

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.124)

- The United States provided a status report in this dispute on March 14, 2013, in accordance with Article 21.6 of the DSU.
- Legislation has been introduced in the current 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

- The United States has heard many Members' views on the content of U.S. status reports, as well as what the United States has been doing with respect to implementation on this issue. We would like to make the following comments.
- First, with respect to the content of our status reports, the United States regrets that some Members have suggested that the U.S. has not provided sufficient detail in its status reports with respect to how the U.S. Administration is working with Congress to implement the recommendations and rulings in this dispute. On this point, the United States would like to recall that it is not always possible or appropriate to recount internal government efforts to pass legislation in our status reports. Indeed, we have heard similar critiques in the past about the level of detail included in U.S. status reports in disputes in which Congress ultimately passed legislation to bring the United States into compliance.
- Second, in reaction to the comments that the United States has not taken any efforts with respect to this dispute, the U.S. Administration is continuing to work on solutions that would implement the DSB's recommendations and rulings.
- For example, the United States is now in the 113th Congress. That Congress has only been in session for a few months and yet several bills have already been introduced that would address these matters. For example, H.R. 214, which was introduced by Representative Serrano of New York in January would repeal Section 211. Likewise, H.R. 872 and H.R. 873, both introduced by Representative Rangel of New York in late February, would also repeal Section 211. Additionally, H.R. 778, which was introduced by Representative Issa of California in February, would modify Section 211.

- With respect to repeal, some of the delegates who spoke up today, including the delegate from Cuba, stated that the United States has no choice but to repeal Section 211 in its entirety. On this point, it is important to remind delegates that there was no finding against the entirety of Section 211 or the main thrust of Section 211.
- We would also like to recall that the relevant recommendations and rulings in this dispute relate to national treatment and MFN. We note with interest the suggestion that Members are to repeal intellectual property measures that have been found inconsistent with WTO national treatment obligations.
- We note that this is contrary to the approach that other countries have taken in implementing DSB recommendations and rulings with respect to national treatment in other TRIPS cases.
- I hope that this information is useful to the delegates here and we look forward to providing information on this and other issues.

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.124)

- The United States provided a status report in this dispute on March 14, 2013, in accordance with Article 21.6 of the DSU.
- The United States has 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 have yet to be addressed, the U.S. Administration will work with the U.S. Congress with respect to the 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.99)

- The United States provided a status report in this dispute on March 14, 2013, in accordance with Article 21.6 of the DSU.
- Our Administration will continue to confer with the European Union, and to work closely with our 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.62)

- The United States thanks the EU for its status report and its statement today.
- The United States continues to have serious concerns regarding EU measures affecting the approval of biotech products. The United States has discussed this issue quite a bit at past DSB meetings but, in light of the Chair's comments on paragraph 27, the United States will focus our remarks on the most recent issues related to this matter.
- For example, at the last two meetings of the DSB, the United States noted concerns with the progress of applications for a new biotech soy variety and a new biotech corn variety. The EU's scientific authority (EFSA) published positive opinions for both products last year.
- We understand that consideration of these products remains delayed in the EU approval system. The EU delegate referred to these and the fact that the relevant Standing Committee discussed the EFSA opinion for the corn event at its March meeting, yet a regulatory proposal for approval has not been presented.
- As these product applications illustrate, the EU measures affecting the approval of biotech products currently result in serious restrictions on trade in agricultural commodities. Therefore, we would urge the EU to take steps to address these matters.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

F. UNITED STATES - ANTI-DUMPING MEASURES ON CERTAIN SHRIMP FROM VIET NAM (WT/DS404/11/ADD.10)

- The United States provided a status report in this dispute on March 14, 2013, 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.
- In June 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 DSB’s recommendations and rulings.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

G. UNITED STATES - MEASURES AFFECTING THE PRODUCTION AND SALE OF CLOVE CIGARETTES: STATUS REPORT BY THE UNITED STATES (WT/DS406/11/ADD.3)

- In accordance with Article 21.6 of the DSU, we provided a status report in this dispute on March 14, 2013.
- As we noted in that status report, U.S. authorities are conferring with interested parties and working to implement the recommendations and rulings of the DSB in a manner that is appropriate from the perspective of the public health.

Second Intervention

- The United States appreciates the comments made by Indonesia with respect to further details on U.S. efforts to comply. At the present meeting, we are not in a position to state precisely how we will comply with DSB recommendations and rulings given the complex public health issues related to the measures at issue.
- However, we can convey that U.S. authorities, including public health regulators, are examining possibilities consistent with public health considerations. As a part of this process, U.S. regulators are undertaking an assessment of the public health impacts and the collective evidence of the assessment will inform possible U.S. decisions moving forward.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

H. UNITED STATES - ANTI-DUMPING MEASURES ON CERTAIN SHRIMP AND DIAMOND SAWBLADES FROM CHINA: STATUS REPORT BY THE UNITED STATES (WT/DS422/8/ADD.1)

- The United States is pleased to report that it has implemented the recommendations and rulings of the DSB in this dispute.
- The United States provided a status report in this dispute on March 14, 2013, in accordance with Article 21.6 of the DSU. As we noted in the report, the DSB adopted its recommendations and rulings in this dispute in July 2012. At that time, we informed the DSB of its intention to implement the DSB recommendations and rulings.
- The United States and China agreed that the reasonable period of time for the United States to implement the DSB recommendations would end on March 23, 2013, and we jointly notified the DSB of this agreement.
- The United States has addressed the DSB's recommendations and rulings with respect to the calculation of antidumping margins in the antidumping duty investigations at issue and we have done so within the reasonable period of time.
- First, on September 5, 2012, the United States Trade Representative requested pursuant to section 129 of the Uruguay Round Agreements Act that the U.S. Department of Commerce ("Commerce") take action necessary to implement the DSB recommendations and rulings.
- On March 4, 2013, Commerce issued its final determinations in the section 129 proceedings. In its determinations, Commerce determined the existence of margins for the relevant exporters in a manner consistent with the DSB's recommendations and rulings.
- Finally, on March 22, 2013, the United States Trade Representative instructed Commerce to implement the section 129 determinations. The final determinations are effective as of that date, which, we noted, is prior to the expiry of the reasonable period of time on March 23rd.

Second Intervention

- The issues raised by China were covered in the first U.S. intervention. As China acknowledged, on March 22nd the United States Trade Representative did instruct the

Department of Congress to implement the section 129 redetermination, which means that the United States has fully addressed the zeroing issue before the expiry of the RPT. In its comments, China also referred to a separate litigation situation. However, those comments refer to a domestic court proceeding that addresses an unrelated matter. We have fully addressed the DSB's recommendations and rulings with our determination.

2. 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

- With respect to comments regarding the need for the U.S. to submit status reports in this matter, the United States has taken all steps necessary to implement the DSB's recommendations and rulings in this dispute.
- In particular, the President signed the Deficit Reduction Act into law on February 8, 2006, which includes a provision repealing the Continued Dumping and Subsidy Offset Act of 2000.
- In this light, we fail to understand what purpose would be served by submitting further status reports, and we do not understand the purpose for which the EU and Japan have inscribed this item on the agenda for today's meeting.

3. INDONESIA - IMPORTATION OF HORTICULTURAL PRODUCTS, ANIMALS AND ANIMAL PRODUCTS

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE UNITED STATES (WT/DS455/7)

- Mr. Chairman, the United States is concerned about Indonesia's broad use of import licensing measures that restrict imports of horticultural products, animals, and animal products. Indonesia's import licensing regime is opaque and complex and appears to be inconsistent with Indonesia's WTO obligations.
- Among other things, Indonesia's discretionary and non-automatic import licensing regime requires importers to obtain import recommendations from the Ministry of Agriculture and import permits from the Ministry of Trade; Indonesia sets import quotas for animals and animal products; and Indonesia's import licensing regime is non-transparent.
- These measures have had a significant adverse impact on exports to Indonesia of a range of products from the United States and from other WTO Members, including, but not limited to, fruits, vegetables, flowers, dried fruits and vegetables, juices, and meat.
- The WTO Agreement generally obligates Members not to impose restrictions on the importation of goods from other Members, including through the use of quotas and licenses. Accordingly, the United States is concerned that Indonesia's measures appear to be in breach of various provisions of the GATT 1994, the Agriculture Agreement, and the Import Licensing Agreement.
- For several years, the United States has attempted to resolve its concerns through dialogue with Indonesia. Since 2011, the United States, along with other WTO Members, has raised concerns with Indonesia in various fora.
- After these efforts failed to achieve any meaningful results, the United States requested consultations with Indonesia, but unfortunately these efforts also failed to resolve the dispute.
- Accordingly, 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.

Second Intervention

- The United States would like to briefly comment on both the first and second interventions made by Indonesia. With respect to Indonesia's first intervention and the

efforts that they are taking to address these issues, we appreciate any good faith efforts and look forward to working with them to try to resolve these issue if that is what they desire.

- With respect to the second intervention by Indonesia in response to the issue raised by Canada and the EU, we believe that Indonesia's response to the requests by other Members to join the consultations raises some questions in our mind. If Indonesia intended to accept the requests to join the consultations, then Indonesia should have allowed these Members to participate in the consultations that were, in fact, held on February 21st & 22nd. If, on the other hand, Indonesia did not wish to permit those Members to be joined in the consultations, then it could simply have stated that it did not agree that those claims of substantial interest were well-founded, pursuant to DSU Article 4.11.

OTHER BUSINESS

- The United States would like comment on both the substantive and procedural comments made by the delegate from Dominica on behalf of Antigua and Barbuda.
- With respect to the substance, the United States welcomes the engagement that we have had with Antigua and will continue this constructive effort to resolve this matter. In this spirit of cooperation, we have no other remarks today on the substance.
- With respect to Dominica's comment that it would like to submit a longer statement for the record on behalf of Antigua and Barbuda, we are a bit surprised by this unusual request and are concerned that it would prevent us from having the opportunity to fully respond to the statement. As this is a bit unusual, we believe that we should further consider whether it is appropriate to put this into the record.

Second Intervention

- The United States appreciate the views shared by the Chair on this issue. We believe that the DSB minutes should reflect what was actually said in the meeting and would be concerned about taking an action that could set a different precedent.