

**Statements by the United States at the Meeting of the WTO Dispute Settlement Body
Geneva, November 18, 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 November 6, 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 by Members that this issue raises systemic concerns with respect to the dispute settlement system, the facts simply do not support such assertions or justify such concerns. The United States has come into compliance, fully and promptly, in the vast majority of its disputes where we have been a responding party.
- In fact, certain Members appear to be ignoring the fact that at just last month's DSB meeting, the United States announced that, working together with other parties, it has successfully resolved both the *US – Upland Cotton* and *US – Clove Cigarettes* disputes.
- While there are a few remaining disputes where we are still working to achieve a solution, such as this dispute between the United States and the European Union, it is not accurate to state that the actions of the United States are somehow undermining the credibility of the system.
- To the contrary, 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.

- And the United States will continue to work to implement the DSB's recommendations and rulings in this dispute.

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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 November 6, 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 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.118)

- The United States provided a status report in this dispute on November 6, 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 to reach a mutually satisfactory resolution of this matter.

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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 European Union for its status report and its statement today.
- At recent meetings of the DSB, we have noted our increasing concerns with EU measures affecting the approval of biotech products. In fact, the EU has not approved a new biotech product in 2014, and the delays in biotech approvals are continuing to seriously disrupt trade in agricultural products.
- Under the EU system, biotech approvals should be made by EU regulatory committees, consisting of EU member State representatives. The EU system provides that the regulatory committees should act in accordance with the scientific recommendations of the EU's scientific authority (the European Food Safety Authority, or EFSA).
- However, not once in the last 10 years have these EU regulatory committees performed their role of taking decisions based on the science-based recommendations. Instead, all of the biotech approval decisions have been left to the political level of the European Commission.
- But during 2014, even the EU College of Commissioners has failed to act. The Commission changed as of November 1, and not once in 2014 did the Commission follow through on its responsibility to approve biotech products in accordance with EFSA recommendations.
- Furthermore, the United States would note that the new Commission is already signaling that it may decide to engage in further delays, under the guise of yet another re-examination of the EU biotech approval process.
- The conduct of the EU regulatory committees and the European Commission suggests that the EU authorization process may not be based on the scientific merits of each application, but instead on political considerations.
- As we have said at other meetings of the DSB, 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 November 6, 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 as the EU, Japan, and other Members have acknowledged, 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. As a result of this, it is entirely inaccurate to refer to distributions as occurring unabated.
- 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, we fail 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 some of 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 the 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 them with 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.
- As required for consistency with 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 specific regulations to implement the State Council’s statement in a manner that is consistent with the WTO’s findings.

6. INDIA – MEASURES CONCERNING THE IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS
- A. JOINT REQUEST BY INDIA AND THE UNITED STATES FOR A DECISION BY THE DSB (WT/DS430/7)
- Mr. Chairman, the United States and India jointly request that the DSB agree to provide additional time for the adoption or appeal of the panel report in this dispute by adopting the draft decision that was circulated to WTO Members in document WT/DS430/7.
 - We would like to make clear that we are not making this request out of concern with the Panel’s report.
 - To the contrary, the Panel conducted a thorough evaluation of the issues in this dispute, in a clear and an efficient manner. The Panel’s findings that India acted inconsistently with its WTO obligations are well-founded in the applicable provisions of the WTO Agreement and the factual record in the dispute.
 - However, after discussions with India, we agreed to jointly make this request, which would provide for DSB adoption of the Panel report at the request of either party until January 26, 2015, unless the report were appealed.
 - Among other things, this proposed DSB decision reflects that the WTO dispute settlement system as a whole is currently facing a significant volume of disputes, including the Appellate Body. We understand that, in the absence of agreement by the parties, requesting adoption of the panel report by the DSB today would only have exacerbated those problems without any significant change in the timing of the issuance of a report on appeal. Insisting on adoption or appeal today therefore would essentially have ensured that the Appellate Body would not be able to adhere to the 90-day deadline that Members have set out in Article 17.5 of the DSU.
 - We therefore determined to cooperate with India to put forward this decision for the DSB’s consideration today. We would expect that other Members in similar circumstances would also take a similarly constructive approach to their disputes. This will help the Appellate Body to manage its workload while adhering to the provisions of the DSU to the maximum extent possible. Those Members that do cooperate to help manage the challenges currently faced by the Appellate Body should not be disadvantaged by other Members choosing not to cooperate and who instead seek to press forward with their appeals to gain some timing or litigation advantage.
 - We appreciate the DSB’s support for the draft decision.