

**India's Statement at the General Council meeting
held on 12th December 2018**

**'Appellate Body Appointments – Amendments of the Dispute Settlement
Understanding'**

1. Let me start by welcoming incoming Ambassadors and thank the outgoing Permanent representatives for their contribution to our work, especially Xavier Carim, who as GC Chair guided us deftly, and, Irene Young for her dynamic contributions. Our intervention is on Agenda Items 7(b) and 7 (c).

2. The existential crisis facing the Appellate Body is our gravest concern. We believe that an independent, two-stage dispute settlement system is imperative for the fair enforcement of the rules of international trade. The impending paralysis and possible disappearance of the Appellate Body will be a fatal blow to the credibility of the WTO. Without a system of enforcement of existing rules, the appetite for making new rules or for reforms would be poor. Therefore, an expeditious resolution of the Appellate Body crisis needs to be at the top of the agenda in the coming weeks and months.

3. In the WTO, it is expected that the Member who has a specific concern on any issue will advance possible options on how to address it. However, we find ourselves in the unique position where the Member who has issues with the functioning of the Appellate Body has failed to put forth a single proposal to address their oft-repeated concerns. In this context, India would like to thank the European Union for taking the initiative and suggesting concrete textual proposals to address the concerns that have been raised by the United States in the US President's Trade Policy Agenda of 2018, and reiterated in multiple DSB meetings. India is a co-sponsor of the proposal contained in document WT/GC/W/752. The proposal seeks to unblock the appointments to the AB by tackling the procedural concerns raised by the United States. Once the appointments to the AB have been unblocked, WTO Members would engage in discussions on the complex substantive issue of "rule-making" by WTO panels and the AB. In view of the urgency of the situation, we fully support this calibrated approach.

4. We hope that the United States will engage in good faith on the specific elements of the proposal in document WT/GC/W/752, which are a response to their stated concerns with the functioning of the Appellate Body. As co-sponsors of agenda item 7(b), we have made an honest attempt to come up with a concrete proposal to address the concerns articulated by the US. In order to build

trust amongst the Membership in these difficult times, it is important to engage on these proposals without putting any pre-conditions or linking these to other areas of the WTO's functioning.

5. We are also mindful of the shared responsibility of all WTO Members to strengthen and improve the functioning of the WTO dispute settlement system as a whole. In this context, India is co-sponsoring the EU proposal contained in document WT/GC/W/753 that seeks to improve the efficiency of the Appellate Body so as to enable it to meet required timeframes. This proposal also aims to ensure an automatic launch of the AB selection process and an orderly transition of persons serving on the Appellate Body, to avert the recurrence of a crisis such as the one that currently confronts us. India believes that these additional amendments are important for ensuring that the system serves the interest of all WTO Members.

6. To conclude, our proposals are a starting point to begin an open, inclusive and expeditious process for unblocking the AB appointments and improving the functioning of the WTO. We urge the GC Chair to establish a process to examine all present and future textual proposals from Members, with a view to achieving a prompt resolution of the AB impasse.
