

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

Geneva, February 23, 2015

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.146)

- The United States provided a status report in this dispute on February 12, 2015, in accordance with Article 21.6 of the DSU.
- Several bills introduced in the current U.S. Congress would repeal Section 211. These include H.R. 274, H.R.403, H.R. 635 and H.R. 735 – introduced into the U.S. House of Representatives, on January 12, January 16, February 2 and February 4 respectively. Other previously introduced legislation would modify Section 211.
- 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.

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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.146)

- The United States provided a status report in this dispute on February 12, 2015, 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 continue to 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.121)

- The United States provided a status report in this dispute on February 12, 2015, 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.84)

- The United States thanks the European Union (“EU”) for its status report and its statement today.
- The EU measures affecting the approval of biotech products are seriously disrupting trade in agricultural products between the United States and the EU.
- The EU has failed to approve a single new biotech product since November 2013. Having received positive evaluations by the EU’s scientific authority, thirteen applications are currently pending before the EU College of Commissioners awaiting final, political approval.
- Furthermore, based on public statements by EU officials, it appears that the EU has decided not to make any further approvals until the EU conducts yet another re-examination of EU biotech approval measures.
- The United States fails to see how a re-examination of existing approval measures could provide a scientific basis for not making biotech product approvals. Indeed, many of the long-pending products have successfully passed comprehensive safety assessments by the EU’s scientific authority.
- We urge the EU to address these delays immediately.

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E. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN SHRIMP FROM VIET NAM (WT/DS404/11/ADD.32)

- The United States provided a status report in this dispute on February 12, 2015, 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. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE DSB

A. UNITED STATES – COUNTERVAILING DUTY MEASURES ON CERTAIN PRODUCTS FROM CHINA

- Mr. Chairman, on January 16, 2015, the DSB adopted the reports of the Panel and the Appellate Body in the dispute *United States – Countervailing Measures on Certain Products from China* (DS437).
- In this dispute, the 30-day period of time described in Article 21.3 of the DSU expired before the next regularly scheduled DSB meeting. In these circumstances, China agreed with the United States that it was appropriate for the United States to inform the DSB of U.S. intentions by letter, rather than at a special meeting of the DSB.
- Accordingly, on February 13, 2015, the United States informed the DSB by letter that it intends to implement the recommendations and rulings of the DSB in a manner that respects U.S. WTO obligations.
- As the United States noted in its letter, it will need a reasonable period of time in which to implement the DSB’s recommendations and rulings.
- In accordance with Article 21.3(b) of the DSU, the United States will seek to reach agreement with China on the period of time for implementation.

2. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE DSB

B. ARGENTINA – MEASURES AFFECTING THE IMPORTATION OF GOODS

- We thank Argentina for its statement today, indicating that it intends to implement the DSB's recommendations and rulings in this dispute.
- The WTO-inconsistent measures here continue to be of significant concern, and we continue to receive reports regarding their application by Argentine authorities. We therefore look forward to Argentina moving promptly to bring its measures into compliance with its obligations.
- We stand ready to discuss with Argentina, under Article 21.3(b) of the DSU, a reasonable period of time for implementation of 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 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, 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 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 reports once a Member announces that it has implemented those DSB recommendations and rulings, regardless of whether the complaining party disagrees about compliance. In fact, one Member that used to call for U.S. status reports is not currently supplying such reports itself in another matter being raised today by the United States under item 5, given its position that it has taken all actions necessary to comply.

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 failed to bring its measures into conformity with its WTO obligations more than one and a half years after the end of its period of time for compliance.
- 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 comply with China’s WTO obligations, and despite China’s assertions in previous DSB statements, China must adopt the regulations necessary for allowing foreign EPS suppliers to operate in China.
- Nearly four months have now passed since China’s State Council announced that China would open the EPS market to qualified suppliers; but foreign enterprises remain barred from operating in China. We therefore continue to call on China to issue promptly the regulations needed to follow through on the announcement by the State Council.

9. UNITED STATES – CONDITIONAL TAX INCENTIVES FOR LARGE CIVIL AIRCRAFT

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE EUROPEAN UNION (WT/DS487/2)

- We are disappointed that the EU has chosen to request the establishment of a panel with regard to this matter. As we have explained to the EU, the measures identified in its request are fully consistent with U.S. obligations under the relevant WTO agreements. The United States is therefore prepared to engage in these proceedings, and to explain to the Panel that the EU has no legal basis for its claims.
- However, we must express our strong view that the EU’s actions should not be allowed to delay further the first aircraft dispute – *EC – Large Civil Aircraft* (or the “Airbus” dispute) – which has already suffered significant delays. The compliance proceeding has been pending for nearly three years, and written submissions have been finished for some time. In fact, responses to the last full set of panel questions were submitted in October 2013, and comments on responses to six follow-up questions were submitted in May 2014.
- The subsidies that the EU continues to provide, contrary to the recommendations and rulings of the DSB, are continuing to cause great harm to the United States.
- We would also question whether the initiation of a new aircraft dispute at this time is the best use of already strained WTO resources. This should be an issue of concern for all Members. If the EU’s decision to initiate a new aircraft dispute is allowed to delay the Airbus dispute, this will prolong the time that the current and substantial secretariat resources are devoted to that dispute. Conversely, the sooner that dispute is resolved, the sooner those resources can be freed up and allocated to other disputes.
- And to be clear, the EU’s request is a brand new, free-standing WTO dispute on large commercial aircraft. There is no basis to accept the EU’s construction that this new, free-standing dispute is merely a new procedural step or somehow a continuation of the current disputes. The compliance panel in *US – Aircraft* already considered those arguments, and rejected them. It found that the arguments the EU seeks to make are new and different from the claims in the compliance proceeding.
- Ultimately, the EU has the right to choose – as does any Member – to seek resolution of its concerns through WTO dispute settlement. However, the choice made by one Member should not be allowed to delay the right of another Member to seek resolution of its concerns through these same means.

10. ELECTION OF CHAIRPERSON

- The United States would like to take this opportunity to congratulate Ambassador Harald Neple on his election, and to welcome him to this body as he assumes the chairmanship of the DSB. We very much look forward to working with him over the coming year.
- We also would like to thank Ambassador De Mateo for his many contributions to the work of the DSB during this past year.