

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

Geneva, July 20, 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.174)
 - The United States provided a status report in this dispute on July 7, 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.149)
 - The United States provided a status report in this dispute on July 7, 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.112)

- The United States thanks the European Union (“EU”) for its status report and its statement today.
- The United States takes note that earlier this month, the EU approved four biotech products, including two varieties of corn. The EU also reauthorized one product for cultivation in the EU.
- The United States welcomes these developments. The EU actions nonetheless serve to highlight our concerns with the EU measures affecting the approval of biotech products.
- For example, the EU approval process for the two biotech corn products took six and seven years, respectively. The initial applications for approval of the corn products were submitted in 2010 and 2011. Positive opinions from the EU’s scientific authority were issued in the fall of 2016. Despite these positive safety opinions, the EU regulatory committee failed to approve the products. Instead, approvals could not be made until the Commission finally took up these matters earlier this month.
- In short, the EU measures affecting the approval of biotech products continue to involve prolonged, unpredictable, and unexplained delays at every stage of the approvals process. Furthermore, numerous products remain in the biotech approval pipeline.
- The United States urges the EU to take action to ensure that the safety of pending biotech applications are evaluated on the basis of scientific evidence, and that decisions are taken without further delay.

2. 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, 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.
- As we have noted previously, the EU has demonstrated repeatedly it shares this understanding, at least when it is the responding party in a dispute. Once again, this month the EU has provided no status report for disputes in which there is a disagreement between the parties on the EU’s compliance.
- If the EU considers it has no obligation to provide status reports once it has announced that it has implemented the DSB’s recommendations and rulings in a dispute, then surely the same applies to other Members under any reasonable reading of the DSU.

Second Intervention

- As we have noted at prior DSB meetings, the EU has not submitted status reports in the *EC – Large Civil Aircraft* (DS316) dispute, despite a disagreement between the parties on the EU’s compliance.

3. MECHANISM FOR DEVELOPING, DOCUMENTING, AND SHARING PRACTICES AND PROCEDURES IN THE CONDUCT OF WTO DISPUTES (JOB/DSB/1)

A. STATEMENT BY CANADA

- The United States thanks Canada for circulating various documents and for its willingness to work with Members in an effort to improve the WTO dispute settlement system.
- As noted in the past, we have certain questions about the overarching mechanism suggested by Canada as well as the associated documents. For example, one key issue is the intended legal effect, if any, of Members “endorsing” Canada’s suggested mechanism or individual documents.
- Nonetheless, at today’s meeting, we appreciate the opportunity for Members to discuss these four proposals.
- With respect to the document concerning publication of panel working procedures, timetables, and other documents, we agree that the WTO dispute settlement system would benefit from greater transparency.
- In fact, transparency in dispute settlement proceedings benefits all WTO Members, including in particular those with more limited resources who may not be able to follow every dispute closely.
- The United States has long sought to increase transparency in WTO dispute settlement, including through its DSU review proposal, and looks forward to collaborating with Canada and other Members on increasing transparency.
- We would also inquire whether Members consider that there is currently any basis for keeping any working procedures and timetables confidential? In that regard, we note that the Appellate Body’s working procedures, including the timeline for submissions, are already public, and this has not raised concerns among WTO Members.
- With respect to the proposal on third party requests to participate in consultations, we consider it is appropriate to inform the requesting Member in a timely manner and we have seen this occur in numerous disputes.
- Finally, on electronic filing, we welcome the opportunity to continue to discuss with Members practical issues and experience with electronic filing, including in the context of the DDSR initiative.

4. APPOINTMENT OF APPELLATE BODY MEMBERS: PROPOSAL BY THE EUROPEAN UNION (WT/DSB/W/597/REV.2)
- Mr. Chairman, as the United States indicated at the meeting of the DSB on May 22 and again on June 19, we are not in a position to support the proposed decision to launch a process to fill a position on the Appellate Body that will become vacant in December.
 - Nevertheless, the United States is willing to join a consensus for the DSB to take the decision proposed by Argentina, Brazil, Colombia, Chile, Guatemala, Mexico, and Peru. That decision is focused on a process to fill a position that is now vacant with the expiry of Mr. Ramirez's term on June 30, 2017.

5. PROPOSAL REGARDING THE APPELLATE BODY SELECTION PROCESS
(WT/DSB/W/596/REV.2)

- Mr. Chairman, as noted under the previous agenda item, the United States is willing to join a consensus for the DSB to take the decision proposed by Mexico, Argentina, Brazil, Colombia, Chile, Guatemala, and Peru. As we have stated at previous meetings of the DSB, despite the ongoing transition in our political leadership, we received guidance that it would be acceptable to launch a process given the expiry of Mr. Ramirez's second term on June 30.