

*\*\*\*Check Against Delivery*

BEFORE THE ARBITRAL PANEL  
OF  
THE DOMINICAN REPUBLIC – CENTRAL AMERICA – UNITED  
STATES FREE TRADE AGREEMENT (CAFTA-DR)

*Guatemala - Issues relating to the obligations under Article 16.2.1(a)  
of CAFTA-DR*

*Opening statement of Guatemala*

2 June 2015

## **I. Introduction**

1. Mr. Chairman, members of the Panel, good morning. Thank you for agreeing to serve on this Panel and for the time that you have devoted to this matter. We would also like to welcome our colleagues from the United States to Guatemala.

2. Despite the United States' claims to the contrary, this dispute is not about helping Guatemalan or U.S. workers. This dispute is scaring investors and driving away buyers who will reconsider their relationship with Guatemalan suppliers and will source their products elsewhere, most likely in Asia. Thus, it will result in job losses in Guatemala, without bringing any gains to U.S. workers.

3. The Guatemalan government is firmly committed to improving working conditions and labor enforcement in Guatemala. Guatemala has made substantial progress on both fronts and continues to work hard to make further gains. If the United States genuinely wanted to contribute to enhancing workers' rights in Guatemala, it would have continued to cooperate with Guatemala under the Action Plan that the two countries agreed in 2013. The Action Plan was delivering tangible results, including the hiring and training of more labor inspectors and important improvements in judicial procedures. As an illustration, inspections at the national level increased 247% in 2013 with respect to the previous year.

4. Yet, the United States abruptly and unilaterally chose to abandon the cooperation under the Action Plan and pursue litigation. Why? Because it saw it as a ploy to obtain a handful of votes for Trade Promotion Authority (TPA), which is currently under discussion in the U.S. Congress. The welfare of Guatemala's workers and the health of Guatemala business sector are casualties that the U.S. Administration is willing to sacrifice for a few Congressional votes. Nothing could be farther from the CAFTA-DR's lofty goals of socioeconomic cooperation.

5. Because its case is entirely based on political expediency, and not on hard evidence, the United States seeks to have Guatemala condemned on the basis of secret witnesses, hearsay and innuendo, which deprives Guatemala of the opportunity to adequately defend itself. This is a terrible precedent.

6. The right to confront witnesses is firmly established in the United States Constitution and in the legal systems of most, if not all, democratic countries. Neither U.S. nor the Guatemalan courts would condemn an employer on the basis of secret testimony. The right to confrontation is deeply engrained and universal, and is a fundamental aspect of due process.

7. Mr. Chairman, members of the Panel, Guatemala's opening statement will proceed as follows. First, Guatemala will address the Panel's terms of reference. Second, Guatemala will discuss the burden of proof and its concerns about the use of secret witnesses and redacted documents in this case. Third, Guatemala will set out its views on the proper interpretation of Article 16.2.1(a). Next, Guatemala will address, in turn, each of the three claims that the United States has made in these proceedings. It will then address the United States' allegations on trade effects. Finally, Guatemala will offer some concluding remarks.

## **II. The United States' Panel Request is Defective and, as a Consequence, the Jurisdiction of the Panel was not Validly Established**

8. The U.S. panel request does not meet the requirements of Article 20.6.1 of the CAFTA-DR and thus the jurisdiction of this Panel was not validly established.

9. Article 20.6.1 requires a Party to set out the reasons for the panel request, including identification of the measure or other matter at issue and an indication of the legal basis for the complaint. The United States failed to comply with these explicit requirements. Instead, the United States submitted a panel request that was overly broad and vague, and that merely paraphrases Article 16.2.1(a).

10. The United States does not seem to dispute that its panel request is overly broad. Instead, the United States proposes an implausible legal interpretation of the CAFTA-DR through which, a complaining Party, by essentially paraphrasing Article 16.2.1(a), would comply with the requirements of Article 20.6.1 of the CAFTA-DR. This interpretation is incorrect as it renders a panel request meaningless.

11. The United States does not dispute that a) the sufficiency of a panel request must be evaluated on its face and as a whole (i.e., the Panel cannot resort to other documents like the

request for consultations or the parties' submissions); and b) the respondent's ability to defend itself has no bearing in the sufficiency of the panel request.

12. Moreover, the United States has not addressed, in any of its communications, the fact that its panel request conflates the concepts of "matter at issue" and the "legal basis for the complaint". The U.S. panel request does not clearly identify the matter at issue and the legal basis for the complaint when Article 20.6.1 clearly frames the two as separate requirements.

13. Furthermore, the U.S. panel request referred vaguely to "action" or "inaction" without further specification. As a matter of fact, the United States has not refuted that its panel request provides for an open-ended list of potential claims. There is no way to determine by reading the panel request what the precise claims of the United States are. As a result it fails to meet the requirements of Article 20.6.1 of the CAFTA-DR.

14. The United States also has confirmed that the labor laws in its panel request are "identifiable". Hence, by its own admission, the labor laws were not "identified" in the panel request. In the view of the United States, it identifies the failure to enforce labor laws concerning three particular labor rights, "which make up a limited realm of identifiable laws". Guatemala, however, has provided examples of no less than 40 different laws and regulations that could relate to the labor rights referenced by the United States in its panel request. These examples are merely illustrative. Guatemala has hundreds of these laws and regulations. It is impossible, by the mere reference to particular labor rights, to identify the labor laws at issue in this dispute.

15. Guatemala could point to additional deficiencies in the U.S. panel request. However, in the interest of the time and in view that the Panel has already read our submissions, Guatemala will not repeat its arguments.

16. Guatemala will conclude by saying that there is no question that the U.S. panel request is overly broad and vague. Looking only within its four corners, it is impossible to determine the scope of this dispute. Additionally, the plain reading of the panel request does not allow the Panel to determine its own terms of reference. It is necessary, for that purpose, to rely on the

United States' submissions and that would be incompatible with the legal standard set forth in the CAFTA-DR.

17. Therefore, this Panel must find that it has no jurisdiction to rule on the United States' claims.

### **III. The United States has Failed to Meet its Burden of Producing Evidence and Substantiating its Case**

18. We turn next to the burden of proof. Rule 65 of the MRP places the burden of proof squarely on the United States. This includes the obligation to produce evidence and to make a *prima facie* case on each element of its claims. Rule 65 does not allow for any shortcuts. As the United States has acknowledged, “[t]he complaining party cannot establish the existence of a fact based on simple assertions, conjectures, assumptions or remote possibilities.”

19. The United States has failed to meet its burden. The vast majority of “evidence” it has submitted in this case is not evidence, but rather consists of testimony of secret witnesses and documents from which key information has been redacted. Secret testimony is inherently unreliable. Without the possibility of confronting witnesses, it is not possible to test the veracity of their statements or their credibility, or to place their testimony in the proper context. The Panel is not entitled to assume that the witnesses are not lying, exaggerating or acting on self-interest. In this case, the unreliability of the secret testimony is compounded by the fact that the United States often relies on the testimony of these secret witnesses in support of facts of which these secret witnesses only have indirect knowledge. In some instances, the United States even attempts to use the testimony of secret witnesses to establish the “beliefs” of other individuals.

20. The inherent unreliability of the secret testimony and redacted documents the United States has chosen to build its case upon creates a high risk of error for this Panel. The rules regarding the burden of proof, including Rule 65 of the MRP, exist precisely to reduce the likelihood of error and, in this case, direct the Panel to rule against the United States.

21. The Panel must also consider that the United States chose in this case to rely on secret witnesses and redacted documents and refused to utilize the mechanisms to protect confidential information provided by the MRP without providing any justification for its decision.

22. The rules allow the United States the ability to maintain the confidentiality of the witness statements it has built its case around and avoid the high risk of error created by secret witnesses statements whose authenticity and reliability are impossible to validate.

23. However, the United States chose to ignore the MRP and rely on secret witnesses and redacted documents in order to put Guatemala at a disadvantage and to obstruct its ability to respond.

24. This is a serious breach of Guatemala's due process rights and has put the Panel in a difficult situation in which any ruling in favor of the United States would be premised on evidence which would be inadmissible in any judicial proceedings held in either the United States or Guatemala. The United States would never tolerate being condemned by an international tribunal or international arbitration panel on the basis of secret testimony or documents from which the key information had been redacted.

25. The Panel must ensure that Guatemala's due process rights in these proceedings are respected.

#### **IV. The Interpretation of Article 16.2.1(a) Advocated by the United States is Flawed and Cannot be Reconciled with the Text of Article 16.2.1(a)**

26. This is the first time that Article 16.2.1(a) will be interpreted by a CAFTA-DR panel. Both parties agree that the Panel's interpretation should proceed on the basis of the customary rules of interpretation of public international law codified in the Vienna Convention on the Law of Treaties.

27. Article 31(1) of the Vienna Convention sets out the general rule of interpretation according to which "[a] treaty shall be interpreted in good faith in accordance with the ordinary

meaning to be given to the terms of the treaty in their context and in the light of its object and purpose”.

28. The United States is putting forward an interpretation that is irreconcilable with the text of Article 16.2.1(a) because it ignores each of the modifying clauses from the provision as well as from other provisions of Chapter 16. In fact, the interpretation put forward by the United States does not even reflect the objectives given to U.S. negotiators by the U.S. Congress at the time of the CAFTA-DR negotiations. The United States is brazenly trying to rewrite Article 16.2.1 to reflect the objectives adopted by the U.S. Congress *after* the CAFTA-DR was negotiated.

29. The United States would have the Panel believe that Article 16.2.1(a) consists only of its initial clause: “A Party shall not fail to effectively enforce its labor laws”. The other three modifying clauses of Article 16.2.1(a)—that is, (i) that the failure be sustained or recurring; (ii) be part of a course of action or inaction; and (iii) and in a manner affecting trade between the Parties—are effectively read out by the United States, so are Article 16.2.1(b) and the definitions of Article 16.8.

30. For the United States, two unconnected events occurring years apart demonstrates a “sustained or recurring” failure. The United States’ interpretation of 16.2.1(a) also strips the requirement that a failure be caused by a “course of action or inaction” of all meaning, creating an impossible standard in which any oversight, delay, or mistake results in a *de facto* violation of Article 16.2.1(a).

31. The phrase “course of action or inaction” was included for the purpose of avoiding exactly this result. A course of action is more than a combination of unintentional actions, it is a procedure adopted to deal with a situation – a plan of conduct to accomplish an objective. It requires intent.

32. Accordingly, to establish its *prima facie* case the United States must prove that any alleged failures of Guatemala to enforce its labor laws were caused by more than mere negligence. The standard set by Article 16.2.1(a) is higher. It requires evidence that the failures were coordinated and deliberate.

33. However, because the United States has no evidence of any intent by Guatemala to systematically refuse to enforce its labor laws it has ignored this requirement. Instead, it has gathered together a conglomeration of unsupported and untested secret allegations of delays, mistakes, and other negligent acts and thrown this mud on the wall in the hopes that it will distract the Panel from holding it to each of the requirements of 16.2.1(a).

34. The United States is in essence asking this Panel to adopt a strict liability test under which the identification of any mistake or delay in meeting a statutory deadline results in a violation of Article 16.2.1(a). This cannot be a reasonable interpretation. Even the most efficient government does not have a perfect record.

35. The U.S. Government's record is far from perfect as was demonstrated in Guatemala's Rebuttal Submission. In 2008, the U.S. Government Accountability Office found that the United States Department of Labor had serious failings in respect of the investigation of wage complaints filed by U.S. workers. For example, the U.S. Government Accountability Office found cases that took over a year for the Department of Labor to respond to a complaint, cases closed based on unverified information, cases dropped where the employer did not return phone calls, and instances in which the investigator lied about the investigative work performed.

36. The notion that the CAFTA-DR governments agreed to expose themselves to international liability each time one of its agencies missed a statutory deadline or made an honest mistake finds no support in the text of Article 16.2.1(a), with its four clauses, each containing separate conditions that further narrow the circumstances in which the failure to enforce a labor law can give rise to a violation of the provision.

37. In Guatemala's view, the text of Article 16.2.1(a) does not make actionable each instance in which a court order is not executed or a statutory deadline is missed, nor does it cover all aspects of labor enforcement. Rather, it lays down a series of elements that are cumulative in nature, and imposes a high threshold that must be met by a Party invoking the provision.

38. Based on the ordinary meaning of its terms, a Party invoking Article 16.2.1(a) must establish: (i) a consistent and repeated series of related acts or omissions; (ii) with respect to the observance or compliance of laws that protect certain labor rights; (iii) by entities belonging to



the Executive Branch of government; (iv) over a prolonged period of time; (v) taken pursuant to a deliberate policy of neglect of the Party concerned; (vi) that has the intended consequence of having an effect on the exchange of goods or services among all of the States that are part of CAFTA-DR.

39. The obligation in Article 16.2.1(a) is of a composite nature that concerns some aggregate of conduct and not individual acts as such. In other words, the focus of Article 16.2.1(a) is on a consistent series of deliberate acts defined in aggregate as wrongful.

**V. The United States Has Not Established a Violation of Article 16.2.1(a) With Respect to the Alleged Failure by the Guatemala’s Labor Courts to Impose Additional Fines or by the Public Ministry to Pursue Criminal Penalties**

40. We turn next to the United States’ first claim. As Guatemala explained in its written submissions, the United States’ claim fails because: (i) the actions or inactions of the labor courts or the Public Ministry do not fall within the scope of Article 16.2.1(a); (ii) even assuming *arguendo* that the actions or inactions of labor courts and Public Ministry were to fall within the scope of Article 16.2.1(a), the United States has failed to establish that there was inaction; and (iii) even if there was inaction, the United States has failed to establish that there was a “course of ... inaction” that was “sustained or recurring”, and that affected trade between the Parties.

41. Guatemala will not repeat its arguments today. Instead, Guatemala wishes to focus on some of the key flaws in the United States’ case.

42. First, Guatemala recalls that, in every instance in which the United States claims lack of enforcement, the United States acknowledges that the workers had access to the Guatemalan labor courts and were able to exercise their rights. The United States has not alleged, nor has it submitted any evidence to suggest, that the workers were denied access to the Guatemalan labor courts, were not able to fully exercise their rights, or were not afforded due process. The United States also recognizes that, where the employers failed to comply with the court orders, the Guatemalan labor courts imposed monetary fines in accordance with Guatemalan law.

43. The United States' claim is based on the alleged failure of the Guatemalan labor courts to impose additional monetary fines and the alleged failure by the Public Ministry to pursue criminal penalties in addition to the monetary fines.

44. However, in its Rebuttal Submission, Guatemala has provided evidence that demonstrates that there was no inaction by the Guatemalan labor courts or Public Ministry. In the case of ITM and NEPORSA, the labor court could not execute the reinstatements because the employees did not show up when the reinstatement was going to be executed, failed to appear in court, voluntarily withdrew the reinstatement request, or failed to provide information that was necessary for the court to execute the reinstatement order.

45. In the case of ODIVESA, the reinstatement orders were vacated on appeal or the employees requested termination of the reinstatement proceedings. Consequently, there was no basis for the labor courts to impose additional fines or for the Public Ministry to pursue criminal sanctions. Therefore, the United States' allegation of inaction fails.

46. As regards Fribo, Alianza and Mackditex, employees voluntarily settled their claims and waived their right to reinstatement. In the light of this, there was no basis for the Guatemalan labor courts to impose additional fines or for the Public Ministry to pursue criminal penalties. Furthermore, a decision not to pursue additional penalties once employees have voluntarily settled their claims is entirely consistent with a policy of prioritizing the allocation of resources and represents a reasonable exercise of discretion. In this regard Article 16.2.1(b) is dispositive. It clearly states that a Party is in compliance with subparagraph (a) where a course of action or inaction reflects a reasonable exercise of the Party's discretion, or results from a *bona fide* decision regarding the allocation of resources.

47. The United States complains that some employees settled for an amount that was less than the amount awarded by the labor court. The fact is that plaintiffs, including employees, regularly settle for less than the amount claimed or the amount awarded by the trial court. An appeal always brings with it risk that the trial court award will be overturned and there are also risks involved in the collection of awards.

48. The United States is seeking to have the Panel apply a standard that its own courts do not apply. A U.S. court will not interfere with a settlement between an employer and an employee even if it considers that the employee received less money than it was owed.

49. In any event, the United States did not provide evidence that employees settled for an amount that was less than the amount that was awarded.

50. In the case of Fribo, moreover, the United States complains that six workers were not reinstated, but ignores the reality that Fribo was closed within four months of the reinstatement orders being issued.

51. With respect to NEPORSA, the United States' own expert has indicated that there was no legal basis for the labor court to impose additional fines or for the Public Ministry to pursue criminal penalties.

52. Finally, in the case of Solesa, the United States has failed to produce any reinstatement orders. As there is no evidence that a labor court had ordered the reinstatement, there is no basis for the United States' allegation that the Guatemalan labor courts failed to enforce them.

## **VI. The United States Has Failed to Show a Violation of Article 16.2.1(a) With Respect to the Alleged Failure to Perform Inspections or Imposed Penalties**

53. In its second claim, the United States alleges inaction with respect to the performance of inspections or imposition of penalties. However, Guatemala has demonstrated that the United States did not make a *prima facie* case of failure to effectively enforce labor laws with respect to *all* companies targeted in its complaint.

54. In all cases, the United States failed to put forward pertinent evidence. The vast majority of documentation submitted by the United States was in the form of anonymous statements that do not have probative value or redacted documents that do not prove the facts that the United States intended to prove, such as inspectors' reports that are not the appropriate legal instrument to prove inaction regarding the imposition of penalties.

55. In some cases, the United States put forward alleged “studies” that either do not refer to the issues at hand or were prepared by NGOs whose objectivity is questionable. For example, the United States submitted a Verités Report prepared by consultants of the United States Department of Labor to contradict Guatemala’s hard evidence showing that African Palm Oil Companies have been found to be in full compliance with labor laws.

56. Although the United States has not succeed in shifting the burden of proof, Guatemala has in any case demonstrated that the majority of claims of inaction are unwarranted because the authorities indeed took action or because the companies were in full compliance with their labor laws obligations.

57. Furthermore, Guatemala identified a number of contradictions in the U.S. exhibits that confirm the risk of relying on anonymous statements and documents with redacted information. For example, the workers’ anonymous statements cannot be reconciled with the inspector’s reports contained in exhibits USA-118, USA-119 and USA-121. This contradiction was discovered because of the United States’ inattention in redacting all identifying information.

58. Another example is the statement of AAAA in exhibit USA-181 who asserts that “Tiki Industries workers have maintained that they *rarely* see inspectors after complaints about working conditions have been filed with the Ministry of Labor” while individual IIII in exhibit USA-231 states that “from 2012 to date [April 7, 2015], labor laws violations have been found during *approximately 25 visits/inspections*”. “Rarely” and “25 visits/inspections” are not reconcilable.

59. In view of the United States’ failure to demonstrate inaction with respect to all companies targeted in its submissions, it also failed to demonstrate that the alleged inaction to perform inspections or impose penalties constitutes a failure to effectively enforce labor laws through a “sustained or recurring course of ... inaction” in a manner affecting trade between the Parties.

**VII. The United States Has Failed to Establish a Violation of Article 16.2.1(a) in Connection with the Registration of Unions and the Establishment of Conciliation Tribunals**

60. The United States’ allegations that Guatemala violated Article 16.2.1(a) because the General Labor Directorate failed to register unions and the Guatemalan labor courts failed to establish conciliation tribunals are unfounded. Before addressing them, Guatemala notes that there is no connection between the alleged delay in registering unions and the alleged delay in establishing conciliation tribunals. The United States has artificially tried to craft these allegations together, despite the lack of any relationship between them, in a desperate attempt to show that there is a “course of action” and that it is “recurrent” or “sustained”. The Panel should reject the United States’ attempt to combine apples and oranges.

61. Turning first to the registration of unions, Guatemala recalls that the United States accepts that the unions at Mackditex, Koa Modas and Serigrafia were registered.

62. Guatemala has demonstrated, and the United States did not dispute in its Rebuttal Submission, that the majority of delays originally alleged by the United States were attributable to the action or inaction of the employees applying for union registration, and not to the General Labor Directorate.

63. Ultimately, the United States is attempting to establish a violation of Article 16.2.1(a) on the basis of short delays in the registration of three unions during a period of over eight years during which a total of 415 unions were registered in Guatemala. The three union applications underlying the United States’ allegation represent less than 1% of the unions registered in Guatemala between 2008 and 2014.

64. Article 16.2.1(a) does not contemplate a strict liability standard in which a few instances in which a government agency has missed a statutory deadline can give rise to international responsibility. Article 16.2.1(a) expressly requires the United States to establish that Guatemala has failed to effectively enforce its labor laws, “through a sustained or recurring course of ... inaction, in a manner affecting trade between the Parties”.

65. Even if the three instances of delay alleged by the United States were to qualify as “inaction”, they would not constitute “a course of ... inaction” under any reasonable interpretation of those terms, much less “a course of ... inaction” that is “sustained or recurring”. And there is certainly no evidence before the Panel that these minimal delays somehow “affected trade between the Parties”.

66. The final allegation made by the United States concerns alleged delays in the establishment of conciliation tribunals at four companies. The United States asserts that the failure to establish the conciliation tribunals in a timely manner resulted in a failure to enforce labor laws related to collective bargaining and acceptable working conditions.

67. The logic of the United States’ argument is flawed and rests on an incorrect understanding of Guatemalan law. As the United States has acknowledged, conciliation tribunals are alternative dispute resolution mechanisms. The purpose of a conciliation tribunal is not to enforce the law. No sanctions ensue from the conciliation process. Nor are workers required to engage in the conciliation process before exercising their rights. They have the ability to file a complaint before the labor courts or the General Labor Inspectorate at any time. Thus, a delay in the establishment of a conciliation tribunal does not prevent workers from seeking enforcement of their rights nor can it be characterized as a failure to enforce labor laws.

68. In any event, the United States has failed to establish the factual foundation of its allegations. First, the United States has failed to provide evidence to support its assertion that employees at Las Delicias requested a conciliation tribunal. Second, in the case of Ternium, Avandia, and Fribo, the labor court found that employees had failed to meet the requirements of Article 381 of Guatemala’s Labor Code. This Panel is precluded from reviewing the labor court’s decisions in accordance with Article 16.3.8 of the CAFTA-DR. Guatemala has also provided evidence that, in the case of Avandia, the labor court took a proactive stance in favor of the employee’s interests, including authorizing the employees to designate the employer’s representative. Finally, the other request for the establishment of a conciliation tribunal in relation to Avandia was filed by the employees in the wrong court, which would explain any delays.

69. Therefore, the United States has failed to demonstrate inaction with respect to the establishment of conciliation tribunals.

### **VIII. The United States Has Failed to Establish the Alleged Failures Affected Trade Between The Parties**

70. The United States has failed to establish any link between the alleged labor law violations with an effect on trade between the Parties. Take for example the allegations surrounding the companies employing stevedores, that is, ITM, NEPORS, ODIVESA, and RTM. The workers of these companies are not engaged in the production of goods which are traded between CAFTA-DR Parties. They are not performing services which could be performed by workers in other member countries. Nor is there any evidence on the record that they handled goods which were traded between CAFTA-DR members. Yet, the United States insists that any labor violation which went unenforced involving these workers affected trade between the Parties.

71. To come to this conclusion the United States asks the Panel to make multiple assumptions which are completely devoid of factual support.

72. First the United States would have the Panel assume the stevedores handled goods which were traded between CAFTA-DR members.

73. Second, the United States requires the Panel to assume the workers handled these goods when the alleged labor violations occurred.

74. Third, the United States asks the Panel to assume that the alleged labor violations allowed the companies in questions to reduce their costs.

75. Finally, the United States' theory requires that the Panel assume the companies in question passed these savings on to Guatemalan companies involved in trade allowing them to ship their products at a reduced cost. However, the United States has not provided the Panel with any facts on which to base these assumptions.

76. Take as another example the short delays alleged by the United States in the registration of three unions. The United States has failed to provide any evidence that such delays had an effect on trade between the Parties.

77. In addition to the lack of evidence, Guatemala identified a number of other deficiencies in the allegations put forward by the United States on trade effects that we do not wish to repeat here.

## **IX. Conclusion**

78. Mr. Chairman, members of the Panel, Guatemala reiterates its firm commitment to the protection of workers' rights and the enforcement of its labor laws. As of today there is no evidence that any of the allegations made by the United States remain outstanding.

79. The most effective way that the United States could support Guatemala's efforts to enhance workers' rights and improve working conditions is through cooperation. Indeed, cooperation, and not litigation, is at the core of Chapter 16 of the CAFTA-DR.

80. Guatemala deeply regrets that the United States unilaterally chose to end cooperation under the Action Plan in order to secure a few votes in Congress. The U.S Administration has chosen to put short-term political considerations ahead of the welfare of Guatemalan and U.S. workers, and the long-term credibility of the CAFTA-DR.

81. We trust that this Panel will not reward the United States for its actions and that it will send a strong message that Article 16.2.1(a) was not meant to be utilized for domestic political purposes.

82. This concludes our statement. Thank you for your attention.