

**Statements by the United States at the Meeting of the WTO Dispute Settlement Body
Geneva, March 26, 2014**

1. ELECTION OF CHAIRPERSON

- The United States would like to take this opportunity to congratulate Ambassador de Mateo on his election, and to extend our welcome to him as he assumes the chairmanship of the DSB. We very much look forward to working with him over the coming year.
- At this juncture, we also would like to thank Ambassador Fried for his many, significant contributions to the work of the DSB during this past year. It has been a pleasure, and we wish you even greater success chairing the General Council during this important year.

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.135)

- The United States provided a status report in this dispute on March 13, 2014, in accordance with Article 21.6 of the DSU.
- At least six bills have been introduced in the current Congress in relation to the DSB recommendations and rulings. This includes H.R. 214, H.R. 778, H.R. 872, H.R. 873, H.R. 1917, and S. 647.
- The U.S. Administration will continue to work on solutions to implement the DSB's recommendations and rulings.

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.135)

- The United States provided a status report in this dispute on March 13, 2014, 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.
- 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.

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.110)

- The United States provided a status report in this dispute on March 13, 2014, 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 the 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.73)

- The United States thanks the EU for its status report and its statement today.
- At the January and February DSB meetings, the United States recalled that the EU had not addressed the product-specific DSB recommendation and ruling with respect to a variety of biotech corn known as BT-1507.¹ The application for approval of this product has been pending since 2001.
- The United States takes note that the EU representative stated at the February DSB meeting that measures approving the use of BT-1507 “are now to be adopted by the Commission in accordance with the applicable rules.”
- The United States regrets, however, that based on the information publicly available to us before this meeting, it does not appear that the Commission has taken this action.
- Accordingly, the EU measures on the approval of BT-1507 continue to be delayed.
- In addition, although the approval of this particular biotech product after 13 years would be a positive development, the handling of this product approval application exemplifies the problems with EU measures affecting the approval of biotech products. An approval by the Commission in the face of EU Council opposition is an extraordinary procedural step, and inevitably results in substantial delays.
- In closing, the United States urges the EU to take steps to address the problems with EU measures affecting approval of biotech products, including delays in approvals and bans imposed by EU member States on products approved at the EU level.

¹ *European Communities — Measures Affecting the Approval and Marketing of Biotech Products* (WT/DS291/R), adopted Nov. 21, 2006, at para. 8.18(a)(xi).

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.21)

- The United States provided a status report in this dispute on March 13, 2014, in accordance with Article 21.6 of the DSU.
- 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 recommendations and rulings of the DSB.

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 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 recall, furthermore, that Members, including 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.
- We therefore do not understand the purpose for which the EU and Japan have inscribed this item today.
- With respect to comments regarding further status reports in this matter, as we have already explained at previous DSB meetings, the United States fails to see what purpose would be served by further submission of status reports which would repeat, again, that the United States has 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.
- The situation has not changed since the United States first began raising this matter in the DSB.
- In particular, China maintains a ban on foreign EPS suppliers by imposing a licensing requirement, while providing no procedures for foreign suppliers to obtain a license.
- As a result, China's own domestic champion remains the only EPS company that has ever been able to operate in China's domestic market.
- China's measures cannot be reconciled with the DSB's findings that China's WTO obligations include both market access and national treatment commitments concerning Mode 3 for electronic payment services.²
- The United States does take note of China's statement at last month's DSB meeting that China is working on the necessary regulations that would allow for the licensing of foreign EPS suppliers. Unfortunately, the United States understands that no such regulations have yet been issued.
- Accordingly, the United States urges China to adopt measures that would allow the licensing of foreign EPS suppliers and that would bring its measures into compliance with China's WTO obligations.

² *China – Certain Measures Affecting Electronic Payment Services*, WT/DS413/R (adopted Aug. 31, 2012), paras. 7.575, 7.678.

6. UNITED STATES - CERTAIN METHODOLOGIES AND THEIR APPLICATION TO ANTI-DUMPING PROCEEDINGS INVOLVING CHINA

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY CHINA
(WT/DS471/5 AND WT/DS471/5/CORR.1)

- As we have explained both to China and to the DSB, the measures identified in China's request – to the extent they have been properly identified – are fully consistent with U.S. obligations under the WTO Agreement.
- Accordingly, the United States regrets that China has chosen for a second time to request the establishment of a panel with regard to this matter.
- The United States is prepared to engage in these proceedings and to explain to the Panel that China has no legal basis for its claims.

10. REPORT ON THE PROGRESS OF THE DIGITAL DS REGISTRY INITIATIVE

- We thank the Chair for requesting this report and thank the Secretariat for providing it, particularly as it has been over a year since the Secretariat's last report in the DSB on this important initiative. The Secretariat's report was informative, and we hope that other Members found it useful as well. The United States joined several other delegations in requesting that this information be brought to the DSB, similar to the reports provided by the Secretariat during the DSB meetings in June and December 2012.
- We consider that it is important that the Secretariat's report is presented to all Members for transparency and inclusiveness, and to allow all Members to participate, including those that may not be able to attend the informal working group meetings, for example, due to other commitments.
- We look forward to future opportunities to discuss this issue, and as future test pilots of the new system move forward, we look forward to examining and testing that system, in light of U.S. interests and values in dispute settlement.
- The United States would also like to briefly comment on something that was mentioned by the Secretariat today; namely, the implication that this system might become mandatory for all Members in all disputes after some period in which Members could choose between this system for filing and the current one.
- We see this issue differently and think that it is of systemic importance. We do not see how the system can be mandatory in all disputes without agreement of all WTO Members. And pragmatically, we do not see how it would be desirable to try to compel a WTO Member to use a filing system that it considered did not preserve its interests in some way.
- We expect that the development of the system will fully take on board the interests and concerns of the Members and that they will be fully consulted with during its development.
- We look forward to further discussion of this issue with Members in the informal working group and in the DSB.