

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

Geneva, March 25, 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.147)

- The United States provided a status report in this dispute on March 12, 2015, in accordance with Article 21.6 of the DSU.
- Several bills introduced in the current U.S. Congress would repeal Section 211. 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.

1. 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.147)

- The United States provided a status report in this dispute on March 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 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.122)

- The United States provided a status report in this dispute on March 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.85)

- 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.
- As the United States has explained at recent meetings of the DSB, the EU has failed to approve a single new biotech product since November 2013.
- 13 product applications currently pending before the EU College of Commissioners are awaiting final, political approval. Each one of these products has received a positive safety evaluation from the EU’s scientific authority.
- As the United States has also noted with concern, it appears – based on public statements by high-level EU officials – that the EU has decided to further delay approvals until the EU conducts another re-examination of its biotech approval measures.
- The United States urges the EU to end these unwarranted delays and approve the pending applications immediately.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

E. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN SHRIMP FROM VIET NAM (WT/DS404/11/ADD.33)

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

Second Intervention

- The United States thanks Vietnam for its statement. We appreciate Vietnam's recognition that the United States has implemented certain elements of DS404.
- With respect to Vietnam's reference to DS429, we would note that this is a different dispute than the one at issue under this agenda item. However, we would recall that we have continually tried to engage Vietnam in bilateral discussions to resolve their concerns with respect to the matters at issue in both DS404 and DS429. We also take note of Vietnam's comments about the workload on the dispute settlement system. As Vietnam is aware, we share those concerns and have continually tried to engage with Vietnam to resolve these matters by discussing them outside of the litigation context. We think that this is a more productive avenue to resolve the matters between us, and we continue to encourage Vietnam to make use of that avenue.

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, nearly seven and a half 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 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 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 for foreign suppliers to obtain that license.
- Nearly five months have now passed since China’s State Council announced that China would open the EPS market to qualified suppliers; but China has yet to adopt any procedures under which foreign enterprises could apply for licenses. As a result, foreign suppliers remain barred from operating in China. And, China Union Pay 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.
- The United States therefore continues to call on China to issue promptly the regulations needed to follow through on the announcement by the State Council.

7. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN OIL COUNTRY TUBULAR GOODS FROM KOREA

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY KOREA
(WT/DS488/5)

- As we have explained both to Korea and to the DSB, the U.S. actions described in Korea's request are fully consistent with U.S. obligations under the WTO Agreement.
- Accordingly, the United States regrets that Korea 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 Korea has no legal basis for its claims. Further, this statement is without prejudice to whether each of the items cited in Korea's request constitutes a measure for purposes of the DSU, and therefore is subject to examination by the panel.

8. CHINA – MEASURES IMPOSING ANTI-DUMPING DUTIES ON HIGH-PERFORMANCE STAINLESS STEEL SEAMLESS TUBES ("HP-SSST") FROM JAPAN

A. JOINT REQUEST BY JAPAN AND CHINA FOR A DECISION BY THE DSB (WT/DS454/6)

- The United States does not object to the joint DSB decision being proposed by Japan and China under this agenda item or that being proposed by the European Union and China under the next item. In fact, both proposed decisions appear to be efforts by these Members, in consultation with the Appellate Body, to find practical solutions to Appellate Body workload issues in the light of a fixed DSU time period. We therefore encourage all Members to support these proposed decisions as they have cooperated to support similar decisions in the past.
- At the same time, the United States would like to clarify that the only element of the circulated documents that the DSB is adopting today is the section entitled “Draft Decision of the DSB,” which includes one sentence establishing that the DSB agrees it shall, upon request of a party to the dispute, adopt the panel report in the respective dispute no later than May 20, 2015, “unless (i) the DSB decides by consensus not to do so or (ii) either party to the dispute notifies the DSB of its decision to appeal pursuant to Article 16.4 of the [DSU.]”
- The United States does not consider the associated “confirmed procedures” circulated to Members in these documents to constitute part of either decision the DSB is adopting, and the United States does not consider that such procedures are required or desirable to be communicated together with a draft DSB decision.
- However, the United States supports the decision itself. Indeed, Members will recall that, in November, the DSB adopted a similar decision proposed by the United States and India with respect to the time period for adoption or appeal of the panel report in the dispute *India – Measures Concerning the Importation of Certain Agricultural Products from the United States* (DS430). The United States continues to believe that Members should cooperate among themselves and with the Appellate Body in order to sequence their appeals in a manner that respects Members’ interests in having their disputes resolved expeditiously, as well as to time their appeals to assist the Appellate Body in managing its workload and ensure that the Appellate Body is able to meet the DSU deadline for its report to the maximum extent possible.
- Finally, the United States would note that the adoption of such a decision provides a good example of parties to a dispute finding a way to cooperate with other Members and the Appellate Body to come up with a practical solution that respects the text of the DSU

when an explicit timeline included in that text is unable to be met. The United States continues to encourage Members and the Appellate Body to engage in similar efforts in other situations where this difficulty may arise, such as with respect to Article 17.5 of the DSU. This would help ensure that the credibility of the DSU is maintained, while also ensuring transparency and predictability for all WTO Members.