

**Dispute Settlement Body  
30 May 2023**

**MINUTES OF MEETING**

HELD IN THE CENTRE WILLIAM RAPPARD  
ON 30 MAY 2023<sup>1</sup>

*Chairman: H.E. Mr Petter ØLBERG (Norway)*

**Prior to the adoption of the Agenda:** (i) the Chairman welcomed all delegations participating in the present meeting of the DSB both in-person and remotely. The Chairman recalled a few technical instructions regarding the virtual participation of delegations. He said that if a Member was unable to take the floor during the meeting because of a technical issue, the delegation could inform 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, like the previous Chair of the DSB, he continued to consult with each interested party on this matter and that those consultations were ongoing; and (iii) the Chairman informed delegations that on 17 May 2023, India had notified the DSB of its decision to appeal the panel report in the dispute on "India – Tariff Treatment on Certain Goods". He said that under the circumstances, pursuant to Article 16.4 of the DSU, the panel report could not be considered for adoption by the DSB until after completion of the appeal. Accordingly, he said that item 4 not be included on the Agenda of the present meeting.

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

**Table of Contents**

<b>1 SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB.....</b>	<b>2</b>
A. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States .....	3
B. United States – Section 110(5) of the US Copyright Act: Status report by the United States .....	3
C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union .....	4
D. United States – Anti-dumping and countervailing measures on large residential washers from Korea: Status report by the United States.....	4

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

E. United States – Certain methodologies and their application to anti-dumping proceedings involving China: Status report by the United States.....	5
F. Indonesia – Importation of horticultural products, animals and animal products: Status report by Indonesia.....	5
<b>2 TURKEY – CERTAIN MEASURES CONCERNING THE PRODUCTION, IMPORTATION AND MARKETING OF PHARMACEUTICAL PRODUCTS (DS583) – IMPLEMENTATION OF THE RECOMMENDATIONS OF THE AWARD OF THE ARBITRATORS – STATEMENT BY THE EUROPEAN UNION .....</b>	<b>6</b>
<b>3 EUROPEAN UNION – COUNTERVAILING AND ANTI-DUMPING DUTIES ON STAINLESS STEEL COLD-ROLLED FLAT PRODUCTS FROM INDONESIA.....</b>	<b>7</b>
A. Request for the establishment of a panel by Indonesia .....	7
<b>4 STATEMENT BY JAPAN REGARDING THE PANEL REPORT IN THE DISPUTE: "INDIA – TARIFF TREATMENT ON CERTAIN GOODS" (DS584) .....</b>	<b>8</b>
<b>5 INDIA – TARIFF TREATMENT ON CERTAIN GOODS IN THE INFORMATION AND COMMUNICATIONS TECHNOLOGY SECTOR.....</b>	<b>10</b>
A. Joint request by the Separate Customs Territory Of Taiwan, Penghu, Kinmen And Matsu and India for a decision by the DSB.....	10
<b>6 DISCUSSIONS CONCERNING DS REFORM.....</b>	<b>11</b>
<b>7 APPELLATE BODY APPOINTMENTS: PROPOSAL BY AFGHANISTAN; ANGOLA; ANTIGUA AND BARBUDA; ARGENTINA; AUSTRALIA; BANGLADESH; BENIN; PLURINATIONAL STATE OF BOLIVIA; BOTSWANA; BRAZIL; BRUNEI DARUSSALAM; 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; DOMINICA; 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; MYANMAR; NAMIBIA; NEPAL; NEW ZEALAND; NICARAGUA; NIGER; NIGERIA; NORTH MACEDONIA; NORWAY; PAKISTAN; PANAMA; PARAGUAY; PERU; THE PHILIPPINES; QATAR; RUSSIAN FEDERATION; RWANDA; SAINT KITTS AND NEVIS; SAINT LUCIA; SENEGAL; SEYCHELLES; SIERRA LEONE; SINGAPORE; SOUTH AFRICA; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; TANZANIA; THAILAND; TOGO; TUNISIA; TÜRKIYE; UGANDA; UKRAINE; UNITED KINGDOM; URUGUAY; THE BOLIVARIAN REPUBLIC OF VENEZUELA; VIET NAM; ZAMBIA AND ZIMBABWE (WT/DSB/W/609/REV.25) .....</b>	<b>19</b>

## **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.239)
- B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.214)
- C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.177)
- D. United States – Anti-dumping and countervailing measures on large residential washers from Korea: Status report by the United States (WT/DS464/17/Add.61)
- E. United States – Certain methodologies and their application to anti-dumping proceedings involving China: Status report by the United States (WT/DS471/17/Add.53)

F. Indonesia – Importation of horticultural products, animals and animal products: Status report by Indonesia (WT/DS477/21/Add.48 – WT/DS478/22/Add.48)

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 would recall, 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. He also reminded delegations that, as provided for in Rule 27 of the Rules of Procedure for DSB meetings: "Representatives should make every effort to avoid the repetition of a full debate at each meeting on any issue that has already been fully debated in the past and on which there appears to have been no change in Members' positions already on record."

**A. United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.239)**

1.2. The Chairman drew attention to document WT/DS184/15/Add.239, 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 provided a status report in this dispute on 16 May 2023, 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.

**B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.214)**

1.6. The Chairman drew attention to document WT/DS160/24/Add.214, 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 16 May 2023, 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 made at the present meeting. The European Union referred to its previous statements and said 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.177)**

1.10. The Chairman drew attention to document WT/DS291/37/Add.177, 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 recalled that the EU approval system was not covered by the DSB's recommendations and rulings. The European Union continued to propose for vote authorisations for genetically modified organisms that, in the European Food Safety Authority's risk assessment, had been concluded to be safe. On 31 March 2023, the Commission had presented to the Standing Committee three draft decisions authorising the placing on the market of GM maize<sup>2</sup> and three decisions renewing the authorization for placing on the market of GM soybeans.<sup>3</sup> The votes had resulted in "no opinion". The six draft decisions were referred to the Appeal Committee held on 11 May 2023. The votes in the Appeal Committee resulted in "no opinion" and it was now for the Commission to decide on these authorisations.

1.12. The representative of the United States thanked the European Union for its status report and its statement at the present meeting. The United States continued to engage with the European Union 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. The United States had described those problems in detail and noted its concerns with the European Union's biotech approval procedures monthly in the DSB and during the semi-annual US-EU biotech consultations, the next of which would be held in June. The United States again requested that the European Union move to issue final approvals for all products that had completed science-based risk assessments at the European Food Safety Authority, including those products that were with the Standing Committee and Appeals Committee. The United States again noted the European Union's issuance of approvals on a rolling basis and appreciated that approach.

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.61)**

1.14. The Chairman drew attention to document WT/DS464/17/Add.61, 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 16 May 2023, 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 (6 May 2019)). With that 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.

---

<sup>2</sup> GM maize MON 87429, MON 95379 and DP4114 x MON89034 x MON87411 x DAS-40278-9 and its sub-combinations.

<sup>3</sup> GM maize MON 87429, MON 95379 and DP4114 x MON89034 x MON87411 x DAS-40278-9 and its sub-combinations.

1.17. The representative of Canada said that Canada wished to reiterate its statement made under this Agenda item at the 28 April 2023 DSB meeting.

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.53)**

1.19. The Chairman drew attention to document WT/DS471/17/Add.53, 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 16 May 2023, 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 and its statement made at the present meeting. China was disappointed that nearly five years after the expiry of the reasonable period of time, the United States had still failed to implement the adopted rulings and recommendations in this dispute. China therefore once again urged the United States to honour its obligations by bringing its measures into conformity without further delay.

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

**F. Indonesia – Importation of horticultural products, animals and animal products: Status report by Indonesia (WT/DS477/21/Add.48 – WT/DS478/22/Add.48)**

1.23. The Chairman drew attention to document WT/DS477/21/Add.48 – WT/DS478/22/Add.48, 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 a status report on the implementation of the DSB's recommendations and rulings in these disputes in accordance with Article 21.6 of the DSU. Indonesia continued to affirm its commitment to implementing the recommendations and rulings of the DSB. As expressed at previous meetings, Indonesia wished to highlight substantial adjustments done to the measures at issue, namely the enforcement of Law No. 6/2023 on 31 March 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2/2022 on Job Creation, which revoked Measure 18 with regard to self-sufficiency. A number of Ministerial Regulations had also been adopted to repeal other disputed measures, such as the harvest period restriction, import realization requirement, six-months harvest requirement, reference price, and domestic purchase requirement. With regard to the Commodity Balance, Indonesia wished to further reiterate that this framework served as a tool to provide the administration with a set of comprehensive, accurate, and reliable information about production and consumption of certain commodities, through an integrated national database system. Indonesia truly believed that this framework would simplify the procedures for the approval of import applications and enhance the ease of doing business, as well as facilitate trade. Indonesia wished to reiterate its openness to work closely with New Zealand and the United States to resolve these disputes.

1.25. The representative of the United States said that the United States continued to have concerns with Indonesia's compliance with the DSB's recommendations. As the United States had expressed before, it 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; and how Indonesia expected the new commodity balance mechanism to, in its words, simplify the procedures for the approval of import applications and enhance the ease of doing business, as well as facilitate

trade. The United States would also appreciate further clarity on whether Indonesia was planning on making any adjustments to the operation of its import licensing process to ensure that the significant delays in issuing permits for the first half of 2023 were not repeated. The United States remained willing to confer and work with Indonesia to fully resolve this dispute.

1.26. The representative of New Zealand said that New Zealand thanked Indonesia for its status report, and acknowledged Indonesia's commitment to comply fully with the DSB's recommendations and rulings. Both compliance deadlines have long since expired, and New Zealand remained concerned about a number of measures. New Zealand thanked Indonesia for the additional information provided in recent meetings. New Zealand continued to assess that information and would revert with any additional questions on those and other matters. Like the United States, New Zealand would also appreciate understanding better the regulations that presently underpinned Indonesia's import licensing regimes, as well as any regulations that were forthcoming. New Zealand looked forward to further constructive engagement with Indonesia on the outstanding issues.

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

## **2 TURKEY – CERTAIN MEASURES CONCERNING THE PRODUCTION, IMPORTATION AND MARKETING OF PHARMACEUTICAL PRODUCTS (DS583) – IMPLEMENTATION OF THE RECOMMENDATIONS OF THE AWARD OF THE ARBITRATORS – STATEMENT BY THE EUROPEAN UNION**

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

2.2. The representative of the European Union said that under this Agenda item, the European Union wished to comment on the status report circulated by Türkiye in this dispute. Türkiye had claimed that the actions it described in the status report "bring it into compliance with the arbitration award". The European Union appreciated Türkiye's efforts towards implementation. However, the European Union did not agree that those actions amounted to full compliance. The European Union had several concerns, both with regard to the nature of the measures taken and with regard to their substance. While the European Union would further study the recent measures by Türkiye and assess the situation in more detail, it wished to comment on the nature of the compliance measures. Two of the actions that Türkiye had mentioned in the status report were still draft measures and had not been adopted at the time of the circulation of the status report. Türkiye had also not provided the European Union with all the drafts and had not given the European Union any indication of the timing of their entry into force. In the meantime, the Alternative Drug Reimbursement Regulation had been published in the Official Gazette and that was a welcome development. In its status report, Türkiye also referred to the December 2022 Health Industries Steering Committee Recommendation to initiate the application process for relevant pharmaceutical companies regarding the re-activation of their products in the reimbursement system and the January 2023 Health Services Pricing Committee adoption of the aforementioned recommendation as measures taken to implement the recommendations of the Panel and of the Arbitrators. Those measures had not been made public and they had not even been shared with the European Union, despite requests from the European Union for copies of such measures. In light of the above, and the need to further study the measures and to monitor their application, the European Union could not agree, at this point, that Türkiye had fully complied with the recommendations of the Arbitrators. The European Union would continue monitoring the situation and urged Türkiye to ensure full compliance. The European Union reserved its rights to take further steps under the DSU.

2.3. The representative of Türkiye said that, first, Türkiye wished to thank the European Union for its statement. Türkiye had submitted a status report on 25 April 2023 and an addendum on 19 May 2023 under Article 21.6 of the DSU, in order to inform the DSB of its progress in the implementation of the Arbitration award in this dispute. On 25 July 2022, the Arbitrators had issued their award in this dispute. On the same day, in accordance with Article 25.3 of the DSU, the Award was notified to the DSB, the Council for Trade in Goods, the Committee on Subsidies and Countervailing Measures and the Committee on Trade-Related Investment Measures. Pursuant to paragraph 15 of the Agreed Procedures for Arbitration, the Award was not adopted by the DSB. Consequently, on 18 August 2022 Türkiye had informed the DSB in writing that, pursuant to Article 21.3 of the DSU, it intended to implement the recommendations and rulings of the Arbitrators

and the Panel in this dispute in a manner that respected its WTO obligations, but that Türkiye needed a reasonable period of time to do so. Türkiye had reiterated this statement at the DSB meeting of 29 August 2022. On 10 January 2023, Türkiye and the European Union had informed the DSB (WT/DS583/17) that they had agreed, pursuant to Article 21.3 and Article 25.4 of the DSU, that the reasonable period of time for Türkiye to implement the recommendations of the Award of the Arbitrators would expire on 25 April 2023.

2.4. Since then Türkiye had taken many important steps to implement the recommendations. Particularly, the Drug Reimbursement Regulation and Alternative Drug Reimbursement Regulation were published in the Official Gazette. The Health Industries Steering Committee and Health Services Pricing Committee recommended the Social Security Institution to initiate the application process for relevant pharmaceutical companies regarding the reactivation of their products in the reimbursement system, which was already underway. Finally, the new Guideline for Working Principles and Procedures of Human Medicinal Products Priority Assessment Commission was about to be finalized. Türkiye would keep the DSB informed about the Guideline and reactivation process. On the other hand, it was worth mentioning that throughout the dispute Türkiye had always sought prompt settlement, as evidenced by the Agreed Procedures for Arbitration, and Türkiye had never tried to delay or block the proceedings. The same was true for the implementation process. Indeed, the devastating earthquake in February changed the priorities of both the Ministry of Health and Social Security Institution considerably. Moreover, the national elections in May had slowed down preparation of new legislation. Despite all those extraordinary circumstances over the past couple of months, Türkiye had continued to take decisive steps in implementing the Arbitration Award. Türkiye considered that the above-mentioned actions sufficed to clearly indicate the willingness and seriousness of Türkiye to bring its policies into compliance with the Arbitration Award.

2.5. The DSB took note of the statements.

### **3 EUROPEAN UNION – COUNTERVAILING AND ANTI-DUMPING DUTIES ON STAINLESS STEEL COLD-ROLLED FLAT PRODUCTS FROM INDONESIA**

#### **A. Request for the establishment of a panel by Indonesia (WT/DS616/2)**

3.1. The Chairman recalled that the DSB had considered this matter at its meeting on 30 May 2023 and had agreed to revert to it, should a requesting Member wish to do so. He then drew attention to the communication from Indonesia contained in document WT/DS616/2 and invited the representative of Indonesia to speak.

3.2. The representative of Indonesia said that on 24 January 2023, Indonesia had requested consultations with the European Union regarding the imposition of countervailing and anti-dumping duties on Stainless Steel Cold-Rolled Flat Products from Indonesia. Indonesia had noted that those measures appeared to be inconsistent with the obligations of the European Union under the SCM Agreement, the Anti-Dumping Agreement, and the GATT 1994. They had further nullified or impaired benefits accruing to Indonesia directly or indirectly under the covered agreements. Consultations between the parties had taken place in March 2023, but had not produced a meaningful solution to this dispute. At the previous regular DSB meeting, Indonesia had filed its first request for the establishment of a panel, but the European Union had stated that it was not ready to accept the establishment of a panel. At the present meeting, Indonesia reiterated that it was entitled to protect its national interest and urged the European Union to bring its measures into conformity with WTO Agreements. Despite the European Union's assertion that its measures were WTO-consistent, Indonesia remained firm that the measures were inconsistent with the European Union's commitments under the WTO. To that end, pursuant to Article 6.1 of the DSU, Indonesia respectfully requested the establishment of a panel at the present meeting, with the objective to examine the matter identified in Indonesia's panel request, with standard terms of reference, as set out in Article 7.1 of the DSU.

3.3. The representative of the European Union said that the European Union regretted Indonesia's decision to request a WTO panel on Countervailing and Anti-Dumping Duties on Stainless Steel Cold-Rolled Flat Products from Indonesia. Indonesia was of course entitled to bring this matter to dispute settlement in the WTO, but the European Union firmly believed that the measures at stake were fully justified. For those reasons, the European Union was confident that it would prevail in this dispute, and that its measures would be declared to be in line with WTO law. The European Union

stood ready to discuss with Indonesia reciprocal interim arrangements that would preserve the availability of appeal review in this and other disputes on the basis of Article 25 of the DSU, as long as the Appellate Body was not functioning, such as through the Multi-Party Interim Appeal Arbitration Arrangement (MPIA).

3.4. 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.

3.5. The representatives of Argentina, Brazil, Canada, China, India, Japan, Korea, the Russian Federation, Singapore, Thailand, Türkiye, Ukraine, the United Kingdom, and the United States reserved their third-party rights to participate in the Panel's proceedings.

#### **4 STATEMENT BY JAPAN REGARDING THE PANEL REPORT IN THE DISPUTE: "INDIA – TARIFF TREATMENT ON CERTAIN GOODS" (DS584)**

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

4.2. The representative of Japan said that, first of all, Japan noted that it had been a huge challenge to handle the panel proceedings amid the Covid-19 pandemic while seeking to secure prompt settlement of this case, "India – Tariffs on ICT Goods (DS584)". Japan understood that the issuance of the final panel report would not have been possible without the joint efforts of all the actors concerned. Especially, Japan wished to sincerely thank the panelists and the WTO Secretariat for their dedication. Japan also wished to extend its gratitude to the third parties for their contributions in this case. This dispute was about India's raising of its customs duties on certain products in the information and communications technology (ICT) sector since 2014, in excess of the bound rates set forth in its Schedules of Concessions and Commitments annexed to the GATT 1994. The panel had appropriately concluded that India's measures were inconsistent with Articles II:1(a) and (b) of the GATT 1994. The panel had also rejected India's rebuttals including those on the relationship between WTO Schedules and the Information Technology Agreement, invocation of "error" under Article 48 of the Vienna Convention on the Law of Treaties, and relevance of the "1980 Procedures" to this case. Japan welcomed those findings. Compliance with the obligations laid down in each Member's Schedules was a cornerstone of the rules-based multilateral trading system. Japan considered that the panel's findings substantially contributed to ensuring the stability and predictability of the WTO tariff concessions, which led to resilience in the rule of law in the field of international trade. Japan also welcomed the panel's recommendations addressed to India to bring its measures into conformity with its obligations under Articles II:1(a) and (b) of the GATT 1994. In this regard, Japan expressed its disappointment at India's decision to appeal the panel report to the currently non-functioning Appellate Body and to send it into the void despite the clear and reasoned assessment of this case by the panel. Japan disagreed with all of India's allegations of errors of law and legal interpretation in the panel report. Japan considered that the only consequence of India's decision was to delay the implementation of the recommendations based on objective and reasonable findings by the panel. It was contrary to the bedrock principle in the DSU of prompt compliance with recommendations and the prompt settlement of disputes. Japan believed that it was Members' duty to make every effort and demonstrate flexibility to achieve prompt settlement of the dispute in the current situation, including by arbitration under Article 25 of the DSU, as appropriate. Japan strongly hoped that India would rescind its decision and take appropriate steps to promptly comply with the panel's recommendations.

4.3. The representative of India said that India thanked Japan for its statement, and also thanked the panelists, Secretariat, and parties for the smooth conduct of the proceedings of this panel, in spite of the challenging circumstances of the pandemic. India was in receipt of the communication to the DSB dated 16 May 2023 by Japan in the dispute DS584. In response, on 17 May 2023, India had filed a notice of appeal and detailed appellant submissions, as required by the relevant provisions of Rule 20 of the Working Procedures for Appellate Review. In its submissions, India had made detailed arguments on the errors of law and legal interpretations by the panel in its report. India hoped that the early restoration of the Appellate Body would soon enable the review and correction of those errors and the expeditious resolution of this dispute. India reiterated its willingness to engage in bilateral discussions with Japan on a mutually acceptable way forward.



4.4. The representative of the United States said that for years, the United States, along with other Members, had been raising concerns with India's tariff treatment of certain information and communications technology (ICT) goods across multiple WTO Committees. The United States also had raised its concerns bilaterally. India's tariffs not only imposed an unfair financial burden on foreign firms, but they also limited access for Indian consumers and firms to important high-tech products. The United States had participated in these proceedings as a third party and welcomed the findings in the panel report. The panel found that India imposed tariffs on a number of ICT products in excess of its WTO commitments. The panel report represented a strong affirmation of key commitments that Members had undertaken in their WTO Schedules reflecting their participation in the WTO Information Technology Agreement. Further, the panel report affirmed that the product coverage of a tariff concession was not circumscribed by the state of technology at the time the concession was made. Tariff concessions were defined by the ordinary meaning of the concession, in context, and in light of the object and purpose of the GATT 1994. The United States encouraged India to address long-standing concerns on its tariff treatment for ICT products and to work with the United States and other trading partners to enhance trade and resilience in these products.

4.5. The representative of the European Union said that the European Union acknowledged and welcomed the findings and recommendations of the panel in this case, which were very clear. The European Union also took note that the panel report had been appealed by India, but that this appeal could not presently be heard by the Appellate Body, given that it could not function. An appeal was a right under the DSU, but its exercise amounted to effectively blocking this dispute in the current circumstances, unless the parties were ready to find an arrangement that allowed the appeal to be heard, such as through appeal arbitration procedures. That was why the European Union encouraged all parties to find a solution that preserved the rights of both the complainant and the respondent under the DSU, such as the MPIA. The European Union reserved its rights in its own dispute (DS582).

4.6. The representative of Japan said that Japan wished to react to India's statement. Japan first noted India's statement on its allegation of errors of law and legal interpretations in the panel report. As expressed in its previous statements, Japan disagreed with all of them. The panel clearly rejected India's rebuttal and made objective and reasonable findings that India's measures at issue were inconsistent with its obligations under Articles II:1(a) and (b) of the GATT 1994. Thus, Japan did not repeat its position, which was described in detail in the panel report, but once again expressed its strong hope that India would rescind its decision to appeal the panel report and take appropriate steps to promptly comply with the panel's recommendations. Second, Japan noted that India's statements had mentioned that India had proposed a mutually agreed solution. Japan wished to clarify that, as India had mentioned, India had proposed a bilateral discussion. However, India had never provided any concrete proposal to address the WTO inconsistency of the subject measures and resolve the case by mutually agreed solutions. Again, despite a consistent and good faith approach to achieve the prompt settlement of the dispute in a practical and feasible manner, Japan expressed its disappointment at India's decision to appeal the panel report to the currently non-functioning Appellate Body. Finally, Japan believed that the fact that Japan had put the matter on the Agenda for this DSB meeting did not close the door for further consultations with India to resolve this dispute, and Japan expressed its strong hope that India would rescind its decision to appeal the panel report and take appropriate steps for that purpose.

4.7. The representative of the Russian Federation said that as a result of the blockage of the Appellate Body appointments process, Members had witnessed again another example of an appeal into the "void". The Russian Federation reiterated its concern about the situation, where the number of appeals addressed to the Appellate Body was rising, while the problem of Appellate Body appointments was not yet fixed. The consequence of that status quo was that disputes were left unresolved. The Russian Federation wished to highlight that such a situation threatened the effectiveness of the dispute settlement mechanism and inevitably undermined confidence in the WTO.

4.8. The representative of China said that China wished to start by thanking the panelists and the Secretariat for preparing and circulating the panel report in spite of the challenges brought by the pandemic. As a third party with a substantial interest in the tariff measures in this dispute, China welcomed the findings of the panel report and urged the responding party to faithfully adjust its inconsistent measures in line with the rulings and recommendations of the panel report. China also wished to express its serious concerns on the blockage of the Appellate Body, which had now left 31 panel reports, including the one under consideration, in limbo. China strongly urged the early

restoration of the two-tier dispute settlement system and called for more Members to join the MPIA as an interim arrangement to maintain appeal rights during the absence of a functioning Appellate Body.

4.9. The representative of Canada said that Canada took the opportunity to address systemic considerations pertaining to India's appeal of this panel report. Canada noted that since 11 December 2019 the Appellate Body had effectively been non-functioning. Canada noted that this was India's fourth appeal into the void since that date. Article 3.10 of the DSU provided that, when a dispute arose, Members would engage in dispute settlement procedures in good faith and in an effort to resolve the dispute. The inability of the Appellate Body to carry out its appellate review responsibilities had undermined the established process under the DSU for dispute settlement. But the obligation in Article 3.10 to make good faith efforts to resolve the dispute still stood. No Member should seek to take unfair advantage of the current impasse. In the context of specific disputes, options existed to allow for completion of procedures as envisioned in the DSU. In particular, parties to the dispute may agree to use procedures such as those set out in Annex 1 of the MPIA to supplement the appeal process. Canada believed that it was essential that all parties to the dispute fulfilled their good faith commitment under Article 3.10 of the DSU by making every effort to find an acceptable solution. In the long run, no Member would benefit from a situation where disputes remained unresolved. A Member acting in good faith should find no comfort in an unfair - and short-term - advantage that has arisen because of the absence of a functioning Appellate Body. Canada reiterated its invitation to India to consider joining the MPIA in order to safeguard binding dispute settlement with access to appellate review in disputes with other MPIA participants.

4.10. The representative of India said that its comments were restricted to aspects related to India exercising its right to appeal. India wished to draw attention to its long-standing and principled position on the Appellate Body crisis and the implications of interim arbitration arrangements. India reiterated its position that such interim agreements undermined the right of countries to appeal to a permanent standing body, which was fundamental to the multilateral trading system. India noted that several other Members had appealed into the void during that period. India repeated its hope that the Appellate Body crisis be resolved at the earliest so that pending disputes, including those related to India, could be resolved at the earliest.

4.11. The DSB took note of the statements.

## **5 INDIA – TARIFF TREATMENT ON CERTAIN GOODS IN THE INFORMATION AND COMMUNICATIONS TECHNOLOGY SECTOR**

### **A. Joint request by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and India for a decision by the DSB (WT/DS588/12)**

5.1. The Chairman drew attention to the joint communication from Chinese Taipei and India contained in document WT/DS588/12 and invited the representative of Chinese Taipei to speak.

5.2. The representative of Chinese Taipei said that Chinese Taipei and India had jointly requested the DSB to provide additional time for the adoption or appeal of the Panel Report in this dispute by adopting the draft decision circulated to WTO Members in document WT/DS588/12. Chinese Taipei and India shared a common understanding that a positive resolution to the dispute was desirable. To that end, they had agreed to continue the discussion to reach a constructive outcome, during the period specified in the joint request. Chinese Taipei would appreciate the DSB's support for the draft decision as set out in WT/DS588/12.

5.3. The representative of India said that India thanked the delegation of Chinese Taipei for its statement. As previously mentioned, India and Chinese Taipei had jointly requested that the DSB agree to provide additional time for the adoption or appeal of the Panel Report in this dispute, by adopting the draft decision circulated to Members in WT/DS588/12. India welcomed the engagement on this issue towards finding a way forward. This draft decision would facilitate the continued engagement and possible resolution of this issue, and India would appreciate the support of the DSB for the proposed draft decision.

5.4. The representative of the United States said that the United States welcomed the efforts of Chinese Taipei and India to continue their engagement in this dispute. The United States supported efforts to continue dialogue with the aim of achieving a mutually agreed solution. The United States took note of the draft decision circulated in document WT/DS588/12. The United States understood that the parties sought to preserve their existing rights with respect to the panel report under the DSU to enable time for further consultation. The DSB through the operative language in the draft decision would agree to consider the panel report, if proposed by a party for adoption in the future, under the negative consensus decision rule, unless either party were to appeal the panel report first. On that basis, the United States could support the parties' efforts and join a consensus to adopt the draft decision.

5.5. The DSB took note of the statements.

5.6. The Chairman proposed that: "the DSB agree that, upon a request by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu or India, the DSB shall no later than 19 September 2023 adopt the panel report in the dispute *India – Tariff Treatment on Certain Goods in the Information and Communications Technology Sector*, contained in document WT/DS588/R, unless: (i) the DSB decides by consensus not to do so; or (ii) either party to the dispute notifies the DSB of its decision to appeal pursuant to Article 16.4 of the DSU. Any such adoption or appeal of the panel report would be deemed to have occurred within the 60-day time-period specified in Article 16.4 of the DSU".

5.7. The DSB so agreed.

## **6 DISCUSSIONS CONCERNING DS REFORM**

6.1. The Chairman said that under this Agenda item he wished to refer to informal discussions on DS reform, which he understood were currently ongoing amongst delegations at the technical level. He recalled that this matter was on the Agenda of the March DSB meeting in order to allow the representative of Guatemala, Mr. Marco Tulio Molina, who convened these informal discussions on DS reform to report on this matter and provide transparency. The Chairman invited the representative of Guatemala to make a statement.

6.2. The representative of Guatemala, Mr. Marco Tulio Molina, made the following statement:

"Let me start by thanking you, Mr Chairman, for providing an opportunity for Members to share the work that is being undertaken on dispute settlement reform. Next, I would like to note that my statements regarding the informal process on dispute settlement reform are being made in my personal capacity and under my own responsibility. Therefore, the views expressed under this agenda item are my own and do not necessarily reflect the positions of the Government of Guatemala, unless I explicitly indicate otherwise. Mr Chairman, since my last report on 31 March 2023, delegates, who are experts on dispute settlement, have met under an intense programme of meetings to have substance-based and highly technical discussions with a view to finding practical solutions to the concerns and interests identified by Members. The objective of this work programme is to make a meaningful and substantive contribution to the fulfilment of the mandate that we received from Ministers in June 2023 to – and I quote – 'conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024'. End of quote.<sup>4</sup> Furthermore, since my last report, and during the months of April and May, I have convened a total of 57 meetings as follows: 12 plenary sessions; 6 follow-up thematic meetings; 6 small-group meetings; 2 information sessions; as well as 31 bilateral meetings with individual delegations and regional groups. In addition to these meetings, I am aware that delegates are meeting among themselves every week, in different configurations. These two months have been very intense. I would like to commend my colleagues for their commitment, proactive engagement, and shared sense of responsibility. Your 'can do' attitude and openness to discuss diverging views truly makes a difference. This process belongs to all of you. It is a unique opportunity to

---

<sup>4</sup> Paragraph 4 of the Outcome Document of the 12<sup>th</sup> Ministerial Conference (WT/MIN(22)/24 and WT/L/1135).

make a meaningful contribution to multilateralism. Mr Chairman, the methodology set in motion for this informal process, in combination with the delegates' efforts and engagement, are starting to produce results. As you might recall, on 31 March, I indicated that Members had submitted 70 initial proposals, which were catalogued in a 'red table'. Today, I am pleased to report that we have moved from the 'red tables' to the 'yellow tables' on all topics. The yellow tables contain more refined and elaborated proposed solutions for the issues identified by Members, narrowing down the options available for consideration by Members. As a matter of fact, the last two months of discussions and exchanges have allowed us to improve our understanding of the interests and concerns of everyone. Furthermore, we have been using our creativity to find practical solutions to address those interests and concerns. I am also pleased to observe that we all have changed our mindsets in these conversations: we do not see the proposals anymore as set positions or redlines but, rather, we make every effort to understand the rationale, the interests and/or concerns behind each proposal with a view to finding innovative ways to reconcile diverging views. We also privilege evidence and facts-based conversations. Delegates frequently share experiences and information to enable all of us to make informed decisions. As indicated earlier, I have convened two information sessions: the first one, to discuss technical assistance and legal advice provided by the WTO Secretariat and the Advisory Centre on WTO Law (ACWL); and the second one, to discuss the specific support that the WTO Secretariat provides to Members and dispute settlement panels. In those sessions, senior staff members from the WTO Secretariat and the ACWL presented the range of technical assistance and legal advice made available to eligible Members and Observers; and delegates had the opportunity to pose questions directly. These two information sessions were extremely useful. I would like to express my sincere gratitude and appreciation to DDG Angela Ellard; Ms Bridget Chilala, Director of the Institute for Training and Technical Cooperation (ITTC); Ms Clarisse Morgan, Director of the Rules Division; Ms Susan Hainsworth, Counsellor at the Legal Affairs Division; Mr Jorge Castro, Chief of the Course Design and Training Section at the ITTC; Mr Willie Chatsika, Head of the Desk for English-speaking Africa at the ITTC; and, last but not least, Mr Niall Meagher, Executive Director of the ACWL, for their kind and effective assistance during the information sessions. Now, let me turn to the discussion on the next steps in this informal process. As you can see, we are making progress at a steady pace. We have moved from the red to the yellow tables. We are starting to identify practical solutions that could be good candidates to include in the forthcoming green tables, which will be the basis for the drafting exercise that will take place after the Summer break. However, we cannot be complacent. And we need to keep the pace. The intense work programme will continue in June and July: First, we need to focus on certain issues that require further work and we are running out of time. I am committed to doing everything in my power to continue moving this process forward. I will start convening a series of bilateral meetings with individual delegations and regional groups, in addition to the meetings already scheduled for June and July. The objective of these bilateral meetings is to identify the solutions that will, most likely, be catalogued in our green tables. Of course, and as we have already been doing over the past two months, all decisions will be taken in plenary sessions. I would like to thank all delegations for their cooperation and positive response in advance of our work in the next 8 weeks. Moreover, let me reiterate that I am personally aware of the limitations of small delegations to attend all meetings. As far as possible, I try to avoid scheduling conflicts and I seek to accommodate the requests that I receive from delegations. I am grateful for the understanding and collaboration of delegates, particularly when we need to reach a difficult balance between accommodating requests and the evident time limitations to restore the dispute settlement function of the WTO – the top priority identified by our Ministers. I am always ready to meet delegates bilaterally to brief them and hear their views. I will continue to make every effort to ensure that all delegates receive all information; that they understand the content of our discussions; and that they have meaningful opportunities to express their views. Second, we need to be mindful that we need to take important decisions early in this process, particularly, with respect to the solutions that we will catalogue in our green tables. As indicated earlier, the green tables will be the basis for the drafting exercise that will start in September. We must ensure that all solutions are coherent and consistent throughout the whole dispute settlement process. These solutions need to be thought through and reviewed in their entirety to ensure a

fully functioning dispute settlement system. Let me be clear, there is no space for errors. We cannot risk taking improvised decisions very late in the process, and much less during the Ministerial Conference in February 2024. With this in mind, I would like to ask all experts in dispute settlement to continue communicating with your respective Capitals; and I would like to ask Capitals to empower their delegates in Geneva to participate meaningfully and agree on the set of solutions that we are working on. Third, I would like to recall that the tables are confidential and should not be shared with the public. The tables, in the hands of outsiders without the background and context information resulting from the meetings, do not make justice to the process that we are undertaking. The tables contain proposed practical solutions that are 'work in progress' and do not reflect the whole content of our conversations, our understandings, and the potential avenues to converge in the direction of solutions that satisfy the interests of Members. Therefore, looking only at the content of the tables without any background information is a recipe to create anxiety and unnecessary pressure on dispute settlement delegates. Finally, let me conclude my statement with one observation to calibrate adequately our expectations. Many have asked me whether we are going to reach an agreement by the 13<sup>th</sup> Ministerial Conference. My answer is the same for everyone: I sincerely hope so, but I do not have a crystal ball and I am not going to speculate about any potential outcome because the result depends on all of us. What we do have is a clear mandate from our Ministers and we have a limited amount of time to deliver 'a fully and well-functioning dispute settlement system'. We are making steady progress and I am confident that we have the necessary ingredients to deliver an outcome that is satisfactory to all Members: we are having conversations based on interests and not on positions; experts on dispute settlement are engaged and committed to work hard and in good faith; we have a platform to discuss, exchange information and understand the views of everyone; and we have unlimited creativity to seek practical solutions that work for all Members. As anticipated in my previous report, it will not be easy. However, I am confident that with the right approach, we can deliver. Remember, May showers bring June flowers. Thank you, Mr Chairman".

6.3. The representative of India said that India wished to refer to its statement made at the DSB meeting on 31 March 2023. India reiterated that the present "informal process" on dispute settlement was not a multilateral, member-driven, consensus-based process that belonged to all Members. It was the continuation in the third phase of the US-initiated and US-driven informal discussions, which had been initiated almost a year prior. Coming to the process itself – when this "informal" process was initiated, India and other delegations had raised concerns about the proposed method of work. Members had been asked to give this process a chance, and India had done so, in good faith. In that spirit, at the DSB meeting held on 31 March 2023, India had pointed out its concerns with reporting on this informal process at the DSB. India had suggested that there were several ways to ensure a balance of informality and transparency, such as through informal transparency meetings. Unfortunately, since then, there had been no attempt to engage on or resolve the concerns with these reporting issues, despite the systemic implications of such reporting. India had participated actively in the latest phase of discussions, as it did in the previous two phases. Unfortunately, India had found that the methods of work that had been adopted thus far in this phase were working against the full and effective participation of developing countries and LDCs. The WTO dispute settlement system as envisaged under the Marrakesh Agreement was a fundamental part of the package that developing countries had agreed to. Currently, Members were witnessing an "informal process" in which fundamental changes were being proposed to the system. They were being proposed and discussed, and convergences were being reached, in a process that was not WTO-mandated or consensus based. The methods of work and the pace of work adopted in this process were acting as barriers for effective participation of developing and least-developed countries.

6.4. For instance, India noted that the next round of plenary meetings was scheduled for 7-9 June 2023. The schedule of those informal plenary meetings conflicted entirely with the formal, WTO-mandated fish negotiations. This meant that a large number of delegates from resource-constrained delegations would not be able to attend the decision-making plenary meetings, which would discuss issues such as panel composition, appeal mechanism, and Secretariat support. This was in addition to the fact that the multiple layers of meetings – small group meetings, follow up meetings, presentations – made it very difficult for developing and least developing countries to effectively and meaningfully participate in and report on the whole process. The process was being

conducted in a manner which facilitated the active and consistent engagement of only a limited number of delegations. India's continued participation in that process reflected the importance that it attached to this issue and its commitment to remain engaged in the process in spite of its serious concerns. India hoped that going forward there would be changes made that would enhance inclusivity and enable the full, effective, and equal participation of all Members.

6.5. The representative of South Africa thanked Guatemala for the update on the dispute settlement reform discussions that were currently taking place. South Africa welcomed the informal dispute settlement discussions, as this could be an opportunity to advance towards a fully functioning dispute settlement system and to address long-standing developing country concerns, while re-envisioning the dispute settlement system to effectively serve all Members' interests. South Africa had participated actively in the discussions and was committed to engaging openly and constructively in the discussions. That said, South Africa would be remiss not to raise concerns with the process. Those concerns were interlinked and spoke to the scheduling, frequency, and pace of the meetings. The schedule and frequency were quite ambitious and had posed a challenge for developing countries, not only because of their small delegations but also because of the meeting clashes that had been created, and which continued to be created. The Facilitator's report at the present meeting – that he had facilitated 57 meetings to date – spoke to the fast pace of the discussions. Concerns regarding scheduling, frequency, and pace of meetings had been raised on various occasions within the discussions, but continued to persist. Clashes in meetings created a challenge for small delegations as they were thinly spread, covering a wide scope of issues. Meeting clashes also had the effect of excluding small delegations in engaging and participating actively and effectively, which ran counter to the principle of inclusivity. South Africa urged that consideration and sensitivity be given to small delegations and suggested that major clashes in meetings be avoided. It was important that any informal discussions did not clash with formal WTO meetings. South Africa would continue to engage actively and constructively in the process and hoped that in the end Members would be able to find a lasting solution to the dispute settlement process.

6.6. The representative of Indonesia said that Indonesia thanked Guatemala for the progress report on the informal dispute settlement reform discussion. Indonesia continued to believe that the ongoing issues surrounding the WTO dispute settlement system would bring adverse impacts to the effectiveness and credibility of the rules-based multilateral trading system. Thus, Indonesia shared the view with others that restoring a fully functioning two-tier dispute settlement system was a common effort and remained a priority for all. While Indonesia was one of the Members who wanted the discussion to move to text-based negotiations as soon as possible, Indonesia also believed that the end should not justify the means, in that rushing for an agreement of a proposal was not the best way to obtain a meaningful and inclusive result. Indonesia's capital was presently reviewing the updated proposals. With regard to "inclusivity", Indonesia regretted that, once more, the schedule for the DS reform discussions clashed with the "Fish Week". While it was true that the Fish Week schedule was released after the DS reform schedule, and that Members should have paid more attention, speaking as a delegate who followed four negotiating issues outside the regular ones, it had proved quite challenging to do so. The clash was even more concerning as it concerned the plenary meeting and Mr. Molina had mentioned previously that all decision-making would be taken in such plenary meetings. Therefore, it was Indonesia's hope that the process for the next discussion after the summer break would be more inclusive and would pay more attention to small delegations' limited capacity. On that note, Indonesia wished to suggest that the next phase after the summer break could be undertaken in a hybrid mode, ensuring full participation from all delegates – Geneva and capital alike. In closing, Indonesia also wished to reiterate its commitment to actively and constructively contribute to the ongoing work to implement that commitment.

6.7. The representative of Nigeria, speaking on behalf of the African Group, said that the African Group wished to reiterate its previous statement made under this Agenda item in March 2023. The African Group thanked Mr. Marco Molina of Guatemala for providing updates on the DS reform discussions. The African Group believed that the discussions in the informal process had been positive. However, the African Group was of the view that the ongoing informal process could be improved. The African Group encouraged that the Member-driven nature of this process be safeguarded, as transparency in every aspect of this stage would encourage trust-building, stimulate participation, and guarantee inclusiveness. This was key to any consensus building. The African Group would therefore encourage that the various meetings in small groups and plenary formats be opened for remote participation of Members, so as to fulfil the requirements of transparency and inclusiveness in the WTO by enabling wider participation of small developing country Members.

Regarding the calendar of meetings, the African Group had taken note, with disappointment, that the DS reform meetings clashed with formal Committees' meetings, in particular the upcoming Fish Week meetings, and this had posed a challenge for small delegations intending to effectively participate in the discussions. The African Group called for adequate coordination among chairs of formal committees with the DS reform facilitator to prevent future clashes of this magnitude. As regards the pace of the ongoing work, the African Group was mindful that Members needed to take decisions as soon as possible. However, Members could not ignore the challenges of small delegations in effectively participating in the process. The African Group also failed to see the value of separating proposals with some colouring methods. The African Group had raised this issue severally, as it would potentially jeopardise the spirit of collaboration that had underlined this informal process from the beginning. It was crucial to emphasise the importance of formalising and multilateralizing the DS reform discussions to fulfil the mandate in Paragraph 4 of the Outcome Document. This would enhance transparency and inclusiveness of the process, as well as foster a more collaborative and constructive approach towards reforming the mechanism. Finally, the African Group assured of its continuous constructive engagement in this process going forward.

6.8. The representative of Malaysia said that Malaysia thanked Mr. Marco Molina of Guatemala for his update on the current informal discussions with regard to the DS reform work among the technical experts. While Malaysia hoped that that work would contribute towards a fully and well-functioning dispute settlement system accessible to all Members by 2024, as mandated by Ministers at MC12, Malaysia wished to reiterate its support for finding solutions with a view to restoring the fully functioning dispute settlement system, in particular the two-tier dispute settlement system, which had to be ensured to remain as the central pillar of this institution. As work had been ongoing intensely and rapidly, Malaysia wished to highlight the constraints that some Members, particularly small delegations like Malaysia, were facing. Due to conflicting schedules with other multilateral meetings such as the upcoming Fish Week, small delegations like Malaysia might not be able to attend the plenary sessions of the DS reform work. As such, Malaysia would request that the challenges faced by such Members were also taken into consideration when scheduling these sessions. That would ensure that all Members would be represented and participate effectively at those plenary sessions, where "decisions" were being undertaken.

6.9. The representative of Bangladesh said that under this Agenda item, Bangladesh wished to thank Mr. Marco Molina for his work and to take note of his detailed report. Bangladesh referred to its previous statement made on this matter on 31 March 2023.

6.10. The representative of Canada said that Canada wished to take this opportunity to sincerely thank Mr. Marco Molina for his personal efforts to organize and structure the informal meetings on dispute settlement reform. Canada noted that all WTO Members were able to attend and participate in the meetings held as part of those discussions. The ambitious pace of the meetings was directly proportional to the urgency of the task at hand. Members had to do everything in their power to achieve the goal that their Ministers had set at the 12<sup>th</sup> Ministerial Conference. Canada considered that the process had been set up in a clear, transparent and inclusive way. Canada appreciated the additional efforts made by Mr. Molina to provide WTO Members with regular updates through a variety of means. Canada understood the challenges facing several Members given the pace of the discussions. Canada welcomed the level of commitment shown by WTO Members in this process, and Canada would continue to engage proactively. Having a fully and well-functioning dispute settlement system that was accessible to all Members by 2024 was of the utmost importance. Members had to make progress in this direction. It was truly in the interest of all Members to do so.

6.11. The representative of the Russian Federation said that the Russian Federation took note of Mr. Molina's report regarding the informal ongoing discussions, which touched upon certain aspects of dispute settlement reform. While the Russian Federation was participating in such discussions, and was ready to constructively engage in those discussions further, it reiterated its concern that the current discussions had not been formalised and therefore, being an informal process of a limited number of participants, was not in a position to produce a consensus-based result. The Russian Federation had consistently supported the idea to start discussions on dispute settlement reform in a formal mode, as agreed by WTO Members at MC12. That was the only process that could bring Members to a meaningful result supported by every Member. Such a formal process could serve as a guarantee of transparency and inclusivity. Russia called upon all Members to launch such a process, as agreed at MC12, in order to urgently restore a fully functioning dispute settlement system.

6.12. The representative of Brazil said that Brazil wished to sincerely thank Mr. Molina for the information he had shared with Members at the present meeting and for his indefatigable work assisting Members to find a path toward resolving this impasse. Overall, Brazil continued to be very pleased with the level of engagement shown by delegations, and with the depth of the debate that had been taking place so far. Brazil believed this had been possible because the informal process had been designed to strike a good balance: it enabled substantive, frank, in-depth discussions, while at the same time it ensured that all Members could participate, and safeguarded full transparency throughout the process. At MC12, Ministers had recognized "the importance and urgency" of addressing challenges and concerns with respect to the dispute settlement system, and had committed "to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024". This was no small task, and it was an urgent one. Brazil looked forward to continued engagement with all Members as they prepared the ground for text-based negotiations that might take them to the goal established by their Ministers.

6.13. The representative of Türkiye said that, first, Türkiye wished to thank Mr. Molina for his much appreciated efforts and successful administration of the third phase of the DS reform process. At the outset, Türkiye wished to record its expectation that significant progress could be made in the course of the DS reform negotiations. For this to happen, substantial progress was required to be made within a certain timetable in order to fulfil the reform promises. Within the context of the DS reform process, the fundamental aim of Türkiye was to maintain the two-tier multilateral independent dispute settlement system and create the conditions which would enable the Appellate Body to become fully functional again. In order to expedite significant advancement in terms of the reform efforts, Türkiye envisaged that the informal meetings should soon be formalized, preferably under the leadership of the DSB, and that this reporting process concerning DS reform should be on the Agenda of upcoming meetings as well.

6.14. The representative of China said that, like others, China wished to express its sincere appreciation to Mr. Marco Molina for his update at the present meeting, as well as his devotion, coordination, and contribution to this endeavour. China also wished to thank the WTO Secretariat and ACWL for their informative presentations and detailed explanations, which had proven to be very useful. Since the commencement of phase three discussions earlier in 2023, China had witnessed a sense of urgency and spirits of constructiveness and pragmatism, and had also detected certain room for agreement on some less controversial topics. Nevertheless, as Mr. Molina had mentioned, there was no time for complacency. There were also quite a few serious challenges ahead of Members, in particular on some fundamental issues which were of paramount importance to the interests of the vast majority of Members in this Organization. DS reform was widely regarded as a bellwether to the success of MC13 and the creditability of the multilateral trading system. In spite of positive momentum, Members had to always remind themselves that time was not on their side, since they only had less than nine months before MC13. To fulfil the mandate given by Ministers, Members had no choice but to spare no efforts in the coming months to continue frank and solution-oriented discussions, and narrow down the options for addressing various concerns of Members, ideally before the summer break, as expected. It was also important to have more clarity, through their joint efforts on the path forward, with regard to the issues of systemic implications, notwithstanding entrenched positions at the present stage. China would work constructively with all Members with a view to having a fully and well-functioning dispute settlement mechanism accessible to all Members by 2024.

6.15. The representative of the European Union said that the European Union appreciated the opportunity to address, in the DSB, the ongoing discussions on dispute settlement reform. For the European Union, a well and fully functioning dispute settlement system in the WTO was a key priority. The European Union agreed that a meaningful reform was needed in order to achieve that objective. The European Union supported a reform that preserved the core features of the dispute settlement system. The European Union treated very seriously the commitment made at MC12 "to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024". It was with that objective in mind, and in a constructive spirit, that the European Union had been engaging in the discussions on dispute settlement reform for more than a year. The European Union thanked Mr. Marco Molina for the explanations provided at the present meeting, and for his continuous engagement. While the work was challenging, the European Union fully supported the ambitious schedule for the discussions, as set out by Mr. Molina. If Members were to have a fully functioning dispute settlement system "by 2024", those discussions had to pave the way for agreement on dispute settlement reform at MC13. Finally, the European



Union wished to underscore that those discussions, pursuant to the MC12 outcome document, were open to all Members, and the European Union indeed appreciated the efforts to ensure that the process was transparent and inclusive. The European Union valued the broad participation in the meetings which contributed to the quality of the exchanges, and enhanced the understanding of the positions of Members on particular issues. The European Union also welcomed the reporting to the DSB, as was the case at the present meeting, which enhanced the transparency and accountability of the process.

6.16. The representative of New Zealand said that New Zealand welcomed the further report this morning on the informal process on dispute settlement that was underway. New Zealand again wished to thank Mr. Marco Molina for his considerable personal efforts in helping to organize Members in those discussions. New Zealand continued to support the open and inclusive nature of the process, which was generating a number of useful ideas for improving the effectiveness, efficiency, and accessibility of the dispute settlement system. New Zealand looked forward to the continued constructive engagement of all Members in order to advance this important work in line with the direction of Ministers at MC12.

6.17. The representative of Japan said that Japan appreciated Mr. Marco Molina's comprehensive report on the process. Japan also appreciated his effective facilitation of the current Member-driven discussions under his dedicated efforts. Japan supported the proposed schedule of: (i) concluding the discussions before the summer break; and (ii) initiating the text-based discussions after the summer break. Japan also agreed on the suggestion to maintain the pace of discussions, considering the timeframe, importance, and urgent nature of the DS reform discussions. Further, Japan welcomed the transparency and inclusiveness of the process with respect to all Members, and the participation by many Members, including developing countries. Japan believed that this modality made for a good forum to achieve consensus among Members, although the current discussions were still in an informal mode. To achieve the commitment agreed at MC12, Japan would continue to work actively and constructively with all WTO Members.

6.18. The representative of Norway said that Norway wished to join previous speakers in thanking Mr. Molina for his personal efforts in organising and structuring the series of informal discussions on dispute settlement reform, which no doubt required great personal sacrifice on his part. Norway welcomed his second report made at the present meeting on the progress of the ongoing discussions. Norway also welcomed the inclusive and transparent spirits with which meetings had been organised, including the high degree of flexibility for delegations. For smaller delegations like Norway it was especially valuable that Mr. Molina had arranged for regular updates on the progress in DS discussions. Ensuring a fully and well-functioning dispute settlement system accessible to all Members was a top priority also for Norway, and Members had to do their utmost to deliver on the commitments made at MC12.

6.19. The representative of Australia said that Australia welcomed the ongoing informal dispute settlement reform discussions. Australia also wished to join other Members in thanking Mr. Molina for his instrumental work in continuing to facilitate the informal process and for his report at the present meeting. Australia had found the current phase to be open, inclusive, transparent, and Member-driven. A very large number of Members were engaging constructively in the discussions and, as Mr. Molina had stated, they were making real progress towards their goal of delivering a fully functional dispute settlement system accessible to all Members by 2024. Australia acknowledged the concerns raised about the timetable and agreed that it was ambitious, but Members had to remember the urgency of the task. Members' priority should be to continue working together to narrow the issues for discussion and to set themselves up for text-based negotiations later in 2023.

6.20. The representative of Korea said that Korea wished to echo others and welcome the report by Mr. Marco Molina. Korea expressed its sincere appreciation for his personal efforts and the additional burden he had taken on in organizing the informal meetings in his own personal capacity. Korea also appreciated presentations by the Secretariat, which Korea had found very helpful. Korea noted that this process was open, transparent, and inclusive to all Members, and thanked all Members for their participation and proactive engagement. While Korea recognized that the pace of discussions was fairly swift, Korea believed that this was imperative to deliver on the mandate of paragraph 4 of the MC12 Outcome Document. Korea also recognized that Marco had been providing comprehensive reports which accurately reflected substantial discussions, and he had been conducting bilateral

meetings for those who could not participate in person. Korea looked forward to the continued engagement of all parties and would also contribute constructively to this process.

6.21. The representative of Cambodia said that with respect to this Agenda item, Cambodia wished to join other Members to thank Mr. Marco Molina for his briefing and update on the informal dispute settlement reform discussions. Cambodia welcomed his efforts in that process. Cambodia was of the view that the process should be inclusive and transparent, which should uphold WTO core principles. In that regard, Cambodia supported the call to formalise this informal process and bring all WTO Members on board for their active and full participation.

6.22. The representative of Chinese Taipei said that, first, Chinese Taipei wished to join other Members to thank Mr. Marco Molina for the useful update. Chinese Taipei appreciated his instrumental support for the informal process. Second, Chinese Taipei reiterated its support for the ongoing informal discussions. Chinese Taipei was pleased with the commitment and constructive approaches demonstrated by all participants, as well as the transparency and inclusiveness embedded in those discussions. Chinese Taipei looked forward to continuing to work closely with Members on this critical topic to achieve a fully and well-functioning dispute settlement system accessible to all Members.

6.23. The representative of the United Kingdom said that the United Kingdom, like every other Member that had spoken at the present meeting, thanked Mr. Marco Molina for his update and his huge personal efforts in coordinating meetings to discuss this important work. The United Kingdom strongly supported those ongoing informal discussions. Mr. Molina had worked hard to make those discussions inclusive and transparent, and open to all Members, while noting the urgency of the discussions. The United Kingdom appreciated his reiteration at the present meeting of his openness to bilateral discussions with interested Members at any time, and noted the number of such engagements he had had since the March DSB meeting. Through those informal discussions, Members were finding points of agreement and convergence, and Members needed to build on that momentum and remained ambitious and committed to the objective agreed at MC12, which was crucial so Members could fully utilise their dispute settlement rights.

6.24. The representative of the United States thanked the delegate from Guatemala, speaking in his personal capacity, for his report at the present meeting. The United States intended to lead in all areas where it could contribute, including on dispute settlement reform. As the United States had said, achieving fundamental reform could only happen through a collective, Member-driven process. The United States supported the ongoing informal process, including the efforts of the delegate from Guatemala, speaking in his personal capacity. The United States also wished to express its appreciation to those developing and least-developed Members who had engaged with the United States bilaterally about the informal process following the previous DSB meeting on this Agenda item. As a result of those bilateral discussions, the United States had begun taking steps to further address the needs of those Members and the challenges they faced as participants in the informal process. The United States continued to encourage efforts to ensure the effective participation of developing and least-developed Members and would continue to explore with those Members the most promising ways to facilitate their participation. In closing, the United States was committed to working with Members on achieving fundamental reform so that the WTO dispute settlement system served the interests of all Members, and the United States recognized the engagement of all willing Members to date. The United States' priority remained to continue the conversation, and it looked forward to further work.

6.25. The representative of Ukraine said that Ukraine wished to thank all Members for their contributions and work on discussions of dispute settlement matters. Ukraine was grateful to Mr. Marco Molina for his contribution and management of the entire process, and Ukraine reiterated that this work should be based on agreed and united solutions. The outcome could only be fruitful under circumstances of direct joint work of Members and their common desire. Ukraine was ready to continue working on DS issues and to be involved in the process as much as possible. Ukraine fully supported the reform.

6.26. The representative of Chile said that Chile also wished to welcome the report that Members had heard on the informal DS reform discussions. Chile also wished to thank Mr. Marco Molino of Guatemala for all the work that he had put into those discussions. Chile believed that a number of delegations wished to be involved in this process, which should be both open and inclusive. Chile

considered it important that Members had a dispute settlement system in place and believed that the vast majority of Members felt that this was an important short-term priority, given the remit given to Members at MC12. Therefore, Members' efforts had to be focused on that objective.

6.27. The representative of Switzerland said that Switzerland wished to thank Mr. Marco Molina for his statement and for his excellent facilitation of the informal discussions on dispute settlement reform. Those discussions were intense and Switzerland appreciated the efforts deployed by Mr. Molina to structure them in an efficient, transparent, and solution-oriented way. Members had many issues and proposals to discuss but little time. Having a fully operational dispute settlement system by 2024, as stated in the Outcome Document of MC12 was the highest priority. Switzerland hoped that the good and constructive discussions that had taken place thus far in this process would continue and would lead Members closer to their shared goal.

6.28. The representative of Guatemala thanked all delegates for their statements. He took note of their concerns, in particular with respect to the clashes with the fisheries negotiations. However, it was important for Members to recall that all plenary sessions in the informal process on dispute settlement had been scheduled since February 2023, which was prior to the resumption of the fisheries negotiations. He did not consider the DS reform informal process to be less important, or a second-class process, in the WTO. It was therefore important to note that it was the Fish Week, which was clashing with the DS reform informal process, and he hoped that Members were raising the same concerns with the Chair of the Fisheries Negotiations. Maybe to avoid this in the future, it would be important to have assistance from the WTO Secretariat, as he was very sympathetic to the concerns raised by the small delegations, given that he himself was part of a very small delegation. He reiterated his commitment to make every effort to meet bilaterally with delegations with capacity constraints, with a view to brief them about the conversations and to hear their views and ensure that they had a meaningful participation in the process.

6.29. The Chairman said that he wished to take the opportunity to thank Mr. Marco Molina for his efforts towards this important matter for all Members. He encouraged Members to continue to work together in order to make further progress on this matter. Members would also have to bear in mind scheduling issues and do whatever was possible to avoid major clashes.

6.30. The DSB took note of the statements.

**7 APPELLATE BODY APPOINTMENTS: PROPOSAL BY AFGHANISTAN; ANGOLA; ANTIGUA AND BARBUDA; ARGENTINA; AUSTRALIA; BANGLADESH; BENIN; PLURINATIONAL STATE OF BOLIVIA; BOTSWANA; BRAZIL; BRUNEI DARUSSALAM; 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; DOMINICA; 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; MYANMAR; NAMIBIA; NEPAL; NEW ZEALAND; NICARAGUA; NIGER; NIGERIA; NORTH MACEDONIA; NORWAY; PAKISTAN; PANAMA; PARAGUAY; PERU; THE PHILIPPINES; QATAR; RUSSIAN FEDERATION; RWANDA; SAINT KITTS AND NEVIS; SAINT LUCIA; SENEGAL; SEYCHELLES; SIERRA LEONE; SINGAPORE; SOUTH AFRICA; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; TANZANIA; THAILAND; TOGO; TUNISIA; TÜRKIYE; UGANDA; UKRAINE; UNITED KINGDOM; URUGUAY; THE BOLIVARIAN REPUBLIC OF VENEZUELA; VIET NAM; ZAMBIA AND ZIMBABWE (WT/DSB/W/609/REV.25)**

7.1. The Chairman said that this item was on the Agenda of the present meeting at the request of Guatemala, on behalf of a number of delegations. He drew attention to the proposal contained in document WT/DSB/W/609/Rev.25 and invited the representative of Guatemala to speak.

7.2. The representative of Guatemala said that, at the outset, Myanmar had decided to co-sponsor the proposal that Members would discuss under this Agenda item. He thanked Myanmar for its interest in the proposal and welcomed it to the group of co-sponsors. Speaking on behalf of the

co-sponsors of the joint proposal contained in document WT/DSB/W/609/Rev.25, he said that the delegations in question had agreed to submit the joint proposal, dated 17 May 2023 to launch the selection processes for the vacancies of the Appellate Body members. On behalf of those 129 Members, Guatemala wished to state the following. This Agenda item and the extensive number of Members submitting the joint proposal reflected a common interest in the functioning of the Appellate Body and, more generally, in the functioning of the dispute settlement system. The joint proposal sought to: (i) start seven selection processes; (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 co-sponsors invited and urged all Members to support this proposal in the interest of the dispute settlement and multilateral trading systems.

7.3. The representative of the United States said that Members were aware of the long-standing US concerns with WTO dispute settlement. Those concerns remained unaddressed, and the United States did not support the proposed decision. The United States believed that fundamental reform was needed to ensure a well-functioning WTO dispute settlement system. A well-functioning dispute settlement system supported WTO Members in the resolution of their disputes in an efficient and transparent manner, and in doing so limited the needless complexity and interpretive overreach that had characterized dispute settlement in recent years. As WTO Members continued working to better understand each other's interests in WTO dispute settlement, the next task of reform was to ensure that any future system met the interests of all Members to the greatest extent possible. The United States had been engaging with Members to advance that goal and looked forward to continued engagement. The United States acknowledged that considerable work remained and that achieving fundamental dispute settlement reform would not be easy. But the United States continued to believe that working collectively towards that goal provided the greatest chance of achieving durable, lasting reform. The United States was committed to working towards an improved system. The United States looked forward to engaging further with those Members that also saw value in an improved and reformed dispute settlement system that was accessible to all.

7.4. The representative of Nigeria, speaking on behalf of the African Group, said that the African Group wished to thank the delegation of Guatemala for their statement regarding the proposal on Appellate Body member appointments, of which they were co-sponsors. The African Group also welcomed Myanmar as the newest co-sponsor of the proposal under this Agenda item. The African Group reiterated its support for a fully functioning dispute settlement system that was accessible to all Members by 2024 in accordance with the mandate from their Ministers at MC12. The critical mass of Members asking for the launch of the selection processes indicated the importance Members attached to having a fully functioning dispute settlement system for the multilateral trading system. Finally, the African Group stood ready to engage constructively in the ongoing discussions on dispute settlement reform in order to restore a fully functioning dispute settlement system by 2024, as agreed at MC12.

7.5. The representative of Canada said that first of all Canada strongly condemned the unjustified and unprovoked invasion of Ukraine by President Putin. Canada wished to express its solidarity with the Ukrainian people. President Putin's plans to "annex" Ukrainian territory were devoid of legitimacy and would never be recognized. Those hostile acts had been ongoing for over a year. Those acts were a flagrant violation of international law and of the rules-based international system. Ukraine's sovereignty and territorial integrity had to be respected, and the Ukrainian people had to be free to determine their own future. Canada urged Russia to immediately cease all acts of hostility and provocation against Ukraine and to withdraw from the country its military and intermediary forces. Concerning the appointment of Appellate Body members, for over three years, the Appellate Body had no longer had a quorum and had been unable to hear new appeals. Canada supported the statement made by Guatemala at the present meeting on behalf of the co-sponsors and wished to thank that Member for taking the floor. Canada welcomed Myanmar as an additional co-sponsor of the proposal and invited those WTO Members that had not yet endorsed the proposal to consider joining the 129 Members that were calling for the selection process to be launched. The critical mass of WTO Members that supported this proposal was a clear testimony to the importance they all accorded to a fully functioning Appellate Body as an integral part of the dispute settlement system. Canada recalled the Membership's objective, which was to have a fully and well-functioning dispute settlement system that was accessible to all by 2024. Canada would continue to actively participate in solution-oriented discussions on the present situation. In short, Canada's priority remained to find a multilateral and lasting solution for all Members, including the United States. Meanwhile, the MPIA

gave access to binding dispute settlement that included the possibility to appeal in disputes among its participants. Fifty-three WTO Members had now joined the MPIA. Canada invited all WTO Members to consider joining the MPIA, and was available to discuss the details of the MPIA with interested Members.

7.6. The representative of Hong Kong, China said that Hong Kong, China wished to welcome Myanmar aboard. Hong Kong, China continued to join other Members to reiterate its concerns about the Appellate Body impasse, as well as its commitment to work constructively with all WTO Members to restore a fully and well-functioning dispute settlement system accessible to all.

7.7. The representative of Norway said that Norway fully supported the joint proposal presented by Guatemala and co-sponsored by 129 Members to launch the process for appointments to the Appellate Body. Norway also welcomed Myanmar as a co-sponsor to this proposal. A fully functioning dispute settlement system was critical to maintain the rules-based multilateral trading system and for the credibility of the WTO as a rules-based organization. Norway referred to its previous statements under this Agenda item, but wished to use this opportunity to remind Members of the MPIA. The MPIA was open for WTO Members to join for as long as the Appellate Body remained unable to function fully. As the work of the DSB directly concerned the upholding of the rules-based international order, Norway also found it pertinent to address the situation in Ukraine. Norway continued to strongly condemn Russia's egregious military attack on Ukraine. Russia's war of aggression against Ukraine constituted a gross violation of international law and the rules-based system, which also underpinned the WTO and the work of the DSB.

7.8. The representative of Iceland said that a fully functional dispute settlement system was directly connected to the upholding of the rules-based international order, which had been seriously undermined by the unprovoked attack of the Russian Federation on Ukraine. Iceland condemned in the strongest possible terms Russia's actions, which violated international law and the UN Charter, and undermined the international order and norms on which organizations such as the WTO were based. Turning to the Agenda item, Iceland referred to its previous statements on this issue and thanked Guatemala for presenting the proposal on behalf of the co-sponsors. Iceland also welcomed Myanmar as a co-sponsor. Iceland was concerned over the long-standing lack of progress in resolving this important issue and welcomed the ongoing efforts to advance discussions on dispute settlement reform with the aim of having a fully functional dispute settlement mechanism by 2024. Iceland encouraged other Members to join the MPIA as an interim mechanism for assuring Members access to a binding, two-tier, and independent dispute settlement system while they worked on restoring a fully functional dispute settlement system.

7.9. The representative of Singapore said that Singapore thanked Guatemala for its statement, which Singapore strongly supported. Singapore warmly welcomed its fellow ASEAN member, Myanmar, as the latest co-sponsor of this proposal. Singapore reiterated its previous statements regarding the item's urgency and importance. Singapore was committed to participating constructively and with an open mind in ongoing discussions on dispute settlement reform, and thanked Mr. Marco Molina for his dedication, personal sacrifice, and stewardship of those discussions. While the Appellate Body impasse persisted, Singapore encouraged Members to join the MPIA as an interim solution that preserved their right to appeal until they collectively found a durable and lasting solution. Singapore, together with other MPIA participants, stood ready to engage with any delegation that wished to learn more about the arrangement.

7.10. The representative of Indonesia said that Indonesia thanked and supported Guatemala for its statement presenting the proposal on behalf of the now 129 co-sponsors. Indonesia also wished to use this opportunity to warmly welcome Myanmar, as part of the ASEAN family, as the latest co-sponsor to come on board. The representative of Indonesia personally appreciated the delegate of Myanmar's tireless efforts to coordinate with the Capital in coming to such an important decision, which reflected a common trust and adherence to a rules-based multilateral trading system. Indonesia also encouraged more Members to consider positively becoming co-sponsors of this proposal. Moreover, Indonesia wished to refer to its statements made at previous DSB meetings on this matter. In this regard, as required by Article 17.2 of the DSU, filling the Appellate Body vacancies should not be subject to the completion of the discussion on dispute settlement reform. With that being said, Indonesia remained ready and open to work with other Members, and was committed to participating actively and constructively in the said discussion.

7.11. The representative of Cambodia said that, at the outset, Cambodia warmly welcomed Myanmar's decision to co-sponsor the joint proposal. At the same time, Cambodia supported the statement made by Guatemala on behalf of the 129 co-sponsors and called upon more Members to join this proposal. Cambodia referred to its previous statements made on this urgent matter and reiterated its firm commitment to, and support for, a well-functioning, independent, and impartial two-tier dispute settlement system accessible to all, including the least-developing countries.

7.12. The representative of Malaysia said that at the outset Malaysia wished to warmly welcome its ASEAN colleague, Myanmar, as the latest co-sponsor of the revised joint proposal to launch the selection process for the vacancies of the Appellate Body Members, contained in WT/DSB/W/609/Rev.25. With this latest addition, they now had 129 Members supporting the proposal. Malaysia urged other Members who had yet to support this proposal, to do so. Malaysia wished to thank Guatemala for presenting the proposal. Malaysia supported the statement made by Guatemala and referred to Malaysia's statements made at previous DSB meetings under this Agenda item.

7.13. The representative of Ukraine said that, as a strong supporter of the international trading system, Ukraine was ready to contribute to the process of improving the function of the dispute settlement mechanism and its two-stage dispute review. Ukraine wished to take this opportunity to make a statement regarding Russian aggression. Russia continued terrorizing Ukrainian civilians by attacking critical infrastructure and residential areas, resulting in significant casualties and destruction. Over the previous month, Russia had launched the most massive drone attack on Ukraine through its overnight and daytime raids. At the same time, a war of this scale could not affect only one country. The impact was indeed global and it was not only about the economy and trade. Russia's aggression against Ukraine constituted a violation of international law, in particular the UN Charter and the principles of the WTO. Ukraine urged Members to remain strong and consolidated in their support of Ukraine, to continue to work together in unity for Ukraine and to support vulnerable countries affected by the Russian war and the global crisis it had caused.

7.14. The representative of New Zealand said that New Zealand joined other Members in condemning unequivocally the unprovoked and unjustified attack by Russia on Ukraine. Those actions were egregious and unlawful. The act of aggression was strictly prohibited under international law, as was the targeting of civilians. Russia's invasion of Ukraine's sovereign territory had deep implications for global peace, security, and economic stability. New Zealand continued to stand firmly against any steps by Russia that risked a further escalation in this conflict. In relation to this Agenda item, New Zealand reiterated its support for the proposal now co-sponsored alongside 128 other WTO Members, and referred to its previous statements. Reform of the dispute settlement system to ensure a fully and well-functioning system accessible to all Members remained a priority for New Zealand. As noted under the previous Agenda item, New Zealand urged all Members to engage in the ongoing discussions constructively and pragmatically in order to advance this critical work in line with the direction of their Ministers. New Zealand also took this opportunity to invite those Members who had not joined the MPIA to consider doing so. The MPIA provided an avenue to safeguard access to an appeal level of review while Members worked collectively towards reform in order to restore a fully functioning dispute settlement system.

7.15. The representative of Thailand said that Thailand thanked Guatemala for presenting the proposal and the statement made on behalf of the co-sponsors, which Thailand fully supported. Thailand also welcomed and congratulated Myanmar on its decision to join the proposal and urged the remaining Members to do the same. Thailand referred to its previous statements on this Agenda item and reiterated its commitment to restoring a fully functioning dispute settlement system. Thailand also wished to take this opportunity to thank Marco for the report he had shared at this meeting on the progress of the informal reform process and for his dedication and tireless efforts, which had enabled substantive and in-depth discussions while ensuring, to the extent possible, meaningful participation by all Members and safeguarding transparency. That said, Thailand was of the view that the ongoing reform discussion should not prevent the functioning of the Appellate Body and Members shall comply with their obligation under the DSU to fill the vacancies as they arise. Having a fully functioning dispute settlement system was essential in preserving the rights and obligations of Members under the WTO Agreements, including the right to have a panel report reviewed on appeal.

7.16. The representative of South Africa said that South Africa associated itself with the statement made by Guatemala on the proposal for Appellate Body appointments and thanked Guatemala for making the statement on behalf of the co-sponsors. South Africa also associated itself with the statement made by the African Group. South Africa welcomed Myanmar as a new co-sponsor. South Africa reiterated its previous statements regarding the urgency of this matter. When Members agreed to bind themselves to the Uruguay Round Agreements, it was on the understanding that their rights would be protected by a predictable, binding, rules-based order underpinned by a two-tiered dispute settlement mechanism. Their assurance that their trade relations would be subject to rules rather than soft law was fundamental, and the continued dysfunctionality of the Appellate Body undermined the consensus reached in the Uruguay Round and imperilled the multilateral trading system. A fully functioning Appellate Body was a top priority for reform of the WTO and it was crucial to the effective operation of the multilateral trading system. South Africa welcomed the commitment by Members undertaken during MC12 for a fully and well-functioning dispute settlement system accessible to all Members by 2024. That commitment was being reiterated at the ongoing informal discussions on WTO dispute settlement reform. South Africa would work actively and constructively with all Members to find a lasting solution to the present impasse that would ensure an effective dispute settlement system.

7.17. The representative of Myanmar said that Myanmar thanked Mr. Marco Molina of Guatemala and all delegations that supported the proposal. Myanmar believed in and supported the rules-based system of the WTO. In accordance with the MC12 Outcome Document, Myanmar was very much in favour of a fully and well-functioning dispute settlement system at the earliest possible date, through pragmatic, outcome-oriented and successful negotiations. Myanmar wished to take this opportunity to express its continued support for the multilateral trading system.

7.18. The representative of China said that China welcomed Myanmar's decision to join this proposal, and supported the statement made by Guatemala on behalf of the 129 co-sponsors. China reiterated its firm commitment to an independent, impartial, two-tier dispute settlement system, which had not only facilitated prompt and fair resolution of disputes between Members, but also provided security and predictability to the multilateral trading system. To ensure such objectives continued to be fulfilled, China believed that the most urgent task was to immediately launch the selection processes and fill the vacancies in the Appellate Body. This was a treaty obligation of all WTO Members. No prerequisite should be attached to it. China would continue its constructive engagement in the ongoing discussion on DS reform, and called upon all Members to engage in that exercise in good faith and with pragmatic, outcome-oriented spirits. Before concluding, China wished to take this opportunity to encourage more Members to join the MPIA as a contingent measure to safeguard its right to appeal until the Appellate Body was restored. China stood ready to discuss with and provide further information for any interested Members.

7.19. The representative of Brazil said that Brazil thanked Guatemala for presenting the proposal on behalf of its many co-sponsors and referred to its previous statements made under this Agenda item. Brazil also warmly welcomed Myanmar as a co-sponsor to the proposal. Having a fully and well-functioning dispute settlement system accessible to all Members was a top priority for Brazil. Brazil continued to engage constructively in informal discussions on dispute settlement reform, which it hoped would contribute to that outcome, within the deadline set by Ministers at MC12. As Members had seen at the present meeting, another dispute had been parked indefinitely and would remain unresolved due to an appeal to a non-functioning Appellate Body. Brazil recalled that, while the impasse with the appointment of Appellate Body members persisted, WTO Members could ensure the resolution of their disputes by joining the MPIA. The MPIA had proved to be a tested, effective, and viable way for Members to avail themselves of their right to resolve disputes under the DSU. Once again, Brazil encouraged Members to consider doing so. Brazil was ready to discuss the MPIA with any delegation that wished to learn more about the Arrangement and its functioning.

7.20. The representative of Viet Nam said that Viet Nam wished to echo other Members to thank Guatemala and the almost 130 co-sponsors for their continuous and faithful commitment to the appointment process of the Appellate Body members. At this DSB meeting, Viet Nam warmly welcomed Myanmar as a new co-sponsor of the proposal. Viet Nam reiterated its support for launching the appointment process as soon as possible and encouraged more Members to join the proposal. Regarding the informal discussions on dispute settlement reform, Viet Nam was ready to engage in the process to reinforce the building of the effective, fully functioning dispute settlement system.

7.21. The representative of Australia said that, first, Australia wished to note that it condemned in the strongest terms Russia's illegal, unjustified, and unprovoked invasion of Ukraine. Australia continued to raise this issue in this forum because Russia's actions were a violation of international law and the fundamental international norms on which organizations such as the WTO were based. Australia stood in solidarity with the people of Ukraine and called on Russia to withdraw its troops. Turning to this Agenda item, Australia joined other Members in welcoming Myanmar as a co-sponsor. Australia's number one WTO reform priority was delivering a fully and well-functioning dispute settlement system accessible to all Members by 2024, as agreed by Ministers at MC12. A fully functioning WTO dispute settlement system was critical to the rules-based multilateral trading system and was in Members' collective interest. Australia noted the ongoing discussions were making real progress towards developing meaningful and lasting reforms. Australia would continue working actively and constructively with all Members to find solutions. While Members collaborated to restore a fully functional dispute settlement system as soon as possible, Australia encouraged all Members to join the MPIA as the best interim mechanism for ensuring Members rights under the WTO agreements could be enforced and protected. Joining the MPIA also demonstrated the value Members placed on a binding, enforceable WTO dispute settlement system. Australia was ready to engage with any delegation interested in joining.

7.22. The representative of the United Kingdom said that the United Kingdom thanked Guatemala for its statement. The United Kingdom continued to support launching the process for appointments to the Appellate Body, and referred to its previous statements made on this issue. The United Kingdom noted the increasing number of Members co-sponsoring this proposal and welcomed the addition of Myanmar. The United Kingdom encouraged all remaining Members to support the proposal. The United Kingdom continued to be committed to reaching a resolution to the current impasse. Achieving a fully and well-functioning dispute settlement system was in the interest of all Members who valued an effective multilateral trading system. As such, the United Kingdom was actively participating in the ongoing Member-led discussions on dispute settlement reform. The United Kingdom welcomed the ambition and intensity of discussions underway. A pragmatic and dedicated approach was required to find solutions that would command the support of all WTO Members and the United Kingdom called on all Members to continue to prioritise this work. As Members discussed these issues concerning how they ensured that rules were respected, the United Kingdom had to yet again condemn the outrageous violations of international law and the UN Charter that Russia continued to commit against Ukraine. President Putin's outrageous and illegal war against sovereign democratic Ukraine continued to cause death, suffering, and damage. It was a repudiation of the principles that every country had committed to uphold under the UN Charter as well as of the purpose and principles of the WTO. What happened in Ukraine mattered to the work of the WTO and mattered to all Members. Russia's actions directly impeded the ability of Ukraine to fully participate in the work of this institution and the global trading system. More broadly, Members had to recognize the enormous global impact of President Putin's chosen war. The United Kingdom and the international community had made it clear to President Putin that he had to urgently stop his attack on the Ukrainian people and that he had to withdraw from Ukraine and restore regional and global stability. As the people in Ukraine continued to face relentless Russian bombardment, the United Kingdom stood with Ukraine and would continue to do everything it could to support Ukraine in the face of this assault on its sovereignty and territorial integrity. The United Kingdom stood for freedom, democracy and the sovereignty of nations around the world.

7.23. The representative of Korea said that, like others, Korea reaffirmed its consistent position on Russia's aggression that the sovereignty, territorial integrity, and independence of Ukraine should be respected. Korea, as a responsible member of the international community, supported various diplomatic and economic efforts of the international community to contribute to the end of the aggression and the restoration of peace, and would more actively participate in those efforts. As for the item at hand, Korea thanked Guatemala and the co-sponsors for their continuous support in favour of launching the Appellate Body selection process. Korea also warmly welcomed Myanmar as the latest co-sponsor. Korea reiterated its support for the joint proposal and referred to its previous statements on this issue. The WTO dispute settlement system had enhanced the security and predictability of the rule-based multilateral trading system in response to the needs of WTO Members. With that in mind, Korea welcomed Members' continuous interest in ongoing discussions for dispute settlement reform and very much appreciated all the efforts that they were making to materialize the mandate of the MC12 Outcome Document. Korea reaffirmed its firm commitment to moving forward to achieve a fully and well-functioning dispute settlement system.



7.24. The representative of the Russian Federation said that the Russian Federation wished to refer to its previous statements made on this matter and thanked Guatemala and the co-sponsors for their continuous and faithful commitment to the appointment processes of the Appellate Body members. Russia wished to warmly welcome Myanmar as a new co-sponsor. Russia reiterated its strong support for launching the appointment processes immediately. Russia also had to address certain political declarations made by some WTO Members under this Agenda item. First, Members had to keep to the Agenda of the present meeting, circulated on 25 May 2023 in document WT/DSB/W/718 and adopted at the present meeting, as amended. The political discussions suggested by some WTO Members did not concern any of the issues listed on the Agenda. Second, the DSB had its own tasks and mandate expressed in different provisions of the DSU. None of the political issues raised by some WTO Members was within the competence of the DSB. Third, and ultimately, the WTO was not a political organization and Members had to refrain from trying to address issues in the WTO that were not in the competence of the WTO. Russia considered that one of the root causes of the crisis of the multilateral trading system that Members were facing were the actions that blocked the Appellate Body appointments as well as the attempts to politicize the WTO that Members had heard at the present meeting. Russia encouraged WTO Members to focus on resolving the problems they already had and not create new ones, unless any WTO Member had an intention to continue to destroy the multilateral trading system further.

7.25. The representative of Japan said that, first, and like other Members, Japan wished to touch upon the situation in Ukraine. Japan strongly condemned Russia's aggression against Ukraine and its missile attacks against civilian infrastructure and cities across Ukraine. Japan strongly urged Russia, once again, to stop its aggression and withdraw its forces from the territory of Ukraine, within its internationally recognized borders immediately. Japan would also continue to work firmly on the two pillars of imposing sanctions against Russia and providing logistical support to Ukraine, in cooperation with the international community. Turning to Agenda item 8, Japan referred to its statements at previous DSB meetings and supported the proposal. Japan absolutely shared a sense of urgency for the reform of the dispute settlement system and had set as the utmost priority to achieve a reform that would contribute to a long-lasting solution to the structural and functional problems of the dispute settlement system. Members should discuss the reform, including on how to address the concerns surrounding the Appellate Body. In relation to that, Japan welcomed the development in the informal DS reform discussions currently led by Members, as Mr. Marco Molina of Guatemala had reported at the present meeting. With a view to having a fully and well-functioning DS system by 2024, as agreed at MC12, Japan wished to work actively and constructively with all WTO Members.

7.26. The representative of the European Union said that the European Union reiterated its resolute condemnation of the Russian Federation's war of aggression against Ukraine, which deliberately violated the UN Charter and disregarded the rules-based international order. It undermined international security and stability and had no place in the 21<sup>st</sup> century. The European Union's support for Ukraine's independence, sovereignty, territorial integrity, and right of self-defence was unwavering. The European Union called on the Russian Federation to stop its acts of aggression and withdraw its troops from Ukraine. Russia had to cease actions endangering civilians and respect international humanitarian law. The European Union was firmly committed to ensuring full accountability for war crimes and other crimes committed against Ukraine and its people. Turning to this Agenda item, the European Union referred to its previous statements made on this issue and thanked all Members who had co-sponsored the proposal to launch the appointment processes. 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 crucial. That was evidenced by the large number of Members co-sponsoring the present proposal. The European Union believed that restoring a fully functioning dispute settlement system and appointing members of the Appellate Body was a key priority. That task was a shared responsibility of WTO Members. In order to achieve that objective, the European Union agreed that a meaningful reform was needed. The European Union supported a reform that preserved the core features of the dispute settlement system. As mentioned under the previous Agenda item, the European Union treated very seriously the commitment made at MC12 of having a fully functioning system by 2024, and the European Union was committed to continuing to work towards meeting that goal. In the meantime, the European Union was concerned with the impact that the absence of a fully functioning dispute settlement system was having on the international trading order. In that context, the MPIA had been put in place as an interim arrangement to preserve a fully functioning dispute settlement system among its participants and to support rules-based trade. The MPIA was open to any WTO Member,

and the European Union invite any WTO Member to join for as long as a solution to this impasse had not been found.

7.27. The representative of Bangladesh said that Bangladesh wished to subscribe to the statement made by the least-developed country focal point and, like others, thanked Guatemala for presenting the proposal on behalf of the 129 co-sponsors. Bangladesh took note of the Member who had recently joined the proposal. Bangladesh also wished to take the opportunity to refer to its statement made at the previous DSB meeting.

7.28. The representative of the United States said that the United States would like to recall that the United States and other Members had jointly issued WTO document WT/GC/244, "The Joint Statement on Aggression by the Russian Federation against Ukraine with the Support of Belarus," which condemned Russia's actions as a violation of international law, the UN Charter, and fundamental principles of international peace and security. The United States reiterated its support for Ukraine during this unimaginably difficult time. The United States paid tribute to the heroism of the Ukrainian people, their armed forces, and Leaders.

7.29. The representative of the Philippines said that the Philippines thanked Guatemala for the statement in support of the proposal to launch the Appellate Body appointment processes. The Philippines extended warmest congratulations to fellow ASEAN member Myanmar for co-sponsoring the proposal. That significant step forward underscored Myanmar's commitment to promote an effective multilateral trading system that upheld WTO principles. The Philippines commended Myanmar for its proactive engagement in the dispute settlement mechanism, recognizing its vital role in resolving trade disputes and ensuring the stability and predictability of global trade. The Philippines also thanked Myanmar as it recognized the urgency to restore the functionality of the WTO dispute settlement system, which played a fundamental role in safeguarding the rights and obligations of WTO Members. Finally, the Philippines continued to support this priority proposal, recognizing that the functioning Appellate Body was indispensable for the fair resolution of trade disputes and the preservation of the rules-based international trading system. The Philippines hoped that this initiative would contribute to the swift resolution of the existing impasse and the restoration of a fully functioning, fully operational Appellate Body by 2024 as mandated in MC12.

7.30. The representative of Brunei Darussalam said that Brunei Darussalam wished to thank and support the statement by Guatemala on behalf of the co-sponsors and warmly welcomed Myanmar, its fellow ASEAN member State, as the latest co-sponsor of the proposal. Brunei Darussalam reiterated the importance and urgency of restoring the two-tier dispute settlement system by filling the vacancies in the Appellate Body.

7.31. The representative of Switzerland said that Switzerland condemned Russia's military aggression against Ukraine in the strongest possible terms. Such aggression blatantly violated international law, most notably the prohibition on the use of force and the principle of the territorial integrity of States. Switzerland called upon Russia to take military de-escalation measures, end hostilities, and immediately withdraw its troops from Ukrainian territory. Switzerland called on all actors to respect international law, in particular international humanitarian law. Regarding this Agenda item, Switzerland thanked Guatemala for placing this matter on the Agenda and wished to refer to its statements made on this matter at previous DSB meetings. Switzerland called upon all Members to commit to ensuring a fully functioning dispute settlement system by 2024, as set out in the MC12 Outcome Document. Switzerland would continue to participate constructively in the newly initiated phase of informal discussions and hoped that concrete solutions could be discussed in the coming weeks and months.

7.32. The representative of Guatemala said that, on behalf of the 129 co-sponsors, Guatemala regretted that for the sixty-sixth occasion, Members had not been able to launch the selection processes for the vacancies of the Appellate Body. Thus, Members continued to fail fulfilling their duties as Members of the WTO. As Article 17.2 of the DSU clearly stated, "vacancies shall be filled as they arise". Ongoing conversations about reform of the dispute settlement system should not prevent the Appellate Body from continuing to operate fully, and Members had to comply with their obligation under the DSU to fill the vacancies as they arose. The co-sponsors noted with deep concern that by failing to launch the selection processes at this meeting, the Appellate Body would continue to be unable to perform its functions, against the best interest of all WTO Members.

7.33. The Chairman thanked all delegations for their statements. As in the past, the DSB would take note of the statements expressing the respective positions, which would be reflected in the minutes of the meeting. Once again, the Chairman took the opportunity to recall Members' commitment at MC12 to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024. He hoped that collectively Members would be able to find a solution to this matter. He then proposed that the DSB take note of the statements made under this Agenda item.

7.34. The DSB took note of the statements.

---