concerning importation of horticultural products, animals and animal products.

1.24. The representative of Indonesia said that Indonesia had submitted its status report pursuant to Article 21.6 of the DSU. Indonesia wished to reiterate its commitment to implementing the recommendations and rulings of the DSB in these disputes. With regard to measure 18, as reported at previous DSB meetings, Indonesia had removed all Articles in the relevant Laws that were found inconsistent with WTO rules through the enactment of Law No. 11/2020 on Job Creation. With respect to measures 1-17, Indonesia wished to reassure that, significant adjustments in complying with the recommendations and rulings of the DSB, had been carried out through amendments of the relevant MoA and MoT Regulations. Those adjustments included the removal of disputed measures, *inter alia*: harvest period restriction, import realization requirements, six-months harvest requirement, and reference price. Indonesia was committed to engaging with New Zealand and the United States and reaffirmed its commitment to implementing the recommendations and rulings of the DSB in these disputes

1.25. The representative of the United States said that the United States was continuing to review Indonesia's new laws and regulations in light of Indonesia's recent statements and status reports. The United States had learned that, in the prior month, Indonesia's Constitutional Court had ruled that the Omnibus Law on Job Creation (No. 11/2020) was unconstitutional and had ordered the government to revise the law. The United States questioned how that ruling affected Indonesia's implementation of the DSB recommendation concerning measure 18. With respect to measures 1-17, the United States would still appreciate further clarity on which regulations presently comprised Indonesia's import licensing regimes and on any forthcoming regulations that would affect the regimes. The United States remained willing to work with Indonesia to fully resolve this dispute.

1.26. The representative of New Zealand said that New Zealand wished to thank Indonesia for its status report, and acknowledged Indonesia's commitment to comply fully with the DSB's recommendations and rulings. Both compliance deadlines had, however, long since expired, and a number of measures remained non-compliant. New Zealand continued to review recent legislative adjustments in order to assess what impact this would have on Indonesia's compliance, in particular with respect of measure 18. New Zealand understood that Indonesia was in the process implementing new regulations under Law No. 11/2020 on Job Creation, which would impact this assessment. This included the recently-released Ministry of Trade Regulation 20/2021. New Zealand sought clarity on how the implementation of this regulation would amend Indonesia's import licensing system. New Zealand was also interested in knowing what impact, if any, the recent constitutional court ruling declaring the Job Creation Law unconstitutional would have on the legislation associated with the DSB's recommendations and rulings. New Zealand invited Indonesia to provide further details as soon as possible and looked forward to further bilateral engagement to that end.

1.27. 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 European Union to speak.

2.2. The representative of the European Union said that the European Union wished to refer to its previous statements made under this Agenda item.

2.3. The representative of the United States said that the United States took note of the European Union's statement. In that regard, the United States wished to refer to its own prior statements made under this Agenda item regarding Article 21.6 of the DSU.

2.4. The DSB took note of the statements.

### **3 EUROPEAN COMMUNITIES AND CERTAIN MEMBER STATES – MEASURES AFFECTING TRADE IN LARGE CIVIL AIRCRAFT: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB**

#### **A. Statement by the United States**

3.1. The Chairman said that this item was on the Agenda at the request of the United States, and invited the representative of the United States to speak.

3.2. The representative of the United States said that the United States referred to its previous statements made under this Agenda item regarding Article 21.6 of the DSU. The United States wished to simply note at the present meeting that, as Members were aware, on 15 June 2021, the United States and the European Union had reached an "Understanding on a cooperative framework for Large Civil Aircraft." The United States looked forward to engaging with its European partners to bring about a more level global playing field.

3.3. The representative of the European Union said that the European Union wished to refer to its previous statements made under this Agenda item.

3.4. The DSB took note of the statements.

### **4 RUSSIAN FEDERATION – CERTAIN MEASURES CONCERNING DOMESTIC AND FOREIGN PRODUCTS AND SERVICES**

#### **A. Request for the establishment of a panel by the European Union (WT/DS604/2)**

4.1. The Chairman recalled that the DSB had considered this matter at its meeting on 29 November 2021 and had agreed to revert to it, should a requesting Member wish to do so. He then drew attention to the communication from the European Union contained in document WT/DS604/2 and invited the representative of the European Union to speak.

4.2. The representative of the European Union said that at the 29 November 2021 DSB meeting, the European Union had requested the establishment of a panel in this dispute. The European Union wished to refer to its statement made at the November DSB meeting. He recalled that the Russian Federation had opposed the EU panel request at that meeting. At the present meeting, the European Union maintained its request for the establishment of a panel to examine this dispute.

4.3. The representative of the Russian Federation said that the Russian Federation wished to refer to its statement made at the 29 November 2021 DSB meeting. The Russian Federation said that it regretted the EU decision to further pursue its request for the establishment of a panel in the DS604 dispute. The Russian Federation was confident that its measures fully complied with Russia's WTO obligations. Despite the fact that the EU panel request was on the Agenda for the second time, the Russian Federation remained open to further consultations with Brussels on this matter with a view to seeking a mutually agreed solution.

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

4.5. The representatives of Australia, Brazil, Canada, China, Colombia, India, Japan, Korea, Switzerland, Ukraine and the United States reserved their third-party rights to participate in the Panel's proceedings.

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## 5 DOMINICAN REPUBLIC – ANTI DUMPING MEASURES ON CORRUGATED STEEL BARS

### A. Request for the establishment of a panel by Costa Rica (WT/DS605/2)

5.1. The Chairman recalled that the DSB had considered this matter at its meeting on 29 November 2021 and had agreed to revert to it, should a requesting Member wish to do so. He then drew attention to the communication from Costa Rica contained in document WT/DS605/2 and invited the representative of Costa Rica to speak.

5.2. The representative of Costa Rica said that the proper functioning of the multilateral trading system, which was open, transparent and rules-based, was fundamental for Costa Rica in order to achieve its trade and investment policy objectives. For that reason, Costa Rica was firmly committed to strengthening the system and to acting in a manner consistent with the commitments undertaken under WTO Agreements. Part of that related to the possibility of resorting to the dispute settlement mechanism, when necessary. The dispute settlement system was a pillar and a very important element of this Organization as well as an important tool for Members to reach solutions, within the legal framework, to actions, which in their view undermined their rights and had affected their trade interests. With that in mind, Costa Rica had, once again, requested that its panel request be placed on the Agenda of the present meeting. This dispute concerned the definitive anti-dumping duty imposed by the Dominican Republic on imports of corrugated or deformed steel bars or rods for the reinforcement of concrete originating in Costa Rica. As stated at the 29 November 2021 DSB meeting, Costa Rica considered that the measure in question was not compatible with the Dominican Republic's obligations under Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the GATT 1994 ("Anti-Dumping Agreement"). Costa Rica reiterated that the investigation conducted prior to the application of the anti-dumping duty, initiated on 30 July 2018 at the request of a Dominican producer, did not meet the minimum requirements of the Anti-Dumping Agreement. This was because, following an investigation, which contained a number of shortcomings, the Regulatory Commission on Unfair Trade Practices and Safeguard Measures of the Dominican Republic had issued a final determination providing for the application of definitive anti-dumping measures, despite the absence of dumping, injury to the domestic industry and causation. Costa Rica said that, as it had noted at the previous DSB meeting, Costa Rica had requested consultations with the Dominican Republic on 23 July 2021. The consultations between the two countries had taken place on 20 September 2021. However, the consultations had failed to settle this dispute. Costa Rica thanked the Dominican Republic for its willingness to respond to the questions and Costa Rica's requests for information made during the consultations. However, the serious concerns of Costa Rica about the investigation and the anti-dumping duties imposed still remained. At the present meeting, Costa Rica reiterated its request that a panel be established pursuant to Articles 4.7 and 6 of the DSU, Article 17.4 of the Anti-Dumping Agreement, and Article XXIII of the GATT 1994, to examine this matter. Costa Rica also requested that the panel should have standard terms of reference, as provided for in Article 7.1 of the DSU.

5.3. The representative of the Dominican Republic said that the Dominican Republic regretted Costa Rica's decision to request the establishment of a panel for a second time. The Dominican Republic reiterated that it considered that this request was premature because the parties had not exhausted all options towards reaching an amicable solution. The Dominican Republic said that the challenged anti-dumping measure had been adopted following a detailed investigation and was consistent with the requirements of the Anti-Dumping Agreement. Therefore, if a panel were to be established in spite of the Dominican Republic's willingness to reach an amicable solution, his country was prepared to defend the legality of the measure at issue. The Dominican Republic said that the request to establish a panel did not seem to meet the minimum requirements of Article 6.2 of the DSU and reserved the right to have recourse to relevant procedure in this regard at an appropriate time. Finally, the Dominican Republic reiterated its willingness to continue working with Costa Rica to try to reach an amicable solution so as to avoid panel proceedings.

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

5.5. The representatives of Canada, China, the European Union, India, Japan, the Russian Federation, and the United States reserved their third-party rights to participate in the Panel's proceedings.



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## **6 STATEMENT BY TUNISIA REGARDING THE STATUS OF THE CONSULTATIONS CONCERNING THE DISPUTE: "MOROCCO – DEFINITIVE ANTI DUMPING MEASURES ON SCHOOL EXERCISE BOOKS FROM TUNISIA" (DS578)**

6.1. The Chairman said that this item was on the Agenda at the request of Tunisia, and he invited the representative of Tunisia to speak.

6.2. The representative of Tunisia said that Tunisia wished to make a statement at the present meeting as part of the transparent approach taken by Tunisia at recent DSB meetings to review the status of the consultations with Morocco launched in September 2021 in order to find common ground in the dispute: "Morocco – Definitive Anti-Dumping Measures on School Exercise Books from Tunisia" (DS578). In this regard, the Tunisian delegation welcomed the fact that the consultations between the two parties were currently being conducted under the aegis of the DSB Chair. Tunisia wished to take this opportunity to thank Ambassador Chambovey for his initiative to invite both parties to a meeting on 14 December 2021, and the Secretariat for coordinating and organizing that meeting. Tunisia also appreciated that Morocco had agreed to join these consultations proposed by the DSB Chair. Tunisia believed that, under the leadership of Ambassador Chambovey, the parties would be able to quickly find a common path towards a mutually satisfactory solution. The virtual meeting of 14 December 2021, which had been attended by the heads of the two Missions and representatives of the departments responsible for trade in both countries, was very promising, and had allowed the Tunisian delegation to reaffirm its constructive and open approach to this process. In particular, Tunisia had proposed the use of an appeal procedure pursuant to Article 25 of the DSU that would, if necessary, allow Morocco to defend its case before a functioning Appellate Body. It also provided an opportunity for the Moroccan authority responsible for trade to notify Tunisia of, among other things, the progress made by its relevant services in revising the calculation of the dumping margin in accordance with the conclusions of the Panel Report, and to indicate that Morocco remained open to discussing, on the basis of the results of the ongoing bilateral technical discussions, other alternatives aimed at achieving a final outcome to this dispute. Finally, Tunisia would ensure to be prepared constructively for the second meeting that the Chairman had proposed for the week of 10 January 2022, while remaining open to any contacts with the Moroccan side to maintain this positive momentum at the next meeting. In that regard, Tunisia would appreciate it if the Secretariat could propose a date for the meeting before the end-of-year break to allow the parties to better coordinate and prepare.

6.3. The representative of Morocco said that the Moroccan delegation was pleased to see a fraternal atmosphere and constructive spirit between the two parties in spite of the fact that the appeal procedure had been suspended. Morocco had always tried to find an amicable solution to this dispute and wished to reiterate that it attached importance to dialogue. Morocco wished to thank, once again, the Chairman of the DSB for his initiative of inviting both parties to a meeting on 14 December 2021, with a view to finding an amicable solution to this dispute. During that bilateral meeting, both parties had good faith discussions as well as pragmatic discussions regarding different options to break the stalemate. As stated during the consultations, Morocco was looking into adjustments that it could make to the measure at issue, taking into account the panel's recommendations. Considering the time and effort that this exercise required, particularly the conditions surrounding the pandemic, a lot of progress had been made and competent authorities would be in a position to propose adjustments to Tunisia. Finally, Morocco trusted that both parties would reach an agreement to resolve this dispute to avoid future problems surrounding this issue. Morocco thanked the Chairman and the Secretariat for organizing the meeting.

6.4. The Chairman said that, as stated by Tunisia and Morocco, on 14 December 2021, a virtual meeting had been held between the parties to this dispute with the participants from Geneva and the respective capitals. He hoped that this dialogue would continue so that a mutually satisfactory solution could be found. He said that the Secretariat would be in touch with the delegations in order to propose the next steps in this process.

6.5. The DSB took note of the statements.

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## 7 UNITED STATES – ANTI-DUMPING AND COUNTERVAILING DUTIES ON RIPE OLIVES FROM SPAIN

### A. Report of the Panel (WT/DS577/R and WT/DS577/R/ADD.1)

7.1. The Chairman recalled that at its meeting on 24 June 2019, the DSB had established a panel to examine the complaint by the European Union pertaining to this dispute. The Report of the Panel contained in document WT/DS577/R and WT/DS577/R/Add.1 had been circulated on 19 November 2021 as an unrestricted document. The Panel Report was before the DSB at the present meeting for adoption at the request of the European Union. The adoption procedure was without prejudice to the right of Members to express their views on the Panel Report.

7.2. The representative of the European Union said that the European Union wished to thank the Panel and the WTO Secretariat for their work in this dispute. The Panel Report had substantially upheld the EU's claims and had largely confirmed that in imposing the anti-subsidy duties on ripe olives from Spain, the United States had acted inconsistently with the WTO Agreement on Subsidies and Countervailing Measures (ASCM). The Panel Report had found that the United States did not comply with its obligation in the determination of *de jure* specificity and in the calculation of the subsidy benefit for one specific EU company. The Panel Report had also found that Section 771B of the Tariff Act of 1930, which presumed that the entire benefit of a subsidy provided in respect of a raw agricultural product had passed through to the downstream processed agricultural product, was "as such" inconsistent with the ASCM. The European Union expected that the United States would promptly and fully implement the Panel's findings.

7.3. The representative of the United States said that the United States wished to thank the Panel, and the Secretariat staff assisting it, for their work in this dispute. The United States acknowledged the Panel's thorough review of the legal arguments put forward by the parties, and while it was disappointed in certain respects, it welcomed the Panel's findings on key issues in this dispute. The European Union had brought numerous claims regarding anti-dumping and countervailing duties on ripe olives from Spain, as well as one statutory provision. The Panel had rightly rejected many of those claims, including key EU claims relating to injury and so-called "decoupled" payments. First, the United States appreciated the Panel's rejection of all eight claims concerning the US International Trade Commission's injury determination. For example, the Panel had agreed with the United States that nothing in Articles 15.1 and 15.2 of the SCM Agreement or Articles 3.1 and 3.2 of the Anti-Dumping Agreement prohibited an investigating authority from paying particular attention to one segment of the domestic industry in its injury analysis. And as a factual matter, the USITC had not excluded certain segments of the domestic industry in its analysis. Furthermore, the USITC had properly considered whether there had been a significant increase in the volume of subsidized and dumped imports, and was not required to make a finding of absolute or relative volume increase, pursuant to Article 15.2 of the SCM Agreement or Article 3.2 of the Anti-Dumping Agreement. The Panel had also agreed that the USITC had considered all of the relevant economic factors having a bearing on the state of the entire domestic industry, established a causal link between subject imports and injury to the domestic industry, and accounted for any injury caused by factors other than subject imports as part of its non-attribution analysis. Accordingly, the European Union had failed to make out its claims under Articles 15.1, 15.2, 15.4, and 15.5 of the SCM Agreement and Articles 3.1, 3.2, 3.4, and 3.5 of the Anti-Dumping Agreement. The United States was gratified that the Panel had agreed with it, and had rejected *all of* the EU's injury claims. (See, e.g., para. 7.319.) Second, the United States welcomed the Panel's narrow findings with respect to specificity. While the United States disagreed with the Panel's conclusion that the US Department of Commerce had erred in certain aspects of its factual evaluation, the Panel correctly rejected the EU's broader challenge regarding the proper interpretation of Article 2 of the SCM Agreement. Contrary to certain comments, including in press reports, the Panel had rejected the EU position that so-called "decoupled" agricultural payments could not be subject to countervailable duties.

7.4. In particular, and contrary to certain characterizations of these findings, the Panel had not found that the Common Agricultural Policy (CAP) programs at issue were outside the scope of the SCM Agreement. To the contrary, the Panel rejected the EU's arguments that the legal design of the CAP – in particular, "decoupling" subsidies from current production or basing them on an earlier reference program – meant the subsidies conferred could not be countervailed. (See, e.g., paras. 7.30-7.33, 7.37-7.39, 7.51-7.52, 7.85, and 7.124.) In doing so, the Panel had similarly rejected the EU argument that decoupled "Green Box" subsidies under the Agreement on Agriculture were not actionable under the SCM Agreement. The Panel had found that Article 2.1(a) did not prescribe

particular facts or factors that may or may not be taken into account by an investigating authority, or any particular methodology or analytical approach in evaluating that information.

7.5. Thus, on those two core issues in this Panel proceeding, injury and countervailing so-called "decoupled" payments, the Panel had disagreed with the very premise of the EU's claims. The United States said that it was disappointed with other of the Panel's findings, however, and in particular its findings on a US statute related to the calculation of subsidies for certain processed agricultural products. By enacting Section 771B, the US Congress had sought to eliminate the possibility that "a foreign nation could avoid US countervailing duty on an agricultural product merely by doing some minor processing of the agricultural product before it was exported to the United States".<sup>2</sup> The United States was evaluating the Panel's findings with a view to ensuring that countervailing duties accounted for the economic realities of trade in raw agricultural products and processed downstream products. Although the United States was disappointed with certain of the Panel's findings, on balance, it had decided to permit the report to be adopted at the present meeting. The United States had taken this step in light of all the circumstances, including the overall quality of the panel report and its desire to work with the European Union to resolve this dispute. The United States wished to thank Members for their attention to this statement.

7.6. The representative of Canada said that Canada wished to thank the members of the Panel and the WTO Secretariat for their hard work in this dispute. Canada wished to highlight one important aspect of the Panel's findings and recommendations. The Panel had confirmed that, under Article VI:3 of the GATT 1994 and Article 10 of the SCM Agreement, an investigating authority would have to establish the existence and the extent of indirect subsidization, taking into account all relevant factors, in order to impose countervailing duties. An investigating authority therefore could not merely presume that the entire benefit of a subsidy provided in respect of an input product had passed through to the downstream processed product.

7.7. The DSB took note of the statements and adopted the Panel Report contained in WT/DS577/R and Add.1.

**8 APPELLATE BODY APPOINTMENTS: PROPOSAL BY AFGHANISTAN; ANGOLA; ARGENTINA; AUSTRALIA; BANGLADESH; BENIN; PLURINATIONAL STATE OF BOLIVIA; BOTSWANA; BRAZIL; BURKINA FASO; BURUNDI; CABO VERDE; CAMBODIA; CAMEROON; CANADA; CENTRAL AFRICAN REPUBLIC; CHAD; CHILE; CHINA; COLOMBIA; CONGO; COSTA RICA; CÔTE D'IVOIRE; CUBA; DEMOCRATIC REPUBLIC OF CONGO; DJIBOUTI; DOMINICAN REPUBLIC; ECUADOR; EGYPT; EL SALVADOR; ESWATINI; THE EUROPEAN UNION; GABON; THE GAMBIA; GHANA; GUATEMALA; GUINEA; GUINEA BISSAU; HONDURAS; HONG KONG, CHINA; ICELAND; INDIA; INDONESIA; ISRAEL; KAZAKHSTAN; KENYA; REPUBLIC OF KOREA; LESOTHO; LIECHTENSTEIN; MADAGASCAR; MALAWI; MALAYSIA; MALDIVES; MALI; MAURITANIA; MAURITIUS; MEXICO; REPUBLIC OF MOLDOVA; MOROCCO; MOZAMBIQUE; NAMIBIA; NEPAL; NEW ZEALAND; NICARAGUA; NIGER; NIGERIA; NORTH MACEDONIA; NORWAY; PAKISTAN; PANAMA; PARAGUAY; PERU; QATAR; RUSSIAN FEDERATION; RWANDA; SENEGAL; SEYCHELLES; SIERRA LEONE; SINGAPORE; SOUTH AFRICA; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; TANZANIA; THAILAND; TOGO; TUNISIA; TURKEY; UGANDA; UKRAINE; UNITED KINGDOM; URUGUAY; THE BOLIVARIAN REPUBLIC OF VENEZUELA; VIET NAM; ZAMBIA AND ZIMBABWE (WT/DSB/W/609/REV.20)**

8.1. The Chairman said that this item was on the Agenda of the present meeting at the request of Mexico, on behalf of a number of delegations. He drew attention to the proposal contained in document WT/DSB/W/609/Rev.20 and invited the representative of Mexico to speak.

8.2. The representative of Mexico, speaking on behalf of the co-sponsors of the joint proposal contained in document WT/DSB/W/609/Rev.20, said that the delegations in question had agreed to submit the joint proposal, dated 18 November 2021 to launch the selection processes for the vacancies of the Appellate Body members. On behalf of those 122 Members, Mexico wished to state the following. The extensive number of Members submitting the joint proposal reflected a common concern with the current situation in the Appellate Body that was seriously affecting the overall dispute settlement system, against the best interest of its Members. WTO Members had a responsibility to safeguard and preserve the Appellate Body, the dispute settlement system, and the

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<sup>2</sup> See 133 Congressional Record S8814 (Exhibit USA-9) at S8815. See also Issues and Decision Memo for Final Determination C-469-818 (Exhibit EU-2), p. 23.

multilateral trading system. Thus, it was their duty to proceed, without further delay, with the launching of the selection processes for the Appellate Body members, as submitted to the DSB at the present meeting. The proposal sought to: (i) start seven selection processes (one process to replace Mr. Ricardo Ramírez-Hernández, whose second term had expired on 30 June 2017; a second process to fill the vacancy resulted from the resignation of Mr. Hyun Chong Kim with effect from 1 August 2017; a third process to replace Mr. Peter Van den Bossche, whose second term had expired on 11 December 2017; a fourth process to replace Mr. Shree Baboo Chekitan Servansing, whose four-year term of office had expired on 30 September 2018; a fifth process to replace Mr. Ujal Singh Bhatia, whose second term had expired on 10 December 2019; a sixth process to replace Mr Thomas Graham whose second term had expired on 10 December 2019; and a seventh selection process to replace Ms Hong Zhao, whose first four-year term of office had expired on 30 November 2020); (ii) to establish a Selection Committee; (iii) to set a deadline of 30 days for the submission of candidacies; and (iv) to request that the Selection Committee issue its recommendation within 60 days after the deadline for nominations of candidates. The proponents were flexible in the determination of the deadlines for the selection processes, but Members should consider the urgency of the situation. The proponents continued to urge all Members to support this proposal in the interest of the dispute settlement system and the multilateral trading system.

8.3. The representative of the United States said that the United States was not in a position to support the proposed decision. The United States continued to have systemic concerns with the Appellate Body. As Members knew, the United States had raised and explained its systemic concerns for more than 16 years and across multiple US Administrations. The United States believed that Members had to undertake fundamental reform if the system was to remain viable and credible. The dispute settlement system could and should support rather than undermine the WTO's negotiating and monitoring functions. The United States looked forward to further discussions with Members on those important issues.

8.4. The representative of the European Union said that the European Union wished to refer to its previous statements made on this issue. Since 11 December 2019, the WTO no longer guaranteed access to a binding, two-tier, independent and impartial resolution of trade disputes. A fully functioning WTO dispute settlement system was critical for a rules-based multilateral trading system. This was why the most urgent area of WTO reform involved finding an agreed basis to restore such a system and proceeding to the appointment of the members of the Appellate Body. This task should be addressed as a priority. As the European Union had consistently noted, WTO Members had a shared responsibility to resolve this issue as soon as possible, and to fill the outstanding vacancies, as required by Article 17.2 of the DSU. The European Union agreed that a meaningful reform was needed in order to achieve this objective. The European Union, therefore, renewed its call on all WTO Members to engage in a constructive discussion as soon as possible in order to restore a fully functioning WTO dispute settlement system. The European Union thanked all Members that had co-sponsored the proposal to launch the appointment processes.

8.5. The representative of Japan said that Japan wished to refer to its statements made at the previous DSB meetings and supported the proposal. Japan shared the sense of urgency for reform of the dispute settlement system. As Japan had stated consistently, Japan considered that the utmost priority was to achieve an expeditious reform that would contribute to a long-lasting solution to the structural and functional problems of the dispute settlement system. Therefore, every WTO Member, as the owner of the system, had to take seriously the current situation wherein the Appellate Body had virtually ceased its operation a long time ago, and meanwhile, a number of cases had been appealed into the void. Furthermore, Japan considered it essential that every WTO Member re-start constructive discussions on the reform of the dispute settlement system, including on how to address the concerns surrounding the Appellate Body. Japan would spare no efforts to collaborate with all WTO Members to that end.

8.6. The representative of Morocco, speaking on behalf of the African Group, said that the African Group wished to refer to its previous statements made on this matter and commended the delegation of Mexico for its statements on the proposal for Appellate Body appointments. The African Group continued to regret that up to now, the DSB had failed to fulfil its functions under the DSU which was to fill vacancies as they arose. The African Group urged the DSB to urgently fulfil its obligation under the DSU so as to ensure the predictability within the multilateral trading system. The African Group urged all Members who had yet to co-sponsor this proposal to do so as soon as possible.

8.7. The representative of India said that India wished to refer to its statements made on this issue at previous DSB meetings. From 11 December 2019 onwards, the WTO no longer provided access to a binding two-stage independent resolution of trade disputes as there had been no standing Appellate Body to hear appeals from panel cases. India requested all WTO Members to resolve this matter and work on filling the outstanding vacancies as set out in Article 17.2 of the DSU.

8.8. The representative of China said that China supported the statement made by Mexico on behalf of the 122 co-sponsors and called upon more Members to join this proposal. China referred to its previous statements on this urgent matter and reiterated its firm commitment to an independent and impartial two-tier dispute settlement system. The paralysis of the Appellate Body had posed a serious challenge to the multilateral trading system, and more than a dozen cases had been appealed into the void. This unsustainable situation not only deprived Members' right to defend their interests, but also jeopardized the security and predictability of this rules-based Organization. China appreciated the hard work undertaken by Members under the capable leadership of the General Council Chair in preparation for the MC12 outcome document, in particular the progress made on paragraph 8 on the dispute settlement system. In spite of postponement of MC12, China urged all Members to maintain the positive momentum and to engage in constructive discussions with a view to having a fully and well-functioning dispute settlement system by MC13.

8.9. The representative of Indonesia said that Indonesia wished to refer to its previous statements made at the previous DSB meetings with regard to this Agenda item. Indonesia wished to again avail itself of this opportunity to urge all Members to focus their serious attention, willingness, and commitment towards the immediate appointment of the Appellate Body members.

8.10. The representative of Canada said that this was an extremely important issue. Canada reiterated its support for the AB proposal and referred to its statements made on this issue at previous DSB meetings.

8.11. The representative of the United Kingdom said that the United Kingdom continued to support the launch of the process for appointments to the Appellate Body. The United Kingdom said that it was the time for the whole WTO Membership to commit urgently to ensuring the full functioning of the dispute settlement system and to work together to make that a reality. The United Kingdom welcomed the progress that had been made in the run up to the Ministerial Conference before it was postponed. Members wished to maintain that momentum. An effective dispute settlement system benefitted all Members. It ensured that the rules Members had negotiated were enforceable, and in doing so, contributed to realising the benefits of trade liberalization. It served as a backstop against WTO-inconsistent trade practices, and it helped to create a more predictable and stable trading environment. The United Kingdom would continue to work with other Members on this important matter.

8.12. The representative of the Russian Federation said that the Russian Federation wished to refer to its previous statements made on this matter and thanked Mexico and co-sponsors for their continuous and faithful commitment to the appointment processes of the Appellate Body members. Russia reiterated its strong support for launching the AB appointment processes immediately. At the same time, the Russian Federation called upon all Members to engage in urgent constructive discussions towards fully functional dispute settlement system as soon as possible.

8.13. The representative of Thailand said that, like many previous speakers, Thailand supported the statement made by Mexico on behalf of the co-sponsors of the AB proposal. Thailand wished to refer to its previous statements made at previous DSB meetings and reiterated its concerns about the long absence of a fully functional Appellate Body. As one of the Members with pending appeals, Thailand had already felt the impact of this impasse in the WTO system. In Thailand's view, the continued filing of appeals by Members before the Appellate Body was a clear demonstration of the importance of the two-tier, binding dispute settlement system, which was an integral part of the core elements of the WTO. Thailand, therefore, renewed its call on all Members to continue intensified efforts towards finding ways forward while being fully committed to solution-oriented discussions.

8.14. The representative of Brazil said that Brazil wished to thank Mexico for presenting the proposal on behalf of the co-sponsors and once again referred to its previous statements made under this Agenda item. In preparation for MC12, the Membership had seen encouraging signs of willingness

from Members to engage in meaningful discussions aimed at finding a concrete solution to this impasse as a matter of priority. Brazil hoped that such discussions could begin shortly. Brazil was prepared to undertake these discussions in a constructive manner and looked forward to engaging with all Members in that spirit.

8.15. The representative of Norway said that Norway fully supported the joint proposal submitted by Mexico, and co-sponsored by 122 Members. Norway wished to refer to its previous statements made in this regard. Norway was ready to engage in urgently needed discussions to re-establish a fully functioning dispute settlement system as soon as possible.

8.16. The representative of Switzerland said that Switzerland wished to refer to its statements made on this matter at previous DSB meetings. A fully functional appeals stage was in everyone's interest, and Switzerland hoped that fresh impetus could be given rapidly to resolve the impasse that Members had been facing for too long. Switzerland remained ready to work towards that objective, and strongly encouraged all Members to engage constructively in seeking concrete solutions to unlock the current situation.

8.17. The representative of New Zealand said that New Zealand reiterated its support for the co-sponsored proposal and wished to refer to its previous statements made on this matter. New Zealand continued to urge all Members to constructively engage on these issues with a view to addressing this situation as a priority, in order to restore a fully functioning dispute settlement system.

8.18. The representative of Iceland said that, as one of the many co-sponsors to the AB proposal, Iceland was concerned about the long-standing lack of progress in filling the vacancies of the Appellate Body. Iceland viewed a two-step, independent and impartial WTO dispute settlement system as a key feature providing predictability and securing a fair playing field for all participants of the multilateral trading system. Iceland, therefore, called on all Members to engage constructively to solve this impasse without further delay.

8.19. The representative of Korea said that Korea wished to thank Mexico and reiterated its support for the joint AB proposal. Korea also wished to refer to its previous statements made on this issue. The WTO dispute settlement system had been a central element in providing security and predictability to the multilateral trading system, and Korea, as a firm supporter of the multilateral trading system, was ready to engage constructively in relevant discussions to find a solution to enhance the functioning of the dispute settlement system with a view to accommodating the needs of WTO Members.

8.20. The representative of Australia said that, at the end of a challenging year, it was understandable to look back. However, in Australia's view, it was critical that Members moved forward, re-doubling its efforts to engage all Members, including at the political level, to revitalise and reform the dispute settlement system. In moving forward, as others had stated, Members should harness the momentum and unity they had achieved in 2021 on this vital reform issue. That meant locking in the gains made during the Ministerial Declaration negotiations especially Members' shared commitment to addressing the challenges and concerns with the dispute settlement system within a concrete and reasonable time-frame. That also meant building on this constructive and flexible spirit to resolve any obstacles to securing a multilateral mandate for meaningful reform discussions as soon as possible in 2022. The longer the current situation remained – with a growing number of disputes unable to be finalised – the greater the cost to the Membership. Australia noted that thus far more than 20 appeals had been notified before the non-functioning Appellate Body. A clear trend was emerging, given that every panel report with substantive findings released since 10 December 2019, had been appealed into the void – although Australia greatly welcomed the news from the United States at the present meeting that it would proceed to adopt the report in DS577. Members should be empowered to find mutually agreed solutions to their disputes and if that was not possible, the exercise of their appeal rights was a course of action available to them. But a system that was not able to deliver binding resolution of disputes was not in the Members' collective interests as it impaired the rights of many Members under the WTO Agreements. And if dispute settlement reform continued to drift, serious questions would be asked about the value of existing rules that could not be enforced through the WTO adjudicatory function. Therefore, as 2022 was approaching, Australia wished to encourage Members to move forward with renewed commitment and resolve to deliver a fully and well-functioning dispute settlement system by MC13. Australia would do its utmost to help deliver this shared objective.

8.21. The representative of Singapore said that Singapore thanked Mexico for its statement which it strongly supported. Singapore wished to reiterate its previous statements made on this matter and urged all Members, including the United States, to commence constructive discussions urgently with a view to restoring a fully functioning dispute settlement system.

8.22. The representative of Malaysia said that Malaysia wished to thank Mexico for its statement, which it supported. Malaysia also wished to refer to its statements made at previous DSB meetings regarding this Agenda item and reiterated its strong support towards restoring a fully functioning dispute settlement system.

8.23. The representative of Mexico, speaking on behalf of the 122 co-sponsors, regretted that for the forty-ninth occasion, Members had still not been able to start the selection processes for the vacancies of the Appellate Body, and thus had continuously failed to fulfill their duty as Members of this Organization. The fact that a Member may have had concerns about certain aspects of the functioning of the Appellate Body could not serve as a pretext to impair and disrupt the work of this body and dispute settlement in general. There was no legal justification for the current blocking of the selection processes, which nullified and impaired the rights of many Members. As Article 17.2 of the DSU clearly stated, "vacancies shall be filled as they arise". No discussion should prevent the Appellate Body from continuing to operate fully and Members shall comply with their obligation under the DSU to fill the vacancies. Mexico noted with deep concern that by failing to act at the present meeting, the Appellate Body would continue to be unable to perform its functions against the best interest of all Members.

8.24. The representative of Mexico said that for more than two years, Members had been requesting that the joint AB proposal be adopted by the DSB so that their right to appeal could be preserved as set out in the DSU. Mexico wished to refer to its previous statements made on this matter and continued to express its deep concern as Members were faced with an unprecedented situation, namely, an inoperative Appellate Body. As Members had seen at recent DSB meetings, ongoing disputes were being affected by not having a fully functioning two-tier dispute settlement system, putting at risk the prompt compliance with the recommendations of panel reports. Mexico wished to highlight that when the Ministerial Conference were to take place this would be an opportunity to give a signal to start working on a real multilateral solution. This was an urgent matter and Mexico called on other Members who had not yet done so to join the AB proposal. Mexico remained ready to work constructively towards achieving a true multilateral solution.

8.25. The Chairman thanked all delegations for their statements and said that, as in the past, the statements would be reflected in the minutes of the present meeting. The Chairman recalled that, as Members were aware, as part of the preparatory work for MC12, a process had been led by the Chairman of the General Council with a view to resolving this matter. The Chairman hoped that Members would be able to find a solution to this issue as soon as possible.

8.26. The DSB took note of the statements.

## **9 REPORT BY THE FACILITATOR ON PROGRESS IN THE FACILITATOR-ASSISTED DISCUSSIONS IN THE DS371 DISPUTE**

9.1. The Chairman said that, as announced at the outset of the meeting, he wished to invite Ambassador George Mina of Australia, the Facilitator in the DS371 dispute, to make a report on progress in the Facilitator-assisted discussions in the DS371 dispute.

9.2. The Facilitator in the DS371 dispute, Ambassador Mina of Australia, speaking under "Other Business", recalled that in a report to the DSB, dated 31 March 2021 contained in WT/D5371/45, he had provided an update on the DS371 Facilitator-assisted discussions, in accordance with paragraph 5 of the 21 December 2020 Understanding between the Philippines and Thailand on the DS371 Facilitator-assisted discussions contained in WT/D5371/44. As part of that report, he had advised the DSB that, after consulting with the parties, it was his intention to recommend continuation the discussions up to 31 July 2021. At the DSB meeting on 26 July 2021, he had made a brief statement under "Other Business" in which he updated the DSB on the Facilitator-assisted discussions and had advised that the discussions would need to be extended beyond 31 July 2021. The Facilitator was pleased to report at the present meeting that the parties had continued to engage constructively with him and with each other in these discussions. There

had been good engagement between officials in capitals. As a result of that engagement, and pursuant to the parties' goal to complete the Facilitator-assisted process by October 2021, he had, under his own responsibility as Facilitator, forwarded a draft proposal on 29 October 2021 on the basis of which the parties had been negotiating a confidential interim arrangement through which the parties would be able to continue their dialogue on a regular basis in the new year to support and facilitate the parties' efforts to reach a comprehensive settlement of their dispute, consistent with their obligations under the Customs Valuation Agreement, the GATT 1994 and other covered agreements, as well as the recommendations and rulings of the DSB. In other words, the process was going well. The interim arrangement also provided for the possibility that the parties may notify the DSB of a mutually agreed solution under Article 3.6 of the DSU. He said that he would like to take this opportunity to thank the Secretariat: Mr John Adank, Ms Michelle Healy and Ms Bozena Mueller-Holyst, for their extraordinary assistance in supporting him as Facilitator in this dispute and the parties. They had done an enormous amount of work in this process. Through this process, it had been discovered that there were workarounds to the absence of an appeals function and that such workarounds would require good co-operation between the parties, which was clearly the evidence in this dispute. However, this was not an efficient or easy process. It had taken enormous amounts of work to engage in the processes such as this. Therefore, he wished to thank the Secretariat for its quite extraordinary support. He also wished to commend the parties for their co-operation, their commitment and their dedication to the task. He said that he looked forward to keeping the DSB updated on further progress to be made by the parties in the period ahead and commended the parties for their cooperation and commitment they had demonstrated in the process to date.

9.3. The Chairman thanked Ambassador Mina for his report on the Facilitator-led process and for his efforts towards finding a mutually satisfactory solution to this dispute. As stated by the Facilitator, a lot of work had been done towards finding a solution to this dispute. He was pleased to note the good will of both parties, as underscored by the Facilitator. Finally, he thanked the Facilitator and the Secretariat for their commitment and efforts in this process.

9.4. The DSB took note of the statements and of the report by the Facilitator on progress in the Facilitator-assisted discussions in the DS371 dispute.

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