

**Dispute Settlement Body Meeting
31 March 2023**

Hong Kong, China's Statement

Item 3. Discussions Concerning DS Reform

- Thank you, Chair.
- Hong Kong, China would like to express our appreciation that there are constructive discussions undertaken under the informal process, as part of the efforts to meet ministers' mandate set out in the MC12 Outcome Document to have a fully and well-functioning dispute settlement system accessible to all Members by 2024.
- While we agree that the informal process should be institutionalised at an appropriate juncture, and would better be sooner than later, we welcome any form of constructive discussion prior to that and leading to that.
- We note that, while it remains an informal process, all the meetings and sessions convened so far are open to all Members, and we appreciate the opportunities to have candid exchanges with other Members on the different issues.
- On a personal level, I would like to express my heartfelt appreciation for the tireless efforts, professionalism and devotion of Marco in this process.
- Thank you, Chair.

Item 4. Appellate Body Appointments: Proposal by Afghanistan; Angola; Antigua and Barbuda; Argentina; Australia; Bangladesh; Benin; Plurinational State of Bolivia; Botswana; Brazil; Burkina Faso; Burundi; Cabo Verde; Cambodia; Cameroon; Canada; Central African Republic; Chad; Chile; China; Colombia; Congo; Costa Rica; Côte D’Ivoire; Cuba; Democratic Republic of Congo; Djibouti; 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; 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.23)

- Thank you, Chair.
- Hong Kong, China recalls our previous statements made under this item, and would like to continue to join other Members to reiterate our concerns about the Appellate Body impasse, as well as our commitment to work constructively with all WTO Members to restore a fully and well-functioning dispute settlement system by 2024 as put down in the MC12 Outcome Document.
- Chair, we reiterate the importance of having a two-tiered, binding dispute settlement system within the WTO; and would also like to add that any discussion of, or any outcome from, any DS reform should seek to present improvements to the system, not to seek to fundamentally undermine it or essentially dismantle it.
- Thank you, Chair.

Item 5. Other Business

A. Statement by the United States Concerning the Panel Report in *United States – Origin Marking Requirement (DS597)*

- Thank you, Chair. Sorry, colleagues, I know you must be thinking of lunch already, but I am afraid this would be a rather lengthy intervention, please bear with me.
- Thank you, the US, for your statement on DS597, but to be honest, this is not an expected occurrence; especially because I recall that at the last meeting on 27 February, the US delegation has expressed their views on the procedural impropriety for a Member to bring substantive issues under AOB. I would like to quote verbatim what the US said at the last meeting, [quote] “[u]nder the rules of procedure for this meeting, Rule 25 provides that “[d]iscussions on substantive issues under ‘Other Business’ shall be avoided, and the [DSB] shall limit itself to taking note of the announcement by the sponsoring delegation” and any reaction by another delegation “directly concerned”. [unquote]
- Therefore, toeing the US’ lines at the last meeting, the US’ comments just now would appear to constitute but a belated response to Hong Kong, China’s arguments presented at prior meetings.
- On the points raised by the US in the statement just now, I would, first and foremost, refer to the statement my delegation made under original Item 12 at the DSB meeting on 27 January 2023.
- Having said that, since the US has put forth their arguments, and their political considerations, and their version of what Hong Kong is like, at length just now, I would like to point out that after having heard the US’ points (including their arguments regarding and their version of Hong Kong’s circumstances) then, the panel of DS597 has found that the origin marking requirement arbitrarily imposed on Hong Kong products by the United States is inconsistent with the WTO rules; more specifically, violation of the most-favoured-nation treatment obligation.
- The Panel has also examined in detail and ruled on the United States’ claims on the “self-judging” nature of the security exceptions clauses under Article XXI of the GATT 1994. The panel has ruled in the negative.

- Without going further into the panel's rulings on DS597 which are clear to all Members, I hope to point out that full and due process has been observed and gone through before the issue of the panel report. I would also like to point out that, despite the US' insistence on its view on the entirely self-judging nature of Article XXI of the GATT 1994, in DS597, among the 13 third parties to the case, none of the Members had expressed agreement with the US on this point.
- Chair, I would go no further on this case now and would reserve our position in giving further response to or following up on the US' statement.
- Thank you, Chair.
