

Statements by the United States at the Meeting of the WTO Dispute Settlement Body

Geneva, April 19, 2017

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB
 - A. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN HOT-ROLLED STEEL PRODUCTS FROM JAPAN: STATUS REPORT BY THE UNITED STATES (WT/DS184/15/ADD.171)
 - The United States provided a status report in this dispute on April 6, 2017, 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.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB
 - B. UNITED STATES – SECTION 110(5) OF THE US COPYRIGHT ACT:
STATUS REPORT BY THE UNITED STATES (WT/DS160/24/ADD.146)
 - The United States provided a status report in this dispute on April 6, 2017, 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

C. EUROPEAN COMMUNITIES - MEASURES AFFECTING THE APPROVAL AND MARKETING OF BIOTECH PRODUCTS: STATUS REPORT BY THE EUROPEAN UNION (WT/DS291/37/ADD.109)

- The United States thanks the European Union (“EU”) for its status report and its statement today.
- The EU measures affecting the approval and marketing of biotech products continue to result in lengthy, unpredictable, and unexplained delays in approvals. The delays and uncertainty in approvals cause adverse effects on trade.
- The failure to approve biotech corn products is a source of particular concern to the United States. A number of corn products have received the approval of the EU’s scientific authority, yet remain stalled at the level of the EU Appeals Committee or the EU Commission.
- The EU’s scientific review process is also subject to increasingly long delays. Many corn and soybean products have now been under consideration by the EU’s scientific authority for many years.
- Furthermore, the EU has recently proposed regulations that would create more, rather than less, uncertainty with regard to the information required for scientific evaluation of biotech products. The United States strongly encourages the EU to ensure that it requires only the scientific information relevant to the type of risk assessment being conducted.
- In closing, the United States encourages the EU to ensure that, as required by EU regulations and WTO rules, decisions on biotech approvals are made without unnecessary or further delays.

3. UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB

A. STATEMENT BY THE EUROPEAN UNION

- 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 has acknowledged that the Deficit Reduction Act does not permit the distribution of duties collected on goods entered after October 1, 2007, which is over nine years ago.
- With respect to the EU’s request for status reports in this matter, as we have already explained at previous DSB meetings, there is no obligation under the DSU to provide further status reports once a Member announces that it has implemented the DSB recommendations and rulings, regardless of whether the complaining party disagrees about compliance.
- Indeed, the EU has demonstrated repeatedly it shares this understanding, at least when it is the responding party in a dispute. Last month, we pointed out that the EU is not providing status reports in the *EC – Large Civil Aircraft* (DS316) dispute, despite the fact that the United States does not agree that the EU has implemented the DSB recommendations. The EU asserted last month that the matter was subject to an Article 21.5 proceeding, but that only confirms that there is no adopted DSB finding that the EU has come into compliance with WTO rules. At best, therefore, the EU can only assert that a disagreement between the parties currently exists.
- Once again, if the EU actually believes the position it is taking under this agenda item, it can demonstrate this by submitting a status report in DS316 for next month’s DSB meeting.

4. INDIA – MEASURES CONCERNING THE IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS (WT/DS430)

A. RECOURSE TO ARTICLE 21.5 OF THE DSU BY INDIA: REQUEST FOR THE ESTABLISHMENT OF A PANEL

- The United States is confident that India has no basis for asserting compliance with the DSB recommendations in this dispute.
- To recall, the DSB found that India's measures blocking the importation of U.S. poultry and other agricultural products were not based on science and breached several obligations of India under the SPS Agreement.
- The DSB adopted these rulings in June 2015, nearly two years ago. Despite that, India continues to maintain a complete ban on U.S. poultry and other agricultural products.
- The United States can see no valid legal basis for India's assertion of compliance. To the contrary, India's failure to take account of the DSB's findings means that the inconsistencies found by the DSB continue to this day.
- In addition, a compliance panel proceeding at this time would not contribute to a prompt resolution of the dispute.
- While the United States has reserved its rights to move forward on the pending arbitration under Article 22.6 on the level of nullification and impairment resulting from India's ban, we have sought, and continue to seek, to work cooperatively with India toward the goal of lifting the current ban on U.S. poultry products.
- The United States has made concrete proposals to India and has yet to receive any reply from India to those proposals.
- Accordingly, we suggest that India focus on actually achieving compliance in this dispute.
- For these reasons, the United States is not in a position to agree to the establishment of a panel today.
- With respect to India's reference to sequencing agreements, we find it puzzling that so much of India's Panel Request is dedicated to the issue of a sequencing agreement rather than explicating how India is ensuring its trading partners have access consistent with India's WTO obligations.
- In any event, the DSU does not require Members to enter into a sequencing agreement. Members have found it appropriate to do so in many circumstances. But India had taken

no steps to address the DSB's recommendations as of the time when the United States took procedural action to preserve its rights under Article 22.

6. APPELLATE BODY APPOINTMENTS

- We appreciate the information the Chair has provided.
- We look forward to consulting with the Chair, and other Members, on the process to fill these important positions.