

**Statements by the United States at the Meeting of the WTO Dispute Settlement Body  
Geneva, December 17, 2014**

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.143)

- The United States provided a status report in this dispute on December 4, 2014, in accordance with Article 21.6 of the DSU.
- Several bills have been introduced in the current Congress in relation to the DSB recommendations and rulings in this dispute, some of which would repeal Section 211 while others would modify it. In prior meetings of the DSB, the United States described the status of each of these bills.
- The U.S. Administration will continue to work on solutions to implement the DSB's recommendations and rulings and resolve this matter with the European Union.

Second Intervention

- In response to the comments about systemic concerns about the dispute settlement system, the facts do not support Members' assertions or justify such systemic concerns. The record is clear that the United States 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 resolving such matters.
- That certain Members are willfully ignoring the facts is well illustrated by the announcements at a recent DSB meeting that the United States, working together with other parties, has successfully resolved both the *Cotton* and *Clove Cigarettes* disputes.
- Accordingly, contrary to the statements we have just heard, the record shows that the United States has a strong record of support for the WTO and its dispute settlement system, including through implementation actions and working with other Members to resolve disputes.

- We also regret that some Members have suggested that the U.S. Administration is not providing sufficient details of U.S. implementation efforts. We have, in our status report and at past DSB meetings, cited the various legislative proposals that have been introduced by Members of the current U.S. Congress.
- Further, the Administration continues to work with Congress to implement the recommendations and rulings in this dispute. As we have explained at previous DSB meetings, it is not always possible or appropriate to recount internal governmental conversations or efforts to pass legislation.
- The fact that internal deliberations may not be appropriate for public discussion should not be misconstrued as meaning that no steps are being taken.

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B. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN HOT-ROLLED STEEL PRODUCTS FROM JAPAN: STATUS REPORT BY THE UNITED STATES (WT/DS184/15/ADD.143)

- The United States provided a status report in this dispute on December 4, 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 this matter.

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C. UNITED STATES – SECTION 110(5) OF THE US COPYRIGHT ACT:  
STATUS REPORT BY THE UNITED STATES (WT/DS160/24/ADD.118)

- The United States provided a status report in this dispute on December 4, 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 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.81)

- The United States thanks the EU for its status report and its statement today.
- The United States notes with concern that the EU has failed to approve a single new biotech product in all of 2014. As a result of this failure, the EU measures affecting the approval of biotech products are seriously disrupting trade in agricultural products.
- The United States recalls that under the EU system, biotech approvals should be made by EU regulatory committees, consisting of EU member State representatives. And under the EU system, the regulatory committees should act in accordance with the scientific recommendations of the EU's scientific authority (the European Food Safety Authority, or EFSA).
- When it comes to biotech approvals, however, the EU regulatory committees consistently fail to take any action, and leave approval decisions to the political level of the European Commission.
- In 2014, the EU College of Commissioners has failed to act with respect to even a single pending application.
- The United States notes with further concern that the new Commission established on November 1, 2014, is signaling that it may engage in further delays, under the guise of yet another re-examination of the EU biotech approval process.
- These circumstances indicate that the EU authorization process is based not on the scientific merits of each application, but instead on political considerations.
- We urge the EU to take steps to address these matters.

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E. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN SHRIMP FROM VIET NAM (WT/DS404/11/ADD.29)

- The United States provided a status report in this dispute on December 4, 2014, in accordance with Article 21.6 of the DSU.
- As we have noted at past DSB meetings, in February 2012 the U.S. Department of Commerce modified its procedures in a manner that addresses certain findings in this dispute.
- The United States will continue to consult with interested parties as it works to address the other recommendations and rulings of the DSB.

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

- As the United States has noted at previous DSB meetings, the Deficit Reduction Act – which includes a provision repealing the Continued Dumping and Subsidy Offset Act of 2000 – was enacted into law in February 2006. Accordingly, the United States has taken all actions necessary to implement the DSB’s recommendations and rulings in these disputes.
- We recall, furthermore, that the EU, Japan, and other Members have acknowledged that the Deficit Reduction Act does not permit the distribution of duties collected on goods entered after October 1, 2007, which is over seven years ago.
- We therefore do not understand the purpose for which the EU and Japan have inscribed this item today.
- With respect to the 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.
- Indeed, as these very WTO Members have demonstrated repeatedly when they have been a responding party in a dispute, there is no obligation under the DSU to provide further status reports once a Member announces that it has implemented those DSB recommendations and rulings, regardless of whether the complaining party disagrees about compliance.

### 3. CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

#### A. STATEMENT BY THE UNITED STATES

- The United States continues to have serious concerns that China has failed to bring its measures into conformity with its WTO obligations.
- The situation unfortunately has not changed since the United States first began raising this matter in the DSB and despite repeated interactions between the United States and China. China continues to maintain a ban on foreign suppliers of electronic payment services (“EPS”) by imposing a licensing requirement on them, while at the same time providing no procedures to obtain that license.
- As a result, an enterprise located in China remains the only EPS supplier that can operate in China’s domestic market.
- To implement fully its WTO obligations, China must adopt the regulations necessary for allowing foreign EPS suppliers to operate in China.
- The United States takes note of the recent statement by China’s State Council that China will open the EPS market to qualified suppliers. We look forward to the prompt issuance of those specific regulations to implement the State Council’s statement in a manner that is consistent with the WTO’s findings.

#### Second Intervention

- As we have stated before, we strongly disagree with China’s statement. The DSB’s findings clearly state that “China has made a commitment on market access concerning mode 3”<sup>2</sup> and that “China has made a commitment on national treatment concerning mode 3.”<sup>3</sup>
- Indeed, China itself has noted that it is working on regulations that would provide access to foreign EPS suppliers.

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<sup>2</sup> *China – Certain Measures Affecting Electronic Payment Services, WT/DS413/R (adopted Aug. 31, 2012)*, at para. 7.575.

<sup>3</sup> *Id.*, at para. 7.678.

- The United States urges China to move forward with these regulations and to allow the licensing of foreign EPS suppliers in China, consistent with China's WTO obligations.

6. PERU – ADDITIONAL DUTY ON IMPORTS OF CERTAIN AGRICULTURAL PRODUCTS

A. JOINT REQUEST BY PERU AND GUATEMALA FOR A DECISION BY THE DSB (WT/DS457/6)

- We thank Peru and Guatemala for their joint request for a DSB decision regarding the adoption of this report.
- Given the workload of the Appellate Body and resulting delays in circulation of an AB report should an appeal be filed before the Appellate Body is in a position to take it up, it is essential that Members cooperate regarding the timing and order of appeals, as Peru and Guatemala have done in this dispute. We appreciate Guatemala's comments about the order of appeals.
- Without such communication and cooperation during a heavy appeals period, Members instead would have the incentive to rush to file their appeals to try to gain some procedural or timing advantage, complicating efforts to ensure the timely resolution of appeals as set out in the DSU.
- We also support the revisions to the draft text of the decision, which would appear to clarify and simplify the DSB's decision today.