

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.125)

- The United States provided a status report in this dispute on April 11, 2013, in accordance with Article 21.6 of the DSU.
- As noted in the U.S. status report, at least five bills have been introduced in the current Congress in relation to the recommendations and rulings of the DSB. These include H.R. 214, H.R. 778, H.R. 872, H.R. 873, and S. 647.
- The U.S. Administration will continue to work on solutions to implement the DSB's recommendations and rulings.

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.125)

- The United States provided a status report in this dispute on April 11, 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 anti-dumping margins in the hot-rolled steel anti-dumping 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 appropriate statutory measures that would resolve the 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.100)

- The United States provided a status report in this dispute on April 11, 2013, in accordance with DSU Article 21.6.
- 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.63)

- The United States thanks the EU for its status report as well as its statement today.
- As the EU is well aware, the United States continues to have serious concerns regarding EU measures affecting the approval of biotech products.
- We have noted these concerns at the last three meetings of the DSB and, in particular, our concerns with the progress of applications for a new biotech soy variety and a new biotech corn variety.
- While we understand that 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. As we noted at the last DSB meeting, the relevant Standing Committee discussed the EFSA opinion for the corn event at its March meeting, but a regulatory proposal for approval has still not yet been presented.
- As this illustrates, the EU measures affecting the approval of biotech products currently result in serious restrictions on trade in agricultural commodities. The United States continues to urge the EU to take steps to address these matters.
- The United States also would like to comment briefly on what the EU delegate said with respect to technical discussions that have been taking place. The United States appreciates the opportunity to discuss with the EU our concerns with market access for products derived from biotechnology.
- The discussions of late were very helpful for us to review in detail the status of applications before the EU authorities.
- That said, as we expressed during those discussions and today, we continue to have concerns regarding delays in approvals and the negative impact this has had, and we hope that we can resolve this matter.

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.12)

- The United States circulated a status report in this dispute on April 11, 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 the DSB's recommendations and rulings regarding the use of "zeroing" in anti-dumping 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 U.S. Department of Commerce take action necessary to implement the DSB recommendations and rulings.
- The United States will continue to consult with interested parties as it works to address the recommendations and rulings of the DSB.

Second Intervention

- It is important to recognize that the United States has come into compliance fully and promptly in the vast number of disputes in which we have been a party. As the agenda demonstrates, there do remain a few instances where our efforts to come into compliance have not been successful. However, we do continue to work toward compliance and it is important not to allow these comments regarding the U.S. compliance record to go unanswered.

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.4)

- The United States provided a status report in this dispute on April 11, 2013, in accordance with Article 21.6 of the DSU.
- As we noted in the status report, U.S. authorities continue to confer with interested parties and work to implement the recommendations and rulings of the DSB in a manner that is appropriate from the perspective of the public health.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED

BY THE DSB

H. UNITED STATES - MEASURES CONCERNING THE IMPORTATION, MARKETING AND SALE OF TUNA AND TUNA PRODUCTS: STATUS REPORT BY THE UNITED STATES (WT(DS381/18))

- As Members are aware, the United States provided a status report in this dispute on April 11, 2013, in accordance with the DSU.
- As noted in our status report, on April 5, the United States published in the *Federal Register* a proposed rule related to the U.S. dolphin-safe labeling standards that were at issue in this dispute.¹
- The proposed changes included in the *Federal Register* would help ensure that consumers receive accurate information concerning whether the tuna in a product labeled "dolphin safe" was caught in a manner that caused harm to dolphins.
- The United States will continue to work to implement the recommendations and rulings of the DSB by the end of the RPT.

Second Intervention

- We would like to thank Mexico for its comments on U.S. implementation efforts in this dispute, but we would take some exception to the way in which Mexico has characterized the proposed rule. It is our view that the proposed rule would bring us into compliance with the DSB's recommendations and rulings. That said, we take note of Mexico's comments today and would welcome further bilateral discussion with you to discuss this matter.

¹ *Enhanced Document Requirements to Support Use of the Dolphin Safe Label on Tuna Products*, 78 Fed. Reg. 20604 (proposed Apr. 5, 2013) (to be codified at 50 CFR pt. 216).

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

- We appreciate the opportunity to respond to some of the comments that we heard today. I would like to thank the other delegates for sharing their views on this item and the EU for the information that it provided. We regret to hear the EU's announcement about its proposed level of retaliation and we are looking forward to reviewing their notification on this issue. However, I would like to be clear that at this point we are not able to share their characterization about the level of authorization as the DSB has only authorized the suspension of concessions as provided in the Award of the Arbitrator.
- With respect to comments made calling for the U.S. to provide further status reports in this matter, the U.S. addressed at length in the last DSB meeting and will refer to the comments said there: The U.S. has taken all steps necessary to implement the recommendations and rulings of the DSB in this dispute and it is not necessary to repeat that again today.

3. UNITED STATES – MEASURES AFFECTING THE CROSS-BORDER SUPPLY OF GAMBLING AND BETTING SERVICES

A. STATEMENT BY ANTIGUA AND BARBUDA REGARDING THE IMPLEMENTATION OF THE RECOMMENDATIONS AND RULINGS ADOPTED BY THE DSB

- Thank you Chair and also to the delegate from Dominica for delivering that statement on behalf of Antigua and Barbuda. The United States remains committed to constructive dialogue with Antigua to resolve this matter. We remain of the view that a negotiated resolution is the best outcome here and we will continue to proceed with those efforts.
- In relation to comments made today about the need for the United States to provide status reports in this dispute and for this item to remain on the agenda of the DSB, the United States recalls that it has invoked the GATS Article XXI process to withdraw the gambling concessions at issue in this dispute. In conjunction with that action, the United States has reached agreement with all other interested Members to complete that process by offering substantial new services concessions. Only Antigua has prevented the complete of that process by its actions. While we note their willingness to discuss this issue here at the DSB, we believe that the GATS Article XXI process is the proper forum for further discussion of this matter.

4. INDONESIA - IMPORTATION OF HORTICULTURAL PRODUCTS, ANIMALS

AND ANIMAL PRODUCTS

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

- As noted at the last meeting of the DSB, the United States is concerned about Indonesia's broad use of import licensing measures on horticultural products, animals, and animal products.
- 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 also sets import quotas for animals and animal products and its 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 other Members, including fruits, vegetables, flowers, dried fruits, juices, and meat. Further, they appear to be in breach of some of Indonesia's core WTO obligations involving trade in goods.
- For several years, the United States has attempted to resolve its concerns through dialogue with Indonesia, but unfortunately these efforts have failed to resolve the dispute.
- The United States remains open to any action by Indonesia to remove its WTO-inconsistent measures and remains willing to find a mutually satisfactory solution to the dispute.
- However, at this time, we are not in a position to conclude that Indonesia has taken action that addresses the problems identified in the U.S. panel request.
- Accordingly, the United States is renewing the request that we first made at last month's DSB meeting and would ask the DSB to 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 thanks Indonesia for and appreciates its explanation of the steps it has taken to address the matter raised in the U.S. panel request.
- We are looking forward to receiving additional information on any steps that Indonesia has taken or plans to take, including copies of amendments and things of that nature. We would be pleased to review those details carefully and are optimistic that they could help resolve this dispute if they remove the WTO-inconsistencies we have identified.

- However, at this meeting, we are not in a position to say that the measures referenced address the serious WTO inconsistencies identified in our panel report, which is why we are reluctantly continuing to move forward with this dispute.

6. CHINA - DEFINITIVE ANTI-DUMPING DUTIES ON X-RAY SECURITY INSPECTION EQUIPMENT FROM THE EUROPEAN UNION

A. REPORT OF THE PANEL (WT/DS425/R AND WT/DS425/R/ADD.1)

- The United States welcomes the issuance of the panel report in this dispute. We note that it deals with several important procedural and substantive issues related to China's application of trade remedies, some of which are similar to issues that were addressed by the DSB in its recommendations and rulings in 2012 in the dispute *China - Countervailing and Anti-Dumping Duties on Grain Oriented Flat-Rolled Electrical Steel from the United States* (DS414).
- It appears that the DSB is with ever greater frequency being called upon to consider Members' concerns regarding China's application of trade remedies, as illustrated by the previous item on today's agenda, as well as two other pending disputes related to these issues.
- In each of these cases, Members appear to have identified similar issues regarding lack of robustness of China's injury analysis, procedural defects in its investigations, and its apparent failure to comply with important transparency obligations.
- We hope that China will carefully consider these developments as it applies its trade remedies laws and works to bring its measures into compliance in connection with the GOES matter.

7. APPOINTMENT/REAPPOINTMENT OF APPELLATE BODY MEMBERS

A. PROPOSAL BY THE CHAIR

- Mr. Chairman, we appreciate your April 12 communication to Members circulating proposed language for a DSB decision on the approach to the appointment and reappointment of Appellate Body members this year.
- We appreciate your willingness to receive suggestions from Members with respect to the decision and to work with us on improving the language. We also appreciate the comments you offered just now in support of our proposal.
- We have spoken with you and a number of delegations on ideas to further clarify the decision and the joint proposal that we have produced with Norway has been sent around to delegates and is also available in the room.
- Our joint suggestions to the proposed decision are modest, but we do believe they strengthen the decision in at least three important ways.
- First, the proposed language is consistent with past DSB decisions and practices governing an Appellate Body appointment process; our suggested changes ensure such consistency.
- Second, the proposed language clarifies the role of the DSB Chair on the Selection Committee and clarifies the specific tasks Members are asking the Selection Committee to undertake in this process.
- Third, the proposed language suggests a time period that may assist Members in putting forward candidates so that we are all best positioned to consider a broad and highly-qualified pool to fill the position currently held by Mr. Unterhalter as well as, as the Chair noted, to preserve the holiday when Members may not be focused on the selection process.
- We have had extremely positive feedback on the proposed language from many Members, and the discussions we have had with them has further reinforced our belief that the proposed revisions help to clarify and strengthen the proposed decision. We believe that the proposed revisions we have put forward with Norway are quite straightforward, but of course, if Members would be interested in hearing more about suggested edits, we would be happy to go through those suggestions in more detail.

Second Intervention

- Thank you to the Chair for your comments, which were extremely helpful, and to some extent, did pre-empt what we were going to say. From a broader standpoint, as we were developing this language, we did think that it would benefit from having views from other Members and did wish that we could have circulated a document earlier. However, as things worked out, it was hard to circulate a draft any earlier than we did and we do

appreciate the feedback that we have heard today.

- We would like to comment on a couple of the comments made by other Members and in taking a step back, we have heard several Members asking whether outlining these steps with respect to the role of the Selection Committee is necessary. The proponents wanted more clarity about what the Committee actually will do. Specifying that the Committee is chaired by the Chair of the DSB and that its role is to conduct interviews and hear the views of Members adds clarity so that Members are clear regarding what they are agreeing to.
- Regarding paragraph 2, we would echo what the Chair said in that “consistent with” allows items that were not referenced specifically in WT/DSB/1.
- Regarding paragraph 3, it sounds like there is an interest among the Members in expediting this process before the break and that a specific date would be useful to focus the mind. We take India’s comments, but removing the second date may not achieve the desired results.
- Regarding paragraph 4, we would turn your attention to WT/DSB/M/205, where this language is used in a previous DSB decision. However, perhaps it would be useful to indicate that this is just an illustrative list.
- Coming back to paragraph 2, there was a question of whether the use of “following customary practice” is better than what we proposed. However, our goal is creating clarity and this phrase does not have a specific meaning. Our concern is that the use of a phrase like this could be interpreted in an ambiguous fashion. We are cautious about reinserting ambiguous language when our goal is creating certainty. Thank you.