

1. REAPPOINTMENT OF ONE APPELLATE BODY MEMBER

- Mr. Chairman, on behalf of the United States, I would like to echo the comments from other delegations in congratulating Mr. Van den Bossche on his reappointment, and to thank you for your able management of this process so that we could reach a decision on reappointment today.
- We think that the way the process was handled this time around was particularly useful and we hope that future reappointments will be handled similarly.

2. 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.132)

- The United States provided a status report in this dispute on November 14, 2013, in accordance with Article 21.6 of the DSU.
- As noted in the U.S. status report, and in previous interventions at the DSB, at least five bills have been introduced in the current Congress in relation to the DSB's recommendations and rulings.
- The U.S. Administration will continue to work on solutions to implement the DSB's recommendations and rulings.

Second Intervention:

- The first point I would like to respond to is the intervention from Cuba, which seemed to be a pointed criticism of the U.S. for an alleged violation of Article 21.6 of the DSU. I am confused by this critique from the delegation of Cuba because if you look at Article 21.6, the sentence that would seem to apply here is the final one, which states that “[a]t least 10 days prior to each such DSB meeting, the Member concerned shall provide the DSB with a status report in writing of its progress in the implementation of the recommendations and rulings.”
- I think that it's pretty clear and unambiguous that the U.S. has done this in this instance. We provided a status report on November 14, 2013 as required, which provided information on the legislation that has been introduced in the current Congress. In light of this, it would be useful if Cuba could elaborate for the Members what exactly it is alleging here.
- With respect to the substance of our status reports, we do regret the notion that we have not provided sufficient detail. This is something that I have touched on in a previous meeting, so I will not belabor it here, but it is important to note that sometimes it is not appropriate to get into the internal deliberations of a government body in a public document. This can be counterproductive and the lack of additional detail should not be misconstrued to mean that no steps are being taken. There have been other times when we have heard similar criticisms about the level of detail in U.S. status reports where Congress ultimately passed legislation to come into compliance.
- With respect to those bills currently being considered by Congress, the U.S. has a very

transparent legislative process and these bills are publicly available from the time of introduction. I would urge Members to learn about bills that have been introduced. They are all published on the internet. You can track and follow them; it is easy to learn about them through the available online tools.

- With respect to systemic issues, the facts do not support the accusations: the record shows that the U.S. has come into compliance, fully and promptly, in the vast majority of its disputes. As for the remaining few instances where our efforts to do so have not yet been entirely successful, the United States has been working actively towards compliance in furtherance of the purpose of the dispute settlement system, and this also applies to this dispute.

2. 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.1321)

- The United States provided a status report in this dispute on November 14, 2013, in accordance with our obligations under 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.
- With respect to the DSB's recommendations and rulings of the DSB that have not yet been addressed, the U.S. Administration will work with the U.S. Congress with respect to appropriate statutory measures that would resolve this matter.

2. 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.107)

- The United States also provided a status report in this dispute on November 14, 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 to reach a mutually satisfactory resolution of this matter.

2. 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.70)

- The United States thanks the EU for its status report and its statement today.
- As we have explained at past DSB meetings, we have substantial concerns regarding EU measures affecting the approval of biotech products.
- These measures continue to result in serious restrictions on trade in agricultural products.
- I believe that one of the things that was referred to by the speaker from the EU is that we understand that for the first time this calendar year, the EU has finally approved an application for a new biotech product.
- In particular, we understand that the EU has approved two new varieties of biotech corn.
- These approvals, however, serve to illustrate the problems with the EU measures. Over three years elapsed between the time that the EU's scientific authority found that the products were safe and the time that they were finally approved..
- We note that a similar situation is preventing trade in a number of other biotech products. And there are about 10 pending applications for which a positive safety assessment has been completed but which are still awaiting approval.
- We would urge the EU to take steps to address these matters.

2. 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.18)

- The United States provided a status report in this dispute on November 14, 2013, in accordance with DSU Article 21.6.
- As we have noted at past DSB meetings, the U.S. Department of Commerce published a modification to its procedures in February 2012 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.
- The United States will continue to consult with interested parties as it works to address the DSB's recommendations and rulings.

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 noted at previous DSB meetings, 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. Accordingly, the United States has taken all actions necessary to implement the DSB's recommendations and rulings in these disputes.
- We would further note that the EU and Japan 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, which is more than six years ago.
- As a result, we do not understand the purpose for why they have inscribed this item today or for comments from other Members.
- With respect to comments regarding further status reports in this matter, as we have already explained at previous DSB meetings and as I just said, we have taken all actions necessary to implement the DSB's recommendations and rulings in these disputes.

#### 4. CHINA - CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

##### A. STATEMENT BY THE UNITED STATES

- The United States continues to have serious concerns that China has not implemented the DSB's recommendations and rulings in this dispute.
- Most notably, China still has not permitted any foreign supplier of electronic payment services to do business in China.
- And China still has not made available any regulatory mechanism under which a foreign supplier can request permission to do business in China.
- As a result, China Union Pay – China's own domestic champion – is still the only authorized supplier in all of China.
- This does not reflect implementation of the DSB's recommendations and rulings. To the contrary, the DSB found that China has both market access<sup>1</sup> and national treatment<sup>2</sup> commitments concerning Mode 3 for electronic payment services.
- The United States calls upon China to address these matters.

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<sup>1</sup> *China — Certain Measures Affecting Electronic Payment Services*, WT/DS413/R (adopted Aug. 31, 2012), para. 7.575.

<sup>2</sup> *Id.*, para. 7.678.

6. UNITED STATES - MEASURES CONCERNING THE IMPORTATION, MARKETING AND SALE OF TUNA AND TUNA PRODUCTS

A. RECOURSE TO ARTICLE 21.5 OF THE DSU BY MEXICO: REQUEST FOR THE ESTABLISHMENT OF A PANEL (WT/DS381/20)

- The United States does not agree to Mexico's request for the establishment of a panel.
- As Mexico noted in its statement, on July 13, 2013, the United States made effective a final rule that amends certain U.S. dolphin-safe labeling requirements.<sup>3</sup>
- The amended regulations were carefully designed to address the findings in the adopted reports. Most notably, the final rule enhances documentary requirements for dolphin-safe labeling by extending the requirements to tuna caught in oceans other than the eastern tropical Pacific Ocean (ETP).
- These changes ensure that consumers are not misled or deceived about whether the tuna in a product labeled "dolphin safe" was caught in a manner that caused harm to dolphins.
- The adoption of this final rule brought the United States into compliance with the DSB's recommendations and rulings within the reasonable period of time that was agreed to by Mexico and the United States.
- The U.S. compliance measure also demonstrates that the United States, as well as other Members, can prevent consumer deception and protect dolphins consistent with WTO rules.
- The United States is of course fully prepared to rebut any claims by Mexico that the amended dolphin-safe labeling requirements are somehow inconsistent with WTO rules and with the provisions Mexico mentioned today.
- At the same time, we have been prepared to work with Mexico, outside of a litigation context, to address its concerns with the amended requirements.
- For these reasons, we are disappointed that Mexico has nonetheless decided to request a panel under Article 21.5 of the DSU.

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<sup>3</sup> *Enhanced Document Requirements to Support Use of the Dolphin Safe Label on Tuna Products: Final Rule*, 78 Fed. Reg. 40997 (July 9, 2013) (to be codified at 50 CFR pt. 216).