

**Dispute Settlement Body**  
**19 December 2002**

**MINUTES OF MEETING**

Held in the Centre William Rappard  
on 19 December 2002

*Chairman: Mr. Carlos Pérez del Castillo (Uruguay)*

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**1. Surveillance of implementation of recommendations adopted by the DSB**

- (a) United States – Section 110(5) of the US Copyright Act: Status report by the United States
- (b) United States – Anti-Dumping Act of 1916: Status report by the United States
- (c) United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States
- (d) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States

1. The Chairman recalled that Article 21.6 of the DSU 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 pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved". He proposed that the four sub-items to which he had just referred be considered separately.

- (a) United States – Section 110(5) of the US Copyright Act: Status report by the United States (WT/DS160/18/Add.10)

2. The Chairman drew attention to document WT/DS160/18/Add.10 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.

3. The representative of the United States said that her country had provided an additional status report in this dispute on 6 December 2002, in accordance with Article 21.6 of the DSU. As noted in that report, the United States and the EC had been seeking a positive and mutually acceptable resolution of the dispute. The United States continued to work towards a mutually acceptable arrangement consistent with WTO rules. Members might be aware that the US Congress had not been in session since the 28 November DSB meeting at which the previous status report had been presented by the United States. The US administration would continue to engage the US Congress on this issue when it reconvened early next year.

4. The representative of the European Communities said that 28 months had passed after the adoption of the Panel Report on Section 110(5) of the US Copyright Act. While the EC appreciated the efforts of the US administration, it was disappointed by the lack of action of the United States thus far. The EC urged, once again, the United States to take rapid and concrete action to settle this dispute and to comply with the DSB's recommendations. He reiterated the EC's request for more detailed information on the legislative steps that the United States intended to take in order to bring the Copyright Act into compliance with the TRIPS Agreement.

5. The representative of Australia said that his country had previously registered its continued commercial and systemic interests in this matter. He, therefore, referred delegations to previous statements made by Australia in this regard.

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

- (b) United States – Anti-Dumping Act of 1916: Status report by the United States (WT/DS136/14/Add.10 - WT/DS162/17/Add.10)

7. The Chairman drew attention to document WT/DS136/14/Add.10 – WT/DS162/17/Add.10 which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning the US Anti-Dumping Act of 1916.

8. The representative of the United States said that her country had provided an additional status report in this dispute on 6 December 2002, in accordance with Article 21.6 of the DSU. The US administration would continue to work with the US Congress when it convened early next year to achieve further progress in resolving this dispute with the EC and Japan.

9. The representative of the European Communities said that it was regrettable that the EC had to make another repetitive statement regarding this matter. He then recalled the main highlights of the statement made by the EC at the previous regular DSB meeting. First, a repeal of the 1916 Act with effects to future cases only could not be considered a satisfactory solution of this dispute and would only serve to prolong the dispute. Second, the EC expected that the new Congress would treat the repeal of the 1916 Act and the termination of ongoing cases as first priority. The EC noted the commitment of the US administration to continue to work with the US Congress when resumed its work so as to solve this dispute as soon as possible. The EC hoped that concrete actions would be put in place.

10. The representative of Japan said that, like the EC, her delegation also regretted that repetitive statements had to be made on this matter. Japan expressed its deep regret once again that the bills repealing the 1916 Act had not passed the US Congress during the last session. Japan's concern was warranted and serious, as the prolonged non-compliance by the United States was affecting the confidence in the dispute settlement system and was causing real damage to the relevant Japanese companies. Japan reiterated that the United States had to implement the DSB's recommendations and rulings, at the earliest possible time, by repealing the WTO-inconsistent Act and by terminating any proceedings thereunder.

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

- (c) United States – Section 211 Omnibus Appropriations Act of 1998: Status report by the United States (WT/DS176/11/Add.3)

12. The Chairman drew attention to document WT/DS176/11/Add.3 which contained the status report by the United States on progress in the implementation of the DSB's recommendations in the case concerning US Section 211 Omnibus Appropriations Act of 1998.

13. The representative of the United States said that her country had provided a status report in this dispute on 6 December 2002, in accordance with Article 21.6 of the DSU. As indicated previously, the new US Congress would convene early next year. The US administration would continue to engage the US Congress on this issue when it resumed work.

14. The representative of the European Communities said that the EC would like to restate its position expressed at the previous regular DSB meetings on the legal status of abandoned trademarks under Section 211. To find Section 211 consistent with the TRIPS Agreement, the Panel had relied on the US representation that this provision did not apply in the particular circumstances where a trademark had been legally abandoned. However, US courts had not interpreted Section 211 in conformity with these affirmations. Therefore, it should be clarified that Section 211 did not apply to a new trademark after a former trademark – to which Section 211 might have applied – had been abandoned. In light of the forthcoming deadline for compliance, the EC wished to know what the US

administration intended to do. The EC remained open to all solutions that could favour compliance and hoped that a satisfactory solution would be reached.

15. The representative of Cuba expressed her delegation's deep regret at the US status report which revealed that no action had been taken to comply with the DSB's recommendations and rulings concerning Section 211 of the Omnibus Appropriations Act of 1998. She noted that the reasonable period of time for implementation in this case would expire in the next few days. At the present meeting, her delegation wished to reaffirm the statement made by Cuba at the 1 February 2002 DSB meeting<sup>1</sup> and to draw attention to some important points in this regard. She recalled that Section 211 was a result of a suit brought before the US courts concerning the usurpation of the right of use of the Cuban rum trademark "Havana Club" by a competitor on the international market. Although US law at the beginning of the proceedings had favoured Cuban interests, considerable pressure from that competitor, which although based in the Bahamas had most of its interests in the United States, had led to the adoption of Section 211 by the US Congress, thereby producing a ruling in favour of the interests of the company. The Appellate Body, which had examined the case, had found that this law violated the principle of national treatment since the limitations which it established were applicable only to the successors-in-interest of Cuban nationals who were not US nationals, and therefore applied in a discriminatory manner only to Cuban owners residing in Cuba or a country other than the United States, but not to US owners or Cubans residing in the United States. Likewise, the Appellate Body had found that Section 211 violated the most-favoured-nation treatment principle by establishing in a discriminatory manner that only Cuban nationals were subject to this provision whereas the nationals of any country other than Cuba or the United States were not. Cuba maintained that Section 211 of the Omnibus Appropriations Act of 1998 should be repealed. Its incompatibility with US commitments in the area of intellectual property rights had been demonstrated by the Appellate Body. She noted that the United States had always attached particular importance to and established itself as a strong advocate of intellectual property issues, repeatedly demanding that the rules of the TRIPS Agreement be strictly observed. Therefore, the United States should be equally self-demanding and should comply with the DSB's recommendations and rulings in this regard. In this respect, the abrogation of the law at issue would be the best solution from both a legal and an ethical point of view.

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

(d) United States – Anti-dumping measures on certain hot-rolled steel products from Japan: Status report by the United States (WT/DS184/15/Add.3)

17. The Chairman drew attention to document WT/DS184/15/Add.3 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.

18. The representative of the United States said that her country had provided a status report in this dispute on 6 December 2002, in accordance with Article 21.6 of the DSU, in which it was reporting that it had implemented the DSB's recommendations and rulings with respect to the calculation of anti-dumping margins in the hot-rolled steel anti-dumping investigation. In that status report, the United States also noted that, on 5 December 2002, the DSB had approved an extension of the reasonable period of time in this dispute until 31 December 2003, or until the end of the first session of the next Congress, whichever would be earlier. The US administration would continue to consult and to work with the US Congress on resolving the dispute in a mutually satisfactory manner.

19. The representative of Japan recalled that the reasonable period of time for implementation in this case had been extended at the 5 December DSB meeting until the end of the first session of the

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<sup>1</sup> WT/DSB/M/119.

next US Congress or 31 December 2003, whichever would be earlier. This extension was granted only to facilitate the earliest compliance by the United States with the DSB's recommendations and rulings and not to provide the United States with a grace period to sit back. Japan expected the United States to do its utmost to ensure prompt compliance, including introducing and passing the necessary legislation in the US Congress as soon as the 108th session opened next year, while closely consulting with Japan on the status and contents of implementation. Japan looked forward to full implementation by the United States early next year.

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

## **2. United States – Final dumping determination on softwood lumber from Canada**

(a) Request for the establishment of a panel by Canada (WT/DS264/2)

21. The Chairman drew attention to the communication from Canada contained in document WT/DS264/2.

22. The representative of Canada said that, once again, his country had been forced to bring a softwood lumber complaint before the DSB. He recalled that earlier complaints related to the countervailing duties imposed by the United States. This case related to the anti-dumping duties. However, these measures had one thing in common; i.e. they were all WTO-inconsistent. The softwood lumber industry was of vital importance to the Canadian economy. Canada would insist, both before the DSB and before the Panel, that the United States live up to its binding obligations. Turning to the specifics of this request, he recalled that on 13 September 2002, Canada had requested consultations with the United States concerning the final affirmative determination of sales at less than fair value with respect to certain softwood lumber products from Canada announced by the US Department of Commerce on 21 March 2002. Consultations had been held on 11 October 2002. Unfortunately, these consultations had failed to resolve the dispute. Therefore, on 6 December 2002, Canada had requested that a panel be established at the present meeting. As set out in this request, the measures at issue included the initiation of the investigation, the conduct of the investigation, the Final Determination and the resulting Anti-Dumping Order on Softwood Lumber from Canada. Canada considered that these measures, and in particular the determinations made and methodologies adopted therein by the US Department of Commerce, violated the Anti-Dumping Agreement and the GATT 1994 for, among others, the following reasons: the US Department of Commerce had failed to establish a clear, definitive and proper product scope for investigation, and had improperly initiated and pursued the investigation with regard to certain products. The application filed by the US domestic industry and the subsequent initiation of the investigation by the US Department of Commerce did not comply with Article 5 of the Anti-Dumping Agreement. In this connection, he wished to refer to the Continued Dumping and Subsidy Offset Act of 2000 known as the "Byrd Amendment". By requiring that a member of the US industry support the application as a condition of receiving payments under this Act, domestic industry support for the dumping application had never been objectively established. Furthermore, the US Department of Commerce had improperly applied a number of methodologies based on improper and unfair comparisons between the export price and the normal value, resulting in artificial and/or inflated margins of dumping. Consequently, and in accordance with the relevant provisions of the DSU, the GATT 1994 and the Anti-Dumping Agreement, Canada was requesting the establishment of a panel to consider these matters.

23. The representative of the United States said that her country regretted that Canada had chosen to request the establishment of a panel. As a substantive matter, the United States believed that Canada's claims lacked merit. The anti-dumping investigation at issue had properly been initiated and conducted in accordance with applicable WTO rules. The United States urged Canada to reconsider its position. The United States, therefore, believed that it would be premature to establish a panel at this stage and thus was not in a position to accept establishment of a panel at the present meeting.

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

**3. European Communities – Conditions for the granting of tariff preferences to developing countries**

(a) Request for the establishment of a panel by India (WT/DS246/4)

25. The Chairman drew attention to the communication from India contained in document WT/DS246/4.

26. The representative of India said that the decision to pursue this dispute had been particularly difficult for his country given that developing countries, including India, were beneficiaries of the EC's generalized system of preferences (GSP) regime. He said that, at first glance, it might seem as if India was seeking to put into doubt the legitimacy of a system under which developing countries could obtain benefits. He, therefore, invited other Members to assess this matter beyond that first glance. India wished to assure developing-country Members that it had initiated this dispute in the sincere belief that it would serve the long-term systemic interest of many developing countries. At the heart of the matter was the unconditional most-favoured-nation (MFN) treatment obligation agreed to by all Members under the GATT 1994, a cornerstone of the rules-based multilateral trading system. He emphasized the word "unconditional". In India's view, the word "unconditional" meant that Members had established a rules-based multilateral trading system that preserved their sovereignty and enabled them to adopt and implement policies to respond to the unique needs of its constituents, given the equally unique history and culture of each Member. As conceived, the GSP under the Enabling Clause had been established as an exception to the MFN obligation, but only to the extent that it allowed discrimination in favour of developing countries "to facilitate and promote the trade of developing countries". In imposing the condition that any GSP scheme had to be "generalized, non-reciprocal, non-discriminatory", the Enabling Clause merely elaborated on the word "unconditional". Thus, the imposition of any condition as a prerequisite for the availment of benefits under any GSP scheme, particularly a condition unrelated to facilitating and promoting the trade of developing countries in general, was in violation of the MFN treatment obligation and the Enabling Clause. If tolerated, this would lead to the erosion of the sovereign ability of each developing country to adopt and implement policies to respond to the unique needs of its constituents. Rather, those policy choices would be made by developed countries granting GSP preferences subject to conditions. Selective trade preferences could and often did result in adverse effects on trade of other developing countries.

27. He said that India had taken up these issues bilaterally with the EC and also during its consultations under the DSU. His country had engaged in discussions with the EC hoping that some sensitivity would be shown regarding the adverse impact on India of the concessions extended to certain countries under the GSP regime. India had waited patiently for nearly nine months for the EC to address its concerns. Unfortunately, the response received from the EC had not addressed India's concerns. As no mutually satisfactory solution could be arrived at, India was left with no option other than seeking the establishment of a panel. India hoped that Members would appreciate its constraints and the underlying reasons, which had forced India to take such a step, albeit with utmost reluctance. While India was requesting that a panel be established regarding this dispute, it hoped that, even at this late stage, the EC would take concrete steps to ensure that India's legitimate concerns were redressed.

28. The representative of the European Communities said that the EC wished to express its deep regret and surprise over India's request for the establishment of a panel at a time when both parties were engaged in useful and good faith consultations. The EC was also deeply disappointed that India had chosen to ignore that the EC's GSP scheme was an autonomous regime granted on a non-reciprocal, generalised and non-discriminatory basis. Moreover, the scheme of which India was one of the beneficiaries. The EC was totally convinced of the GATT/WTO-consistency of its GSP

scheme, including the special incentive arrangements referred to by India. The EC was acting in full conformity with its GATT/WTO commitments including the prescriptions of the Enabling Clause. The EC urged India to reflect very carefully once more upon its course of action which might hamper efforts by the EC and other Members to address the developmental needs of developing countries through the GSP. Nevertheless, if India remained committed to pursuing this regrettable action, the EC, whilst opposing the establishment of a panel at the present meeting, would vigorously defend its interests and those of all GSP beneficiary countries in the framework of the WTO dispute settlement system.

29. The representative of Colombia, speaking on behalf of the member countries of the ANDEAN Community (Bolivia, Ecuador, Peru, Venezuela and Colombia) expressed concern over India's decision to request the establishment of a panel in relation to the alleged inconsistency of the EC's scheme of generalized tariff preferences for a group of countries specified in Council Regulation (EC) No. 2501 of 2001. This particular situation had been set out to senior Indian officials at meetings of a number of bodies both in Geneva and at the Ministerial level. He noted that India had stated that its concerns were primarily trade-related and had been triggered by the recent extension of the coverage of the scheme. He reiterated that the issue raised by India was highly political. In this respect, the above-mentioned countries called upon India to reconsider the implications of requesting a ruling by the WTO decision-making bodies on unilateral preferences accorded by developed countries. Complex discussions on these issues had taken place in other WTO bodies. The lack of consensus thereon and the enormous economic and political implications of a ruling on this matter would have to be taken into consideration, in particular in the present circumstances. In this regard, he noted that the anti-drug campaign had a very high cost for the economies of the countries in question entailing extra costs relating to security and institutional deterioration and, with the large number of victims of the violence caused by drug trafficking, had undermined the advancement of peoples. The preferential access granted by the EC merely facilitated trade, responded to trade and development needs and was based on the principle of shared responsibility endorsed by all those who undertook to combat the international scourge of drug trafficking. In the light of the above considerations, the countries in question hoped that the opportunity afforded by the decision at the present meeting would be seized and that, as a result, major progress would be made in bilateral discussions between India and the EC, which would avoid the need to establish a panel on this matter. Finally, the countries at issue wished to reiterate their hope that the Madrid Summit agreements aimed at deepening trade relations in the medium term would be shortly implemented.

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

#### **4. United States – Countervailing duties on certain corrosion-resistant carbon steel flat products from Germany**

(a) Report of the Appellate Body (WT/DS213/AB/R and Corr.1) and Report of the Panel (WT/DS213/R)

31. The Chairman drew attention to the communication from the Appellate Body contained in document WT/DS213/8 transmitting the Appellate Body Report on "United States – Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany", which had been circulated in document WT/DS213/AB/R and Corr.1, in accordance with Article 17.5 of the DSU. He wished to remind delegations that in accordance with the Decision on Procedures for the Circulation and Derestriction of WTO Documents contained in document WT/L/452, the Appellate Body Report and the Panel Report had been circulated as unrestricted documents. As Members were aware, Article 17.14 of the DSU required that: "An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within 30 days following its circulation to Members. This adoption procedure is without prejudice to the right of Members to express their views on an Appellate Body report".

32. The representative of the United States said her country first wished to thank the members of the Appellate Body and the Appellate Body Secretariat, as well as the members of the Panel and the WTO Secretariat, for their hard work in producing these Reports. There were many noteworthy aspects of the Appellate Body Report that deserved mention, but at the present meeting, her delegation would confine itself to a few. First, and most important, was that the Appellate Body Report reaffirmed that the purpose of WTO dispute settlement was to enforce existing obligations, and not to create them. While this principle was reflected in various portions of the WTO Agreement and the DSU, the EC in this dispute had sought to depart from it. The Appellate Body's reaffirmation of this principle was especially timely. She noted that Members had embarked upon the difficult task of completing the Doha Round of negotiations. Negotiators and treaty drafters could perform their tasks with renewed confidence that the words they wrote would not be rewritten years after the fact in WTO dispute settlement proceedings.

33. A second important aspect of the Appellate Body Report was that it reaffirmed the importance of a treaty's text under the customary rules of treaty interpretation. On the *de minimis* issue, the Panel majority essentially used a purported "object and purpose" to trump the text of Article 21.3 of the Subsidies Agreement, and the Appellate Body had properly reversed the Panel's findings. The Appellate Body's analysis on this and other issues was a model of how the customary rules of treaty interpretation should be applied. The final significant aspect of the Appellate Body Report which was noted at the present meeting was that the Report clarified that in situations where a complaining party challenged the WTO-consistency of another Member's law "as such", the burden was on the complaining party to demonstrate that such a law mandated WTO-inconsistent action or precluded WTO-consistent action. As stated by the Appellate Body in paragraph 157 of its Report, "a responding Member's law will be treated as *WTO-consistent* until proven otherwise". Because certain prior reports were unclear as to which party had the burden of proof with respect to the "mandatory/discretionary doctrine", this aspect of the Report was a particularly welcome clarification. The United States was pleased to support the adoption of the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report.

34. The representative of the European Communities said that notwithstanding the positive outcome on the specific CDV case at issue, the EC was disappointed at the result of the Appellate Body's review of this case. In fact, the EC initiated sunset reviews only when there was sufficient evidence of injury and/or subsidization. Equally CVD measures imposed by the EC could not continue when subsidies fell below a 1 per cent *de minimis* threshold. The EC remained convinced that this interpretation of the provisions of the SCM Agreement was required by the context and the purpose of the Agreement. Unfortunately, the Appellate Body had disagreed, and followed the more restrictive line put forward by the United States. In the view of the EC, however, this line would effectively void the sunset provisions of the SCM Agreement of their practical relevance. However, he wished to point out that the EC was not alone in having serious reservations about the US law and practice in the field of sunset reviews. Japan and Argentina had recently challenged this kind of investigation, both in the anti-dumping and in the CVD field. Their action had been expressly supported by several other Members during the consultations and the Panel's proceedings. The outcome of another ongoing case which involved Japan would help in having a more complete judicial analysis of the obligations established by the WTO in this area. In view of this, the issue of the object and purpose of the SCM Agreement as applied to sunset reviews would continue to be a subject of considerable concern in the WTO. In concluding, he recalled that, notwithstanding the findings on the US law, the Reports under consideration at the present meeting stated that certain aspects of the specific sunset review at issue were inconsistent with the US obligations under the SCM Agreement. Accordingly, the EC expected the United States to promptly implement these findings by lifting the WTO-incompatible duties on carbon steel from Germany.

35. The representative of Japan said that her country had participated as a third party in this dispute. While Japan understood that the Reports of the Appellate Body and the Panel would be adopted by the DSB at the present meeting by negative consensus, it regretted the findings and



conclusions of the Appellate Body Report. For instance, the SCM Agreement and the Anti-Dumping Agreement provided in the respective provisions that any countervailing duty and any anti-dumping duty shall in principle be terminated after five years, unless determined otherwise in a sunset review. "Sufficient evidence" was required to justify the initiation of a sunset review, as was the case for the original investigation. It was Japan's view, as well as that of many other Members, that automatic self-initiation of the sunset review was inconsistent with the WTO Agreement. Japan was quite disappointed that the Appellate Body in this proceeding had not agreed with its view. Japan was currently involved in the on-going Panel proceedings against the United States on a similar matter concerning the Anti-Dumping Agreement. Japan would fully avail itself of these proceedings to make its claims and arguments accepted by the Panel so that the Panel would reach the right conclusions.

36. The representative of Argentina said that his country wished to echo the concerns expressed by the EC and Japan regarding the findings in this case.

37. The representative of Korea said that his country also had serious concerns about the sunset provisions in the US anti-dumping legislation, in particular the automatic initiation of sunset reviews. In this regard, Korea wished to express its reservations about the Appellate Body's conclusions and to echo the concerns expressed by the EC, Japan and Argentina.

38. The representative of Chile said that, like the EC, Japan, Argentina and Korea, his country also had concerns about the way in which sunset reviews were being conducted in the United States. For that reason, his country wished to be associated with the statements made by the EC, Japan, Argentina and Korea.

39. The DSB took note of the statements and adopted the Appellate Body Report in WT/DS213/AB/R and Corr.1 and the Panel Report in WT/DS213/R and Corr.1, as modified by the Appellate Body Report.

## **5. Additional Procedures for Consultations Between the Chairperson of the DSB and WTO Members in Relation to Amendments to the Working Procedures for Appellate Review**

(a) Proposal by the Chairman (WT/DSB/W/214)

40. The Chairman recalled that at the informal DSB meeting on 10 October 2002, delegations had expressed a desire to have certain agreed procedures in place for the DSB Chairperson to follow when consultations were initiated by the Appellate Body, pursuant to Article 17.9 of the DSU. After that meeting and in accordance with the desire of delegations, he had prepared a draft text on possible procedures in this regard. He had held a number of informal meetings on a possible text and had sought guidance as to the nature of the DSB action to be taken once a consensus were to be reached on the substance of the procedure. As a result of these extensive consultations, at the present meeting he wished to draw Members' attention to the proposal contained in document WT/DSB/W/214 on Additional Procedures for Consultations Between the Chairperson of the DSB and WTO Members in Relation to Amendments to the *Working Procedures for Appellate Review*. It was his understanding that no delegation objected to this proposal, which had been sent by fax to Heads of Delegations on 29 November 2002 and in which he had invited delegations to make comments by 5 December 2002. Consequently, he had decided to place this matter on the agenda of the present meeting with a view to taking a decision on it. He then proposed that the DSB agree to the proposal on "Additional Procedures for Consultations Between the Chairperson of the DSB and WTO Members in Relation to Amendments to the *Working Procedures for Appellate Review*", as contained in document WT/DSB/W/214. He added that following the decision at the present meeting this text would be circulated as a DSB document in line with other DSB decisions such as WT/DSB/1 and WT/DSB/6. It was his understanding that some delegations had expressed the view that it would be convenient if all relevant decisions of the DSB were contained in one document. He had discussed this matter with

the Secretariat, which had undertaken to circulate the text of this decision together with all relevant DSB decisions in a compilation, as was being done by other WTO bodies. In addition, the text of this decision would be included in the next edition of the WTO publication entitled: "The WTO Dispute Settlement Procedures: A Collection of the Relevant Legal Texts", which would be issued in the near future.

41. The DSB took note of the statement and agreed to the Chairman's proposal contained in WT/DSB/W/214.<sup>2</sup>

**6. Proposed nominations for the indicative list of governmental and non-governmental panelists (WT/DSB/W/215 and Corr.1)**

42. The Chairman drew attention to document WT/DSB/W/215 and Corr.1 which contained additional names proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU. He proposed that the DSB approve the names contained in documents WT/DSB/W/215 and Corr.1.

43. The DSB so agreed.

**7. Amendments to the Working Procedures for Appellate Review**

**(a) Statement by the Chairman**

44. The Chairman, speaking under "Other Business", drew attention to the communication from the Appellate Body in document WT/AB/WP/5 containing additional explanations regarding amendments to Rules 1, 24 and 27 of the *Working Procedures for Appellate Review*. He noted that this communication was available outside the meeting room. In that communication, the Appellate Body had also set out proposed additional amendments to Rules 1, 24(4) and 27, together with proposed consequential amendments to Rules 16(1), 18(5), 19 and 28, and to Annex 1. As indicated in that communication, the intention of the Appellate Body was to adopt the proposed amendments early next year, to have effect from 15 February 2003. In the light of this, he proposed that this matter be placed on the agenda of the regular DSB meeting scheduled for 27 January 2003 in order to enable Members to express their views on the proposed amendments. Furthermore, in accordance with the Additional Procedures for the Chairman of the DSB and WTO Members in Relation to Amendments to the *Working Procedures for Appellate Review*, which had been adopted under agenda item 5 of the present meeting, he would also send a fax to delegations regarding this matter in order to provide them with an opportunity to comment on the proposed amendments in writing by the date of the next regular DSB meeting scheduled for 27 January 2003.

45. The DSB took note of the statement.

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<sup>2</sup> Subsequently circulated in document WT/DSB/31.