

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

A. UNITED STATES - SECTION 211 OMNIBUS APPROPRIATIONS ACT OF 1998: STATUS REPORT BY THE UNITED STATES (WT/DS176/11/ADD.118)

- The United States provided a status report in this dispute on September 17, 2012, in accordance with Article 21.6 of the DSU.
- Legislative proposals have been introduced in the current 112th Congress to implement the recommendations and rulings of the DSB.
- The U.S. Administration will continue to work on solutions to implement the DSB's recommendations and rulings.

Second Intervention

- In response to the statements by some Members that this dispute creates concerns about the credibility of the dispute settlement system, as the United States has noted on several occasions, we do not believe that those concerns are well-founded. Contrary to those assertions, we believe that most Members agree that the dispute settlement system continues to function in a very robust fashion.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

B. UNITED STATES - ANTI-DUMPING MEASURES ON CERTAIN HOT-ROLLED STEEL PRODUCTS FROM JAPAN: STATUS REPORT BY THE UNITED STATES (WT/DS184/15/ADD.118)

- The United States provided a status report in this dispute on September 17, 2012, in accordance with Article 21.6 of the DSU.
- As of November 2002, the U.S. authorities had addressed the DSB's recommendations and rulings with respect to the calculation of antidumping margins in the hot-rolled steel antidumping duty investigation at issue in this dispute.
- With respect to the recommendations and rulings of the DSB that were not already addressed by the U.S. authorities, the U.S. Administration will work with the U.S. Congress with respect to appropriate statutory measures that would resolve this matter.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

C. UNITED STATES - SECTION 110(5) OF THE US COPYRIGHT ACT:
STATUS REPORT BY THE UNITED STATES (WT/DS160/24/ADD.93)

- The United States provided a status report in this dispute on September 17, 2012, in accordance with Article 21.6 of the DSU.
- The U.S. Administration will continue to confer with the European Union, and to work closely with the U.S. Congress, in order to reach a mutually satisfactory resolution of this matter.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

D. EUROPEAN COMMUNITIES - MEASURES AFFECTING THE APPROVAL AND MARKETING OF BIOTECH PRODUCTS: STATUS REPORT BY THE EUROPEAN UNION (WT/DS291/37/ADD.56)

- The United States thanks the EU for its status report and its statement today.
- As we have explained at past meetings of the DSB, the United States continues to have serious concerns regarding EU measures affecting the approval of biotech products. The EU measures, including delays in approvals, have resulted in substantial restrictions on the importation of U.S. agricultural products.
- As an example of U.S. concerns, at this meeting we would like to highlight the EU measures with respect to recent action on a specific corn variety known as MIR 162, which the EU also referred to this morning. This variety is currently being produced in the United States. It has passed safety evaluations, and has been approved, in a number of major markets. The EU's failure to approve this product is contributing to major market disruptions.
- The EU's own scientific authority (EFSA) has also completed a full risk assessment. Like authorities in other Members, EFSA has concluded that MIR 162 is safe for consumption.
- The approval of MIR162 is sought not only by U.S. producers, but also by EU purchasers. Earlier this year, the organization representing the EU's animal feed industry wrote to the EU Commission and asked that the Commission take prompt action on the application.
- Under the EU system, products receiving favorable safety assessments are submitted to a regulatory committee that has the responsibility for adopting product approvals. The regulatory committee consists of EU member state representatives, and takes decisions based on a system of weighted voting.
- The EU regulatory committee considered the MIR 162 application earlier this month and despite all of the factors calling for prompt action, the regulatory committee failed to approve the product.
- As a result, the application will be delayed while it is passed on to further steps in the EU system.
- Unfortunately, the example of MIR 162 is the rule, not the exception. Over at least the last decade, the EU's regulatory committee has not approved a single biotech product application. Instead, every application has been subject to further unnecessary and

time-consuming steps under the EU measures.

- The United States urges the EU to address these problems affecting the approval of biotech products.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

E. UNITED STATES - ANTI-DUMPING ADMINISTRATIVE REVIEWS AND OTHER MEASURES RELATED TO IMPORTS OF CERTAIN ORANGE JUICE FROM BRAZIL: STATUS REPORT BY THE UNITED STATES (WT/DS382/11/ADD.9)

- The United States provided a status report in this dispute on September 17, 2012.
- Pursuant to the sequencing agreement between Brazil and the United States,¹ the United States is ready to engage with Brazil should it have any further questions regarding this matter.

¹ WT/DS382/11.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

G. UNITED STATES - ANTI-DUMPING MEASURES ON CERTAIN SHRIMP FROM VIET NAM (WT/DS404/11/ADD.4)

- The United States provided a status report in this dispute on September 17, 2012, in accordance with Article 21.6 of the DSU.
- In February 2012, the U.S. Department of Commerce published a modification to its procedures in order to implement DSB recommendations and rulings regarding the use of “zeroing” in antidumping reviews. This modification addresses certain findings in this dispute.
- On June 28, 2012, the United States Trade Representative requested pursuant to section 129 of the Uruguay Round Agreements Act that the Department of Commerce take action necessary to implement the DSB recommendations and rulings in this dispute.
- The United States will continue to consult with interested parties as it works to address the recommendations and rulings of the DSB.

2. CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

A. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE DSB

- We thank China for its statement today, indicating that it intends to implement the DSB's recommendations and rulings in this dispute.
- China's measures affecting electronic payment services have been and continue to be of significant concern to the United States.
- Electronic payment services (EPS) allow consumers to purchase goods and services without cash. EPS enable, facilitate and manage the flow of information and the transfer of funds from cardholders' banks to merchants' banks. These services are vital to facilitating global commerce and essential to the operation of any modern economy. In China alone, each year well over \$1 trillion worth of electronic payment card transactions are processed.
- China instituted and maintains measures that discriminate against foreign EPS suppliers at every stage of a card-based electronic payment that takes place in China in China's domestic currency. China's discriminatory measures have ensured the market dominance of a Chinese entity, China UnionPay, Ltd. (CUP) and prevented foreign suppliers from providing this important service.
- We therefore look forward to China moving promptly to bring its measures into compliance with its obligations.
- We stand ready to discuss with China under Article 21.3(b) of the DSU a reasonable period of time for its implementation.

3. UNITED STATES - CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB

A. STATEMENTS BY THE EUROPEAN UNION AND JAPAN

- As the United States has explained at previous DSB meetings, the President signed the Deficit Reduction Act into law on February 8, 2006. That Act includes a provision repealing the Continued Dumping and Subsidy Offset Act of 2000. Thus, the United States has taken all actions necessary to implement the DSB's recommendations and rulings in these disputes.
- We recall, furthermore, that Members have acknowledged during previous DSB meetings that the 2006 Deficit Reduction Act does not permit the distribution of duties collected on goods entered after October 1, 2007.
- With respect to comments regarding further status reports in this matter, as we have explained at previous DSB meetings, the United States fails to see what purpose would be served by further submission of status reports repeating the progress the United States made in the implementation of the DSB's recommendations and rulings.

5. UNITED STATES - COUNTERVAILING DUTY MEASURES ON CERTAIN PRODUCTS FROM CHINA

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY CHINA (WT/DS437/2)

- As noted at the August DSB meeting, the WTO Agreements permit Members to levy a countervailing duty in order to offset injurious subsidies bestowed by another Member on the manufacture, production, or export of goods in or from the other Member's jurisdiction.
- With respect to the countervailing duty proceedings at issue in this dispute, the United States conducted the proceedings transparently and with all the procedural safeguards provided for under the WTO Agreement.
- The United States also recalls our concern that China's panel request appears to include measures about which consultations were neither requested nor held.
- For these reasons, we remain disappointed that China has decided to request a panel on this matter today.
- We understand that a panel will likely be established today, and we will defend our use of countervailing duties which are necessary to counteract the injury caused by China's subsidies.
- We would like to respond to certain statements made by China in its intervention. First, China complained that the U.S. had not modified its conduct, despite the Appellate Body's rulings on a similar set of measures. The final determinations in the majority of the investigations cited in China's panel request were made prior to the adoption of the Appellate Body report in DS379, a dispute we understand we may hear more about later today. The Department of Commerce has implemented the DSB's ruling and recommendations in that dispute.
- With respect to whether or not Chinese respondents are "worse off" in one proceeding than they are in another, that is not material to whether a countervailing duty proceeding complies with the WTO Agreement. The obligations are based on adherence to requirements and standards set out in the Agreement, and not on whether a respondent receives a favorable outcome.
- Finally, as to China's assertion that U.S. trade remedies are an "abuse" of the right to adopt trade remedy measures, if China has concerns about the abuse of trade remedies, we would suggest that it may wish to look closer to home. In this regard, I would like to draw China's attention to the next item on the DSB's agenda today.
- Furthermore, the United States does not abuse its rights to adopt trade remedy measures.

Rather, it conducts its countervailing duty proceedings in compliance with the procedural rules provided for in the WTO agreements and in a highly transparent manner.

6. CHINA - ANTI-DUMPING AND COUNTERVAILING DUTIES ON CERTAIN AUTOMOBILES FROM THE UNITED STATES

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE UNITED STATES (WT/DS440/2)

- On July 5, 2012, the United States requested consultations with China regarding China's imposition of antidumping and countervailing duties on certain automobiles from the United States.
- As noted in the U.S. request for consultations, China's dumping and subsidy determinations appear to be inconsistent with China's obligations under the GATT 1994, the Antidumping Agreement, and the Subsidies Agreement.
- The United States has attempted to resolve our concerns through dialogue with China both during and after the investigation at issue. Formal WTO consultations were held on August 23, 2012. Unfortunately these efforts failed to resolve the dispute.
- Accordingly, the United States is proceeding to request that the DSB establish a dispute settlement panel.
- As set out in the request for the establishment of a panel, as a result of profound procedural and substantive deficiencies in the autos investigations, China's dumping and subsidy determinations appear to breach a number of its obligations under the General Agreement on Tariffs and Trade 1994, the Antidumping Agreement, and the Subsidies Agreement.
- Many of the matters at issue in this dispute should by now be familiar to WTO Members. This is the third time that the United States has brought a dispute relating to China's multiple failures to apply the appropriate procedures and legal standards in its injury determination, and to adhere to transparency and basic procedural requirements set out in the Antidumping Agreement and the Subsidies Agreement.
- This dispute, together with DS414, which concerns antidumping and countervailing duties China has imposed on grain-oriented electrical steel, as well as DS427, concerning antidumping and countervailing duties China imposed on broiler products, once again suggests systemic issues in the way China is applying its trade remedy laws.
- The United States requests that the DSB establish a panel to examine the matter set out in the U.S. panel request, with standard terms of reference.

7. OTHER BUSINESS

A. UNITED STATES – ANTI-DUMPING AND COUNTERVAILING DUTIES
ON CERTAIN PRODUCTS FROM CHINA (WT/DS379)

- First, we would note that China had notified us prior to the meeting that they intended to raise this issue under other business and we appreciate this notification.
- As we reported to the DSB last month, the United States has brought the measures at issue in this dispute into full compliance with the DSB recommendations and rulings. Accordingly, we disagree with China's assertion otherwise today. As indicated in the last meeting, we would be pleased to discuss these matters with China, and look forward to doing so.