

**Dispute Settlement Body  
30 June 2023**

**MINUTES OF MEETING**

HELD IN THE CENTRE WILLIAM RAPPARD  
ON 30 JUNE 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 both in-person and remotely. He reminded delegations that the technical instructions for remote participation remained the same as at previous meetings; (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 would recall, 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 Chairs of the DSB, he continued to consult with each interested party on this matter and that those consultations were ongoing; and (iii) DDG Ellard informed delegations that the selection process for the Director of the Legal Affairs Division had been completed and the Director-General had decided to appoint Mr Jorge Castro, Chief of Training Section at ITTC, with effect as of 17 July 2023. She said that Mr Castro had 20 years of experience in the WTO Secretariat, where he had previously served as a senior dispute settlement lawyer in the Legal Affairs Division and the Rules Division and counsellor in the Office of the Director-General. Before joining the WTO Secretariat, Mr Castro was the Head of the Legal Department of the Andean Community General Secretariat in Peru, and before that he had led the Legal Department of the Venezuelan Anti-Dumping Commission. He also worked in private practice and served as a panelist in a WTO dispute. Mr Castro had a law degree from the Universidad Central de Venezuela in Caracas and a Masters degree in Foreign Service from Georgetown University. DDG Ellard also wished to thank Ms Susan Hainsworth, who had assisted DDG Ellard during the transition period.

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

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

**2 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) ..... 6**

## **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.240)

B. United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/24/Add.215)

C. European Communities – Measures affecting the approval and marketing of biotech products: Status report by the European Union (WT/DS291/37/Add.178)

D. United States – Anti-dumping and countervailing measures on large residential washers from Korea: Status report by the United States (WT/DS464/17/Add.62)

E. United States – Certain methodologies and their application to anti-dumping proceedings involving China: Status report by the United States (WT/DS471/17/Add.54)

F. Indonesia – Importation of horticultural products, animals and animal products: Status report by Indonesia (WT/DS477/21/Add.49 – WT/DS478/22/Add.49)

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.240)**

1.2. The Chairman drew attention to document WT/DS184/15/Add.240, which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US anti-dumping measures on certain hot-rolled steel products from Japan.

1.3. The representative of the United States said that the United States had provided a status report in this dispute on 19 June 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.215)**

1.6. The Chairman drew attention to document WT/DS160/24/Add.215, 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 19 June 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 made on this matter 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.178)**

1.10. The Chairman drew attention to document WT/DS291/37/Add.178, 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 (GMOs) that, in the European Food Safety Authority's risk assessment, had been concluded to be safe. On 21 June 2023, the Commission adopted three decisions authorising the placing on the market of GM maize and four decisions renewing the authorisation for placing on the market of GMOs. Those decisions would be valid for ten years. On 11 May 2023, the Commission had presented to the Standing Committee two draft decisions authorising the placing on the market of GM maize. The votes had resulted in "no opinion". The Commission would refer the two decisions to the Appeal Committee of 6 July 2023. On 3 July 2023, the Commission would present to the Standing Committee a draft decision authorising the placing on the market of a GM maize and a decision renewing the authorisation for placing on the market of a GM maize.

1.12. The representative of the United States thanked the European Union for its status report and its statement made at the present meeting. The United States continued to engage with the European Union 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 most recent of which had taken place on 22 June 2023. The United States acknowledged the European Union's recent actions to authorise three new products and reauthorise four products and

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.62)**

1.14. The Chairman drew attention to document WT/DS464/17/Add.62, 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 19 June 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.

1.17. The representative of Canada said that Canada wished to recall 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.54)**

1.19. The Chairman drew attention to document WT/DS471/17/Add.54, 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 19 June 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 statement at this 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.49 – WT/DS478/22/Add.49)**

1.23. The Chairman drew attention to document WT/DS477/21/Add.49 – WT/DS478/22/Add.49, 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 regarding the implementation of the recommendations and rulings of the DSB in these disputes, in accordance with Article 21.6 of the DSU. Indonesia continued to reiterate its commitment to comply with the DSB's recommendations and rulings through revocation of the measures at issue. On 31 March 2023, Indonesia had issued Law No. 6/2023 on the Stipulation of the Government Regulation in lieu of Law No. 2/2022 on Job Creation. The enactment of that regulation affirmed the removal of the measures at issue, particularly those related to self-sufficiency (Measure 18). On that note, Indonesia also continued to highlight the repeal of relevant Ministry of Agriculture and Ministry of Trade Regulations administering measures 1 to 17, including: harvest period restriction; import realization requirement; six-months harvest requirement; reference price; and domestic purchase requirement. Aside from Indonesia's compliance with the DSB's recommendations and rulings, and to respond to the complainants' interest in the Commodity Balance, Indonesia again wished to highlight the purpose of that framework, which was to serve as a mechanism for providing comprehensive, accurate, and reliable information through the integrated national database system. To that end, Indonesia remained convinced that the Commodity Balance would streamline import approval procedures, enhance the ease of doing business, and facilitate trade in a transparent manner. Indonesia remained ready to continue its engagement with New Zealand and the United States with the aim of resolving 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 those regimes; and how Indonesia expected the new commodity balance mechanism to, in its words, streamline the import approval procedures, enhance the ease of doing business, as well as facilitate trade in a transparent manner. 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 had long since expired and New Zealand remained concerned about a number of measures. 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 or other amendments that were forthcoming. New Zealand was similarly interested in better understanding how the new commodity balance would in fact operate to simplify and facilitate trade in affected products. 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 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)**

2.1. 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 then drew attention to the proposal contained in document WT/DSB/W/609/Rev.25 and invited the representative of Guatemala to speak.

2.2. The representative of Guatemala, speaking on behalf of the co-sponsors of the joint proposal contained in document WT/DSB/W/609/Rev.25, 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) establish a Selection Committee; (iii) set a deadline of 30 days for the submission of candidacies; and (iv) 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.

2.3. The representative of the United States said that Members were aware of the longstanding 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.

2.4. The representative of Canada said that 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

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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. Canada 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 that 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 current situation. In short, Canada's priority remained to find a multilateral and lasting solution for all Members, including the United States. Meanwhile, the Multi-Party Interim Appeal Arbitration Arrangement (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 Canada was available to discuss the details of the MPIA with interested Members.

2.5. The representative of Brazil said that Brazil thanked Guatemala for presenting the proposal on behalf of its many co-sponsors. Brazil referred to its previous statements under this Agenda item. Having a fully and well-functioning dispute settlement system accessible to all Members was a top priority for Brazil. 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 Ministers at MC12. 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 Arrangement had proved to be a tested, effective, and viable way for Members to avail themselves of their right to resolve disputes under the DSU. Brazil encouraged Members to consider joining the MPIA. Brazil was ready to discuss the Arrangement with any delegation that wished to learn more about the MPIA and its functioning.

2.6. The representative of Malaysia said that Malaysia thanked Guatemala for presenting the proposal and supported the statement made at the present meeting. Malaysia wished to refer to its statements made at previous DSB meetings under this Agenda item and urged other Members, who had not done so, to join the proposal.

2.7. The representative of Indonesia said that Indonesia thanked Guatemala and supported the statement made regarding the proposal on behalf of the 129 co-sponsors, reflecting the common interest of Members in resolving the current crisis surrounding the Appellate Body. Indonesia wished to encourage more Members to become co-sponsors of this proposal. While referring to its statements made at previous DSB meetings on this matter, Indonesia further emphasized the urgency of having a fully functioning dispute settlement system as mandated at MC12, to preserve the credibility and relevance of the rules-based multilateral trading system. To that end, Indonesia would remain committed to engaging constructively with all Members and positively contributing to this matter, including in the forthcoming text-based negotiations of dispute settlement reform after the summer break.

2.8. The representative of Ukraine said that Ukraine once again confirmed its support for, and readiness to contribute to this initiative regarding the proper functioning of the Appellate Body. Ukraine also wished to make a statement regarding Russia's war in Ukraine, which continued to have a huge impact not only on international trade, but which had also resulted in significant environmental damage and a detrimental effect on the global climate. Ukraine had repeatedly stressed that Russia had put the world in an unprecedented situation, because war of this scale affected not only one country – the impact indeed had a global range, from a shortage of food products, raw materials, and components, to the termination of trade routes, changes in demand, and rising prices. Ukraine wished to raise awareness that the consequences of this war were increasing over time, and were becoming increasingly global, beyond Ukraine. The environmental impact of the explosion at the Kakhovka Hydroelectric Power Plant on 6 June 2023 had yet to be assessed, but it would undoubtedly have a significant impact on various aspects of the environment, from the depletion of flora and fauna, to pollution of the Black Sea. One could see now that Russia had prepared everything for its next terrorist attack at Zaporizhzhya Nuclear Power Plant, which would cause radiation leakage, entailing global consequences. Ukraine wished to remind all Members that radiation did not recognize borders and each Member should understand that to remain silent about a disaster at the Kakhovka Hydroelectric Power Plant or about the direct threat to the nuclear safety of the Zaporizhzhya Nuclear Power Plant today meant to legalize it tomorrow in any part of the world. Ukraine was the mouthpiece of the fight for life and health of all mankind and for the

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environment throughout the world. Therefore, Ukraine urged Members to remain strong and consolidated in their support of Ukraine, to continue to work together in unity for global safety in all areas of human life, holding Russia accountable and preventing its terror that had been ongoing for over a year.

2.9. 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, and New Zealand continued to stand firmly against any steps by Russia that risked 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 made on this matter. Reform of the dispute settlement system to ensure a fully and well-functioning system accessible to all Members remained a priority for New Zealand. New Zealand continued to urge all Members to engage in the ongoing discussions constructively and pragmatically in order to advance this critical work in line with the direction of 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.

2.10. The representative of Peru said that Peru thanked Guatemala and supported the presentation made on behalf of the 129 co-sponsors of the proposal. Peru called on those Members who were not yet party to the proposal to consider joining the proposal. A fully functioning dispute settlement system was key to protecting legal security, predictability, and the principles of the multilateral trading system. In this regards, Peru wished for a level playing field where both large and small countries could enforce the trade rules agreed by Members. The status quo that prevailed for the past three years was damaging not only for Members individually, but for the system as a whole. In that regard, and in order to move forward towards the objective of having a fully functioning dispute settlement system by 2024, Peru supported and had engaged in the informal discussions for that purpose. However, Peru reiterated that this process was separate. Also, in order to preserve the security and predictability of the system, and while the impasse lasted, Peru joined others in urging Members to join the MPIA, which allowed Members to safeguard their right to binding dispute settlement with two levels of adjudication.

2.11. The representative of Norway said that Norway fully supported the joint proposal presented by Guatemala to launch the process for appointments of Appellate Body members. A fully functioning dispute settlement system was critical to maintaining the rules-based multilateral trading system and for the credibility of the WTO as a rules-based organization. Norway also wished 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. Since 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 had now continued for more than a year and constituted a gross violation of international law, the rules-based system which also underpinned the WTO, and the work of the DSB.

2.12. The representative of China said that China supported the statement made by Guatemala on behalf of the 129 co-sponsors. China referred to its previous statements on this urgent matter, and called upon more Members to join the proposal. Like others, China reiterated its firm commitment to an independent, impartial two-tier dispute settlement system. To fulfil such objectives, China believed that the most urgent task was to immediately launch the selection processes and fill the vacancies of the Appellate Body. China recognized all the efforts dedicated by all Members to the ongoing discussions of DS reform. China was working constructively and would continue to do so with all Members, with pragmatic and outcome-oriented spirits, aiming to have a fully and well-functioning dispute settlement system by 2024, as mandated by Ministers at MC12. This remained the top priority for China. Finally, China wished to take this opportunity to encourage more Members to join the MPIA as a contingent measure to safeguard their rights to appeal until the Appellate Body was restored. China stood ready to discuss with, and provide further information for, any interested Members.



2.13. The representative of Thailand thanked the representative of Guatemala and fully supported the statement made on behalf of the co-sponsors. Thailand urged other Members to join the proposal. Thailand referred to its previous statements made on this urgent matter and reiterated its commitment to restore a fully and well-functioning dispute settlement system as mandated by Ministers. Thailand welcomed and was committed to participating in the ongoing reform discussions with an aim to improving the efficiency of the dispute settlement system in a way that addressed Members' concerns and interests. Having said that, Thailand also wished to caution Members not to lose sight of their MC12 mandate, which would remain unfulfilled as long as the current impasse with the appointment of Appellate Body members persisted. Filling the Appellate Body vacancies was unequivocally Members' obligation under the DSU and nothing should prevent Members from their right to appeal.

2.14. The representative of Japan said that, first, Japan wished to touch upon the situation in Ukraine. Japan strongly condemned the Russian aggression against Ukraine and its attacks against civilian infrastructure and sites across Ukraine. Japan strongly urged Russia to stop the 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 civilian sanctions on Russia and providing logistical support to Ukraine, in cooperation with the international community. With regard to Agenda item 2, Japan absolutely shared a sense of urgency for reform of the dispute settlement system and had set as its 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 how to address the concerns surrounding the appellate review mechanism. In relation to that, Japan welcomed the intensive discussions in the informal DS reform initiative currently led by Members. 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.

2.15. The representative of Korea said that Korea echoed other delegations and 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 actively participate in those efforts. As for the item at hand, Korea thanked Guatemala for its statement, and the co-sponsors for their continuous support, in favour of launching the Appellate Body selection process. 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 rules-based multilateral trading system in response to the needs of WTO Members. In this context, Korea very much appreciated all the efforts that Members had made to materialize the mandate of the MC12 Outcome Document. Those multilateral efforts were making progress in relevant discussions, including through recognizing the importance and urgency of addressing the challenges and concerns with regard to the dispute settlement system. Korea reaffirmed its firm commitment to moving forward to achieve a fully and well-functioning dispute settlement system and looked forward to working further with Members with the aim of accommodating the needs of Members.

2.16. The representative of Hong Kong, China said that Hong Kong, China, wished to join other Members to reiterate its concerns about the Appellate Body impasse as well as its commitment to working constructively with all WTO Members to restore a fully and well-functioning dispute settlement system in accordance with the MC12 mandate.

2.17. The representative of Cambodia said that Cambodia wished to be associated with the statement made by Guatemala on behalf of the 129 co-sponsors and called upon more Members to join the proposal. Cambodia referred to its previous statements made on this Agenda item and reiterated its firm commitment to, and support for, the well-functioning of an independent and impartial two-tier dispute settlement system accessible to all Members, including least-developed countries, to realise the MC12 mandate on this matter.

2.18. The representative of Nigeria, speaking on behalf of the African Group, thanked Guatemala for its statement regarding the proposal on Appellate Body member appointments, of which the African Group were co-sponsors. 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 Ministers at MC12. The fact that the Appellate Body could not hear new appeals remained a concern. Without a fully functioning WTO dispute settlement system the security,

credibility, and predictability of the multilateral trading system was put at risk. The critical mass of Members asking for the launch of the selection process indicated the importance Members attached to having a fully functioning dispute settlement system for the multilateral trading system. 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.

2.19. The representative of Australia said that Australia joined others in condemning 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 organisations such as the WTO were based. Australia continued to stand in solidarity with the people of Ukraine and called on Russia to withdraw its troops. Turning to Agenda item 2, for Australia there was no higher reform priority than achieving a fully functioning dispute settlement system by 2024, as agreed by Members at MC12. Members were now halfway through 2023 with MC13 on the horizon. Now was the time to build the necessary momentum to deliver on their MC12 mandate. It was crucial that Members balanced principle with pragmatism to make the best possible use of that window of opportunity. Australia looked forward to working actively and constructively with all Members to fulfil that shared objective. As Members worked towards that objective, Australia encouraged all Members to join the MPIA as the best interim mechanism for ensuring Members' rights under WTO Agreements could be enforced and protected. Joining the MPIA also demonstrated the value that Members placed on a binding, enforceable WTO dispute settlement system. Australia was ready to engage with any delegation interested in joining the MPIA.

2.20. 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 as well as the co-sponsors for their continuous and faithful commitment to the appointment processes of the Appellate Body members. Russia reiterated its strong support for launching the appointment processes immediately. Also, the Russian Federation consistently urged all WTO Members to start discussions on dispute settlement reform in a formal mode, as agreed by WTO Members at MC12. This was the only process that would be based on principles of transparency and inclusivity, and which could bring Members to a meaningful result supported by every Member. Meanwhile, Russia welcomed the attempts to begin informal discussions on dispute settlement issues and was ready to engage constructively with any delegation that intended to reinforce the building of the effective fully functioning dispute settlement system. The Russian Federation also had to address certain political statements made by some WTO Members under this Agenda item, and wished to stress the following. First, nowhere in the Agenda of this meeting, circulated on 28 June 2023 in document WT/DSB/W/720 and adopted at the present meeting, could one see an invitation to deliver such statements. The political discussions suggested by some WTO Members did not concern any of the issues listed on the Agenda. Second, the WTO was not a political organization and Members shall refrain from trying to address issues in the WTO that were not in the competence of this Organization. Third, none of the political issues raised by some WTO Members was within the competence of the DSB. In contrast, Russia considered the problem with the blockage of Appellate Body appointments to be the core issue to be addressed in the DSB – Article 17.2 of the DSU provided the DSB not just with that mandate, but that obligation. Finding a solution to this problem would strengthen the multilateral trading system. Russia encouraged WTO Members to focus on resolving the problems they already had and not creating new ones, unless any WTO Member had an intention to continue to destroy the system further.

2.21. The representative of the United Kingdom said that the United Kingdom continued to support launching the process for appointments to the Appellate Body. The United Kingdom referred to its previous statements on this issue and noted the increasing number of Members co-sponsoring the proposal. The United Kingdom encouraged all remaining Members to join and support the proposal. The United Kingdom remained committed to reaching a resolution to the current impasse. Achieving a fully and well-functioning dispute settlement system was in the interests of all Members who valued an effective multilateral trading system. As such, the United Kingdom continued to participate in the ongoing Member-led discussions on dispute settlement reform. The United Kingdom welcomed the ambition and intensity of the current discussions. Pragmatic solutions were required for reforms that would command the support of all WTO Members. The United Kingdom called on all Members to continue to prioritise efforts on reform. As Members talked about complying with and strengthening international law, Russia continued to violate international law through President Putin's outrageous and illegal war against sovereign and democratic Ukraine. That was not simply politics – it was a repudiation of the principles that every country had committed to uphold under the UN Charter, as

well as to the purpose and principles of the WTO. Russia's actions directly impeded the ability of Ukraine to fully participate in the work of this institution and the global trading system. President Putin had to urgently stop his attack on the Ukrainian people, withdraw from Ukraine, and restore regional and global stability. 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.

2.22. The representative of Singapore said that Singapore thanked Guatemala for its statement, which Singapore strongly supported. Singapore reiterated its previous statements regarding the proposal's urgency and importance. Singapore was committed to participating constructively and with an open mind in the ongoing discussions on dispute settlement reform. 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, was ready to engage with any delegation that wished to learn more about the arrangement.

2.23. The representative of Moldova said that Moldova thanked Guatemala for presenting the joint Appellate Body proposal and for including this item on the Agenda. Moldova joined other Members in reiterating the necessity to solve, in an urgent manner, the existing issues in connection with the Appellate Body selection process in order to have a viable, two-tiered dispute settlement mechanism serving all Members. Moldova also encouraged other Members to join this proposal. Moldova also expressed its support for the ongoing discussions on dispute settlement reform with the purpose of finding a viable long-lasting solution for the Appellate Body impasse before MC13. Referring to Russia's war against Ukraine, Moldova thanked Ukraine for its update in the DSB. Moldova aligned itself with other Members condemning the aggression and reiterated its full support for, and solidarity with, the Ukrainian people. Moldova called upon Russia to stop this war and withdraw its troops from Ukrainian territory immediately and unconditionally.

2.24. The representative of Switzerland said that Switzerland condemned Russia's military aggression against Ukraine. Such aggression was a flagrant violation of international law, especially the prohibition on the use of force and the principle of the territorial integrity of States. Switzerland called on Russia to take de-escalation measures, cease hostilities and immediately withdraw its troops from Ukrainian territory. Switzerland called on all stakeholders to respect international law, especially international humanitarian law. With regard to item 2 on the Agenda, Switzerland thanked Guatemala for the intervention and referred to its statement made on this issue at previous DSB meetings. Switzerland called on all Members to commit to achieving a fully operational dispute settlement system by 2024, as stipulated in the final Outcome Document of MC12. That objective was a priority for Switzerland and Switzerland would continue to participate in a constructive way in the informal discussions which were presently in progress.

2.25. 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. Regarding this Agenda item, the European Union referred to its previous statements on this issue and thanked all Members who had co-sponsored the proposal to launch the appointment processes. Since 11 December 2019, the WTO had 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. 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.

The European Union was keen to see discussions continue in a focused and result-oriented manner, with a view to having a well and fully functioning dispute settlement system by 2024. Members had an ambitious schedule in place, but they had to be ambitious if they were to deliver on the MC12 commitment. Indeed, those discussions had to pave the way for agreement on dispute settlement reform at MC13. 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 invited any WTO Member to join as long as a solution to that impasse had not been found.

2.26. The representative of Colombia said that Colombia wished to thank Guatemala for the statement made on behalf of 129 co-sponsors of the joint AB proposal. Colombia also thanked the representative of Guatemala for his tremendous efforts in the context of the discussions on DS reform.

2.27. The representative of South Africa said that South Africa wished to be associated with the statement made by Guatemala on the proposal for Appellate Body appointments and thanked Guatemala for delivering the statement on behalf of the co-sponsors. South Africa also supported the statement made by Nigeria, on behalf of the Africa Group. South Africa reiterated its previous statements regarding the urgency of this matter. The fact that the Appellate Body could not hear new appeals remained a concern. Members had a shared responsibility to safeguard and preserve the Appellate Body, the dispute settlement system, and the multilateral trading system. It was the duty of Members to proceed without further delay with the launching of the selection processes for the Appellate Body members. South Africa therefore urged the DSB to urgently fulfil its obligation under the DSU, which was to fill vacancies as they arise and to maintain the two-tier dispute settlement system, as this would ensure predictability within 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 that Members achieved that shared objective. South Africa welcomed the commitment undertaken by Members during MC12 for a fully and well-functioning dispute settlement system accessible to all Members by 2024. That commitment was reiterated during the recent informal discussions on WTO reform, which were continuing. South Africa would continue to work actively and constructively with all Members to find a lasting solution to the present impasse and to ensure an effective dispute settlement system.

2.28. The representative of the United States said that the United States and other Members had jointly issued 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, armed forces and Leaders.

2.29. The representative of Bangladesh said that Bangladesh thanked Guatemala for presenting the proposal on Appellate Body appointments contained in document WT/DSB/W/609/Rev.25, for the immediate restoration of the Appellate Body. Bangladesh, along with the listed Members, as a co-sponsor of the proposal on Appellate Body appointments, was requesting the DSB to take a decision to launch the selection process to fill the vacancies in the Appellate Body. If Members were truly respectful of the commitment by their Ministers, as provided in paragraph four of the MC12 Outcome Document, Members had to engage in discussions for Appellate Body appointments as a top priority. Bangladesh was ready to continue constructive discussions in that regard.

2.30. The representative of Guatemala said that Guatemala, on behalf of the 129 co-sponsors, regretted that for the sixty-seventh 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 shall comply with their obligation under the DSU to fill vacancies as they arise. Guatemala noted with deep concern that by failing to launch the selection processes at the present meeting, the Appellate Body would continue to be unable to perform its functions, against the best interest of all WTO Members.

2.31. 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 present meeting. Once again, he 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.

2.32. The DSB took note of the statements.

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