

1. INTRODUCTION

1.1 The United States and China each appeals certain issues of law and legal interpretations developed in the Panel Report, *China – Measures Related to the Exportation of Rare Earths, Tungsten, and Molybdenum*, WT/DS431/R (US Panel Report).¹¹ China also appeals certain issues of law and legal interpretations developed in the Panel Report, *China – Measures Related to the Exportation of Rare Earths, Tungsten, and Molybdenum*, WT/DS432/R (EU Panel Report)¹² and in the Panel Report, *China – Measures Related to the Exportation of Rare Earths, Tungsten, and Molybdenum*, WT/DS433/R (Japan Panel Report).¹³ The Panel issued its findings in the form of a single document constituting three separate Panel Reports, which we refer to, collectively, as the "Panel Reports".¹⁴ The Panel was established¹⁵ to consider complaints by the United States¹⁶, the European Union¹⁷, and Japan¹⁸ (the complainants) with respect to China's use of export duties and export quotas on various forms of rare earths, tungsten, and molybdenum.

¹¹ WT/DS431/R, 26 March 2014.

¹² WT/DS432/R, 26 March 2014.

¹³ WT/DS433/R, 26 March 2014.

¹⁴ WT/DS431/R, WT/DS432/R, WT/DS433/R, 26 March 2014. The Panel issued its findings in the form of a single document constituting three separate Panel Reports, with a common cover page, preliminary pages, and sections 1 through 7. In section 8 of its Reports, the Panel set out separate conclusions and recommendations in respect of each dispute: pages USA-252 and USA-253 bear the document symbol for and contain the Panel's conclusions and recommendations in the Panel Report WT/DS431/R (US Panel Report), the dispute initiated by the United States; pages EU-254 and EU-255 bear the document symbol for and contain the Panel's conclusions and recommendations in the Panel Report WT/DS432/R (EU Panel Report), the dispute initiated by the European Union; and pages JPN-256 and JPN-257 bear the document symbol for and contain the Panel's conclusions and recommendations in the Panel Report WT/DS433/R (Japan Panel Report), the dispute initiated by Japan.

¹⁵ At its meeting on 23 July 2012, the Dispute Settlement Body (DSB) established a single panel, in accordance with Articles 6 and 9.1 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) pursuant to requests by the United States, the European Union, and Japan. (Panel Reports, para. 1.3)

¹⁶ Request for the Establishment of a Panel by the United States, WT/DS431/6.

¹⁷ Request for the Establishment of a Panel by the European Union, WT/DS432/6.

¹⁸ Request for the Establishment of a Panel by Japan, WT/DS433/6.

1.1 Panel Proceedings

1.2 The complainants challenged China's imposition of export duties on 58 rare earth¹⁹ products, 15 tungsten²⁰ products, and 9 molybdenum²¹ products.²² The complainants' challenges regarding export quotas related to 75 rare earth products, 14 tungsten products, and 9 molybdenum products.²³ Rare earths, tungsten, and molybdenum are naturally occurring minerals found in various mined ores.²⁴ The products subject to the challenged measures consist of both the naturally occurring minerals, as well as a number of intermediate products, that is, materials that have undergone some initial processing, for example, into concentrates, oxides, salts, and metals.²⁵ Generally speaking, the downstream products in which rare earths, tungsten, and molybdenum are ultimately used are not covered by the measures at issue in these disputes.²⁶ Further details about the products at issue in these disputes may be found in paragraphs 2.2 to 2.7 of the Panel Reports and paragraphs 4.10 through 4.12 of these Reports.

1.3 The complainants identified a number of legal instruments in connection with their claims, including Chinese framework legislation, implementing regulations, other applicable laws, and specific annual measures. The European Union and Japan also made claims in respect of replacement measures and renewal measures, while the United States made claims in respect of "implementing measures in force to date".²⁷

1.4 Before the Panel, the complainants claimed that²⁸:

- a. in respect of export duties on rare earths, tungsten, and molybdenum, the relevant measures at issue²⁹ are inconsistent with

¹⁹ "Rare earths" is the common name for a group of 15 chemical elements in the periodic table with atomic numbers 57 to 71. Two other rare earth elements, scandium (atomic No. 21) and yttrium (atomic No. 39), are also within the scope of these disputes. (Panel Reports, para. 2.3)

²⁰ Tungsten is the name given to the element with atomic No. 74. (Panel Reports, para. 2.6)

²¹ Molybdenum is a silvery metallic element with atomic No. 42. (Panel Reports, para. 2.7)

²² Panel Reports, para. 7.30. The products subject to export duties are listed in paragraph 7.46 of the Panel Reports. See also *Ibid.*, para. 2.16.

²³ The products subject to export quotas are listed in paragraph 2.16 of the Panel Reports.

²⁴ Panel Reports, paras. 2.5-2.7.

²⁵ Panel Reports, paras. 2.2, 2.5-2.7, and 2.16.

²⁶ Panel Reports, paras. 7.169, 7.170, and 7.588. Downstream products include, e.g. rare earth magnets. (*Ibid.*, paras. 7.582 and 7.588)

²⁷ Panel Reports, paras. 2.8-2.16, and fn 19 to para. 2.9.

²⁸ Panel Reports, para. 3.1.

²⁹ The measures identified by the complainants as those through which China subjects various forms of rare earths, tungsten, and molybdenum to export duties that are not listed in Annex 6 to China's Accession Protocol are listed in paragraphs 2.9 and 2.10 of the Panel Reports, and in fn 340 to para. 4.4 of these Reports.

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China's obligations under Paragraph 11.3 of Part I of the Protocol on the Accession of the People's Republic of China to the WTO³⁰ (China's Accession Protocol);

- b. in respect of export quotas on rare earths, tungsten, and molybdenum, the relevant measures at issue³¹ are inconsistent with Article XI:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and China's obligations under Paragraph 1.2 of Part I of China's Accession Protocol, which incorporates Paragraphs 162 and 165 of the Report of the Working Party on the Accession of China³² (China's Accession Working Party Report); and
- c. in respect of the administration and allocation of export quotas on rare earths and molybdenum³³ and, more specifically, restrictions – such as prior export performance and minimum registered capital requirements – on the trading rights of enterprises seeking to export those products, the relevant measures at issue³⁴ are inconsistent with Paragraph 5.1 of Part I of China's Accession Protocol, as well as with China's obligations under Paragraph 1.2 thereof, which incorporates commitments in Paragraphs 83 and 84 of China's Accession Working Party Report.³⁵

³⁰ WT/L/432.

³¹ The measures identified by the complainants as those through which China subjects various forms of rare earths, tungsten, and molybdenum to export quotas are listed in paragraphs 2.11 and 2.12 of the Panel Reports, and in fn 341 to para. 4.4, and paras. 4.3-4.9 of these Reports.

³² WT/ACC/CHN/49 and Corr.1.

³³ These claims were not raised with respect to tungsten, because it is a product listed in Annex 2A to China's Accession Protocol. China's obligation to grant the right to trade does not apply to the goods listed in Annex 2A, which are reserved for importation and exportation by state trading enterprises.

³⁴ The measures identified by the complainants as those through which China imposes restrictions – such as prior export performance and minimum registered capital requirements – on the trading rights of enterprises seeking to export various forms of rare earths and molybdenum are listed in paragraphs 2.14 and 2.15 of the Panel Reports, and in fn 342 to para. 4.4 of these Reports. The Panel also noted that, although each of the complainants had, in its request for establishment of a panel, raised claims relating to an alleged lack of uniform, impartial, or reasonable administration of the export quotas, all of the complainants confirmed to the Panel during the course of the proceedings that they were no longer pursuing these claims. (Panel Reports, para. 2.13)

³⁵ All three complainants raised claims that, with respect to rare earths and molybdenum, the measures at issue were inconsistent with China's commitments under Paragraphs 83(a), 83(b), 83(d), 84(a), and 84(b) of China's Accession Working Party Report. (Panel Reports, para. 7.983) In addition, the European Union claimed, with respect to molybdenum, that, by virtue of the 2012 Application Qualifications and Application Procedures for Molybdenum Export Quota (Panel Exhibits CHN-107 and JE-63), China had acted inconsistently with its commitment under Paragraph

1.5 In defending its measures, China contended³⁶:

- a. that the general exceptions of Article XX of the GATT 1994 are available to China to defend a potential violation of Paragraph 11.3 of China's Accession Protocol, and that the export duties on rare earths, tungsten, and molybdenum are justified under Article XX(b) of the GATT 1994;
- b. that the export quotas on rare earths, tungsten, and molybdenum are justified under Article XX(g) of the GATT 1994; and
- c. that the trading rights commitments in Paragraph 5.1 of China's Accession Protocol and Paragraphs 83 and 84 of China's Accession Working Party Report do not prevent the use of prior export performance and minimum registered capital requirements as criteria to administer the rare earth and molybdenum export quotas.

1.6 The factual aspects of this dispute are set forth in greater detail in paragraphs 2.1 to 2.16 of the Panel Reports, and in section 4 of these Reports.

1.7 On 9 October 2012, the Panel received a request from Canada for enhanced third-party rights, including third-party access to the entirety of both substantive meetings and all written submissions, and the right to make an oral statement at the second Panel meeting. On 19 October 2012, after consulting the parties to these disputes on the request, the Panel declined Canada's request.³⁷

1.8 On 20 December 2012, in its first written submission, China requested the Panel to issue, on an expedited basis, a preliminary ruling on the issue of whether the obligation in Paragraph 11.3 of China's Accession Protocol is subject to the general exceptions contained in Article XX of the GATT 1994.³⁸ On 1 February 2013, following the submission of comments on this issue by all of the parties to these disputes, the Panel informed the parties and third parties that it had decided not to rule on this issue prior to the first Panel meeting with the parties, which was to be held on 26-28 February 2013.³⁹ On 6 February 2013, China requested the Panel to make a preliminary ruling on this issue prior to the first meeting, and, on 8 February 2013, the Panel reiterated its decision not

84(b) of its Accession Working Party Report to grant trading rights to foreign enterprises in a non-discretionary way. (Panel Reports, paras. 7.973 and 7.1047)

³⁶ Panel Reports, para. 3.2.

³⁷ Panel Reports, paras. 1.10 and 7.1-7.10.

³⁸ Panel Reports, para. 1.11.

³⁹ Panel Reports, paras. 1.8 and 1.11.

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to do so.⁴⁰ Instead, the Panel informed China that, if it intended to present a substantive defence under Article XX of the GATT 1994 with respect to Paragraph 11.3 of its Accession Protocol, it should provide a written submission presenting this defence no later than 15 February 2013 so as to allow the parties and third parties a meaningful opportunity to respond at the first Panel meeting.⁴¹ China subsequently submitted a written defence by the stated deadline⁴² and, at the first Panel meeting, the Panel informed the parties to these disputes that it would not issue a preliminary ruling on this matter but would instead address the issue in its Reports.⁴³

1.9 On 18 July 2013, China filed an objection with the Panel regarding certain exhibits submitted by the complainants at the last stage of the Panel proceedings. China asked the Panel to reject the exhibits in question, together with all arguments based on them. The evidence to which China objected consisted of 10 exhibits, including four expert reports, which had been submitted by the complainants to the Panel on 17 July 2013, together with their comments on China's responses to the Panel's questions after the second Panel meeting.⁴⁴ The Panel afforded the complainants an opportunity to respond to China's request, and China an opportunity to comment on such responses, while at the same time reserving its right to decide whether the relevant exhibits should be considered as late evidence.⁴⁵ Subsequently, the Panel addressed the issue of the admissibility of the disputed evidence in its Reports, and decided to accept China's request that the exhibits be rejected⁴⁶, ruling that:

... the relevant exhibits were submitted too late; they could have been submitted earlier and in a manner consistent with due process. Additionally, these exhibits do not supplement the evidence already accepted by the Panel. They do not, as far as the Panel can see, say anything substantially new or different from what is said in the exhibits that the complainants submitted prior to 17 July 2013.⁴⁷

1.10 The Panel Reports were circulated to Members of the World Trade Organization (WTO) on 26 March 2014.

⁴⁰ Panel Reports, para. 1.12.

⁴¹ Panel Reports, paras. 1.11 and 1.12.

⁴² Panel Reports, para. 1.13.

⁴³ Panel Reports, para. 1.14.

⁴⁴ Panel Reports, paras. 7.11 and 7.12. Further details regarding the Panel exhibits and expert reports to which China objected are set out in paragraph 7.15 of the Panel Reports.

⁴⁵ Panel Reports, para. 7.12.

⁴⁶ Panel Reports, para. 7.28.

⁴⁷ Panel Reports, para. 7.27.

1.11 In its Reports, the Panel explained that it would make its findings and recommendations with respect to the series of measures comprising the relevant framework legislation, the implementing regulations, other applicable laws, and the specific annual measures imposing the export duties and export quotas existing at the date of the Panel's establishment.⁴⁸

1.12 In each of the Panel Reports, in respect of the claims concerning export duties, the Panel found that the export duties that China applies to various forms of rare earths, tungsten, and molybdenum by virtue of the series of measures at issue are inconsistent with Paragraph 11.3 of China's Accession Protocol.⁴⁹

1.13 The Panel further found that China may not seek to justify the export duties it applies to various forms of rare earths, tungsten, and molybdenum pursuant to Article XX(b) of the GATT 1994⁵⁰, because the obligation in Paragraph 11.3 of China's Accession Protocol is not subject to the general exceptions in Article XX of the GATT 1994⁵¹, and China had not presented any "cogent reason" for departing from the same finding made by the Appellate Body in *China – Raw Materials* on the same issue.⁵² In a separate opinion, one member of the Panel expressed the view that, "unless China explicitly gave up its right to invoke Article XX of GATT 1994, which it did not, the general exception provisions of the GATT 1994 are available to China to justify a violation of Paragraph 11.3 of its Accession Protocol."⁵³

1.14 The Panel further found, assuming *arguendo*⁵⁴ that China could seek to justify the export duties under subparagraph (b) of Article XX of the GATT 1994, that China had not demonstrated that the export duties it applies to various forms of rare earths, tungsten, and molybdenum are justified pursuant to that provision, or that the measures are applied in a manner that satisfies the chapeau of Article XX.⁵⁵

⁴⁸ Panel Reports, paras. 7.41 and 7.235. See also fns 96, 318, 1005, 1174, 1300, 1367, and 1374. The Panel recalled, in this respect, the approach followed by the panel and the Appellate Body in *China – Raw Materials*. (Panel Reports, para. 7.41 and fn 84 thereto (referring to Panel Reports, *China – Raw Materials*, para. 7.33; and Appellate Body Reports, *China – Raw Materials*, para. 266))

⁴⁹ US Panel Report, para. 8.1.a; EU Panel Report, para. 8.6.a; Japan Panel Report, para. 8.11.a.

⁵⁰ US Panel Report, para. 8.1.b; EU Panel Report, para. 8.6.b; Japan Panel Report, para. 8.11.b.

⁵¹ Panel Reports, para. 7.115.

⁵² Panel Reports, paras. 7.99, 7.104, and 7.114.

⁵³ Panel Reports, para. 7.138. See also *Ibid.*, para. 7.119.

⁵⁴ All three panelists agreed that China had not demonstrated that its export duties are justified under Article XX(b) of the GATT 1994, or that they are applied consistently with the chapeau of Article XX. However, for the panelist who expressed a separate opinion, this part of the reasoning was not undertaken on an *arguendo* basis. (Panel Reports, para. 7.140)

⁵⁵ US Panel Report, para. 8.1.b; EU Panel Report, para. 8.6.b; Japan Panel Report, para. 8.11.b.

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1.15 In the reasoning leading up to its conclusion that China may not seek to justify its export duties under Article XX(b) of the GATT 1994, the Panel considered, and rejected, an argument made by China that, due to the legal effect of Paragraph 1.2 of China's Accession Protocol and Article XII:1 of the Marrakesh Agreement Establishing the World Trade Organization⁵⁶ (Marrakesh Agreement), "Paragraph 11.3 of China's *Accession Protocol* has to be treated as an integral part of the GATT 1994".⁵⁷ The Panel found, instead, that:

... the legal effect of the second sentence of Paragraph 1.2 is to make China's Accession Protocol, in its entirety, an "integral part" of the Marrakesh Agreement, and not that, in addition, the

⁵⁶ Before the Panel, China drew a distinction between the Marrakesh Agreement Establishing the World Trade Organization *excluding* the Multilateral Trade Agreements annexed to it, on the one hand, and that Agreement *together with* its annexes, on the other hand. China used "the Marrakesh Agreement" to refer to the former, and "the WTO Agreement" to refer to the latter. On appeal, China draws the same distinction. In its findings regarding the availability of Article XX of the GATT 1994 to justify a breach of Paragraph 11.3 of China's Accession Protocol, the Panel also used "the Marrakesh Agreement" to refer to the Marrakesh Agreement Establishing the World Trade Organization *excluding* its annexes. For purposes of consistency, we, like the Panel, use "the Marrakesh Agreement" to refer to the Marrakesh Agreement Establishing the World Trade Organization excluding its annexes, even in instances where the complainants and third participants themselves have not, in their submissions, used the nomenclature "the Marrakesh Agreement". We underline that our use of such nomenclature is for purposes of these appeals only, and without prejudice to the legal issues raised by China on appeal.

⁵⁷ Panel Reports, para. 7.76 and fn 162 thereto (referring to China's first written submission to the Panel, section V.C, paras. 422-435; and China's responses to the complainants' comments on China's request for a preliminary ruling on the availability of Article XX of the GATT 1994, section III, paras. 13-34). The Panel further expressed its understanding that this argument by China rested on the following two premises:

- a. The legal effect of Paragraph 1.2 of China's Accession Protocol and Article XII:1 of the Marrakesh Agreement is to make China's Accession Protocol an "integral part" of the Marrakesh Agreement, and also to make each of the Accession Protocol-specific provisions an integral part of one of the Multilateral Trade Agreements (e.g. GATT 1994) annexed to the Marrakesh Agreement.
- b. The determination of which Multilateral Trade Agreement(s) (e.g. GATT 1994) a particular provision of the Accession Protocol is an "integral part" must be based on an evaluation of which Multilateral Trade Agreement(s) the provision at issue is "intrinsically" related to. Paragraph 11.3 of China's Accession Protocol contains an obligation regarding trade in goods, and in particular regulating the use of export duties. Therefore, it is "intrinsically related" to the GATT 1994, and in particular the provisions of [the] GATT 1994 regulating the use of export duties – which, in China's view, are Articles II and XI of the GATT 1994. Accordingly, Paragraph 11.3 must be treated as an "integral part" of the GATT 1994. Paragraph 11.3 is therefore subject to the general exceptions in GATT Article XX unless there is explicit treaty language to the contrary.

(*Ibid.*, para. 7.76 (fn omitted; emphasis original))

individual provisions thereof are also integral parts of Multilateral Trade Agreements annexed to the Marrakesh Agreement.⁵⁸

1.16 In each of the Panel Reports, in respect of the claims concerning export quotas, the Panel found that:

- a. the export quotas that China applies to various forms of rare earths, tungsten, and molybdenum by virtue of the series of measures at issue are inconsistent with Article XI:1 of the GATT 1994⁵⁹;
- b. the export quotas that China applies to various forms of rare earths, tungsten, and molybdenum by virtue of the series of measures at issue are inconsistent with Paragraphs 162 and 165 of China's Accession Working Party Report as incorporated into China's Accession Protocol by virtue of Paragraph 1.2 of that Protocol⁶⁰; and
- c. China had not demonstrated that the export quotas applied to various forms of rare earths, tungsten, and molybdenum are justified pursuant to subparagraph (g) of Article XX, or that the measures are applied in a manner that satisfies the chapeau of Article XX of the GATT 1994.⁶¹

1.17 In each of the Panel Reports, in respect of the claims concerning export quota administration and allocation, the Panel found that:

- a. the restrictions on the trading rights of enterprises exporting rare earths and molybdenum that China applies by virtue of the series of measures at issue are inconsistent with Paragraphs 83(a), 83(b), 83(d), 84(a), and 84(b) of China's Accession Working Party Report, as incorporated into China's Accession Protocol by virtue of Paragraph 1.2 of that Protocol, and with Paragraph 5.1 of China's Accession Protocol⁶²; and
- b. while China is entitled to seek to justify such restrictions on the trading rights of enterprises exporting rare earths and molybdenum

⁵⁸ Panel Reports, para. 7.93. See also *Ibid.*, paras. 7.80 and 7.89.

⁵⁹ US Panel Report, para. 8.2.a; EU Panel Report, para. 8.7.a; Japan Panel Report, para. 8.12.a.

⁶⁰ US Panel Report, para. 8.2.b; EU Panel Report, para. 8.7.b; Japan Panel Report, para. 8.12.b.

⁶¹ US Panel Report, para. 8.2.c; EU Panel Report, para. 8.7.c; Japan Panel Report, para. 8.12.c.

⁶² US Panel Report, para. 8.3.a and b; EU Panel Report, para. 8.8.a and b; Japan Panel Report, para. 8.13.a and b.

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pursuant to Article XX(g) of the GATT 1994, China had failed to make a *prima facie* case that the violations of its trading rights commitments are justified pursuant to Article XX(g).⁶³

1.18 In the EU Panel Report, the Panel also found, in respect of the European Union's additional claim concerning export quota administration and allocation, that the European Union had not established that the prior export performance criterion in the 2012 Application Qualifications and Application Procedures for Molybdenum Export Quota is inconsistent with the commitment in Paragraph 84(b) of China's Accession Working Party Report as incorporated into China's Accession Protocol by virtue of Paragraph 1.2 of that Protocol.⁶⁴

1.19 In each of the Panel Reports, the Panel found, in accordance with Article 3.8 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), that, by virtue of infringing its obligations under Article XI:1 of the GATT 1994; Paragraphs 1.2, 5.1, and 11.3 of China's Accession Protocol; and Paragraphs 83, 84, 162, and 165 of China's Accession Working Party Report as incorporated into its Accession Protocol by virtue of Paragraph 1.2 of that Protocol, China has nullified or impaired benefits accruing to each respective complainant.⁶⁵ The Panel then made the following recommendation in each of the Panel Reports:

Pursuant to Article 19.1 of the DSU, having found that China has acted inconsistently with Article XI:1 of the GATT 1994; Paragraphs 1.2, 5.1 and 11.3 of China's Accession Protocol; and Paragraphs 83, 84, 162 and 165 of China's [Accession] Working Party Report, the Panel recommends that the Dispute Settlement Body requests China to bring the existing measures at issue into conformity with its obligations under the GATT 1994, China's Accession Protocol and China's [Accession] Working Party Report. In respect of findings concerning export duties and export quotas on various forms of rare earths, tungsten, and molybdenum, and restrictions on the trading rights of enterprises exporting rare earths and molybdenum, the Panel has found that the series of measures have operated to impose export duties and export quotas on various forms of rare earths, tungsten, and molybdenum, and restrictions on the trading rights of enterprises exporting rare earths and molybdenum (i.e. the prior export experience requirement, the export performance requirement, and the

⁶³ US Panel Report, para. 8.3.c and d; EU Panel Report, para. 8.8.c and d; Japan Panel Report, para. 8.13.c and d.

⁶⁴ EU Panel Report, para. 8.8.e.

⁶⁵ US Panel Report, para. 8.4; EU Panel Report, para. 8.9; Japan Panel Report, para. 8.14.

minimum registered capital requirement), that are inconsistent with China's WTO obligations. The Panel, therefore, recommends that the Dispute Settlement Body requests China to bring its measures into conformity with its WTO obligations such that the series of measures does not operate to bring about a WTO-inconsistent result.⁶⁶

1.2 *Appellate Proceedings*

1.20 On 8 April 2014, the United States notified the Dispute Settlement Body (DSB), pursuant to Articles 16.4 and 17 of the DSU, of its intention to appeal certain issues of law covered in the US Panel Report (WT/DS431/R) and certain legal interpretations developed by the Panel, and filed a Notice of Appeal⁶⁷ and an appellant's submission with the Appellate Body Secretariat pursuant to Rule 20 and Rule 21, respectively, of the Working Procedures for Appellate Review⁶⁸ (Working Procedures). On 13 April 2014, the Director of the Appellate Body Secretariat sent a letter to the participants and the third parties in DS431, informing them of the composition of the Appellate Body Division that would be hearing this appeal, and providing them with a Working Schedule specifying the deadlines for the filing of written submissions, and indicating that the date of the oral hearing in that appeal would be communicated on a subsequent date.

1.21 On 17 April 2014, China notified the DSB, pursuant to Articles 16.4 and 17 of the DSU, of its intention to appeal certain issues of law covered in the US Panel Report, and certain legal interpretations developed by the Panel, and filed a Notice of Other Appeal⁶⁹ and an other appellant's submission pursuant to Rule 23 of the Working Procedures.

1.22 On 25 April 2014, China notified the DSB, pursuant to Articles 16.4 and 17 of the DSU, of its intention to appeal certain issues of law covered in the EU Panel Report (WT/DS432/R) and the Japan Panel Report (WT/DS433/R), and certain legal interpretations developed by the Panel, and filed a Notice of Appeal⁷⁰ and an appellant's submission with the Appellate Body Secretariat pursuant to Rule 20 and Rule 21, respectively, of the Working Procedures. On the same day, the Director of the Appellate Body Secretariat sent a letter to the participants and the third parties in DS432 and DS433 informing them that the Appellate Body Division selected to hear these appeals was composed of the

⁶⁶ US Panel Report, para. 8.5; EU Panel Report, para. 8.10; Japan Panel Report, para. 8.15.

⁶⁷ WT/DS431/9 (attached as Annex 1 to these Reports).

⁶⁸ WT/AB/WP/6, 16 August 2010.

⁶⁹ WT/DS431/10 (attached as Annex 2 to these Reports).

⁷⁰ WT/DS432/9, WT/DS433/9 (attached as Annex 3 to these Reports).