

**Dispute Settlement Body Meeting
26 January 2024**

Hong Kong, China's Statement

Item 2. United States – Origin Marking Requirement (Hong Kong, China) (DS597)

A. United States' Statement

- Thank you, Chair.
- This is the eighth time the US put DS597 on the agenda of a regular DSB meeting to further their smear campaign.
- As a friend of the system, we see it important for Members to uphold the rules-based multilateral system by adhering to the agreed trade rules. Ever since the US lodged appeal against the DS597 panel findings a year ago, Hong Kong, China has made clear repeatedly our readiness to have the case heard by the Appellate Body.
- While we have heard colleagues from the US stating on various occasions that they are keen to improve the efficiency of the WTO and prioritise the DS reform in this respect, what we see at DSB meetings is the exact opposite. Putting this item on the DSB agenda is once again a total disregard of the intended purpose of DSB meetings in facilitating resolution of trade disputes, and enforcement of Members' rights and obligations under the WTO covered agreements.
- The so-called "transnational repression" mentioned by the US just now is a distorted portrayal of a common legitimate feature of national security laws around the world to regulate acts pertaining to national security offences that take place outside a sovereign territory and/or by non-nationals. The extraterritoriality of national security of these national security laws is derived from the "Personality Principle" and the "Principle of Protective Jurisdictions" that provide exceptions to the "Territorial Principle".
- Details of the two exception principles applied in the Hong Kong National Security Law and the security laws of the said overseas jurisdictions can be found in our statement at the DSB meeting on 28 July 2023, I shall not repeat them here.

- As for all the unfounded allegations about the case of Jimmy Lai, given that the legal proceedings are ongoing, it is inappropriate for any person to comment on the details of the case. Suffice to say, the Department of Justice of the Hong Kong SAR is independently responsible for criminal prosecutions, free from any interference. Their decision to prosecute will only take into consideration the applicable laws and the admissible evidence to justify instituting proceedings. The prosecution has the burden to prove beyond reasonable doubt the commission of an offence before a defendant may be convicted by the court.
- The Judiciary of the Hong Kong SAR also exercises its judicial power independently. The courts decide cases strictly in accordance with the evidence and all applicable laws. Any attempt to interfere with the judicial proceedings in Hong Kong in order to procure a defendant's evasion of the criminal justice process, is simply a blatant attempt at undermining the rule of law of the Hong Kong SAR.
- If I may quote from the Chief Justice of the Hong Kong SAR, speaking at the Ceremonial Opening of the Legal Year on 22 January this year, "Under Article 3 of the Hong Kong National Security Law, the Judiciary has a duty to effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with law. The Judiciary takes this duty seriously. Of course, this does not mean that the courts will blindly convict all defendants or mete out the heaviest punishments possible on conviction. Rather, the courts will fully respect all fundamental rights, as required by Articles 4 and 5 of the National Security Law, in administering justice strictly and fairly in accordance with the provisions of that Law as well as other applicable laws. The courts will not yield to any pressure to convict or acquit, nor pay heed to harassment or threats of any kind. Just like all other types of criminal cases, where guilt is proven, conviction and punishment will follow accordingly. Where it is not so established, a defendant will be set free. If an error is made or is said to have been made and an appeal is brought, the appellate courts will carefully review the decision below in accordance with the law and procedure applicable. This is how our justice system has always, and will always, work."
- Freedom of speech and freedom of the press in Hong Kong are protected under the Basic Law and the Hong Kong Bill of Rights. Article 4 of the Hong Kong National Security Law also stipulates that such freedoms shall be protected in accordance with the law in safeguarding national security in the Hong Kong SAR.

- The legally protected rights of the media to comment on and criticise government policies remain unchanged.
- Chair, I would like to point out that the panel of DS597, as well as the panels of DS544, DS552, DS556 and DS564, etc. have all dismissed the US' claim that interpretation of Article XXI of the GATT 1994 is entirely self-judging. It is not up to the US to replace the panel's interpretation and application of the WTO agreements with its own.
- We regret the US' total disregard of the rules-based dispute settlement system in the WTO. Their misuse of DSB meetings for political smearing is objectionable.
- Thank you, Chair.

Item 5. 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; Lao People's Democratic Republic; 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.26)

- Thank you, Chair.
- Hong Kong, China would like to first thank Guatemala for the statement on behalf of all co-sponsors.

- Hong Kong, China continues 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 mandated in the MC12 Outcome Document.
- Thank you.
