

**Dispute Settlement Body Meeting
19 March 2024**

Hong Kong, China's Statement

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

A. United States' Statement

- Thank you, Chair.
- As a friend of the system, Hong Kong, China sees it important to uphold the rules-based multilateral trading system. Ever since the US lodged an appeal against the DS597 panel findings, Hong Kong, China has made clear repeatedly our readiness to have the case heard by an appellate body. We regret that the Appellate Body has been made defunct singlehandedly by one Member. Even more deplorable is that same Member has repeatedly abused the procedure of the DSB to challenge the panel findings and smear Hong Kong, China. For the record, this is the ninth time that DS597 is put on the agenda of a regular DSB meeting.
- While we have heard our learned friends 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 once again is a total disregard of the intended purpose of the DSB meetings in facilitating resolution of trade disputes, and enforcement of Members' rights and obligations under the WTO covered agreements.
- We fail to see how the introduction of the Safeguarding National Security Bill into our legislative body earlier this month can be an excuse for the US' imposition of an arbitrary trade measure in contravention of its WTO obligations four years ago in 2020.
- I would like to make it very clear that the bill is to honour Hong Kong's constitutional duty stipulated under Article 23 of our constitutional document, the Basic Law.
- Its introduction was prompted by a genuine and urgent need to avert any further attempts at compromising our national security.

- During the public consultation before the introduction of the bill, 98.6 per cent of over 13 000 respondents showed support and gave positive comments, indicating that the legislation has a strong support from our citizens.
- In drafting the Safeguarding National Security Bill, our government has drawn reference to the national security law of other common law jurisdictions, and made adaptations to suit the local circumstances. The bill is in line with international practices and legal principles, and it is not any different in purpose and in substance from the national security legislation of many of us in this room.
- The so-called “transnational repression” mentioned by the US 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 other jurisdictions can be found in our statement at the DSB meeting on 28 July 2023, I shall not repeat them here.
- On the different prosecution cases mentioned by the US, including Jimmy Lai’s case which legal proceedings are ongoing and therefore must not be commented on, I would like to reiterate that 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.
- 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 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. Instead, a Member who objects to a panel report should allow the case to be heard by the Appellate Body.
- This repeated abuse of the DSB meetings is objectionable as it reflects the total disregard of the rules-based dispute settlement system in the WTO.
- Thank you, Chair.

Item 6. 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 continue to join other Members to reiterate our concerns about the AB impasse, which has also been mentioned by various Members under the previous item. We would also like to emphasise our commitment to work constructively with all WTO Members to restore a fully and well-functioning dispute settlement system by 2024 as mandated in MC12 and reaffirmed in the MC13 Ministerial Decision.
- Thank you.
