

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

Geneva, September 28, 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.153)

- The United States provided a status report in this dispute on September 17, 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.153)

- The United States provided a status report in this dispute on September 17, 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.128)

- The United States provided a status report in this dispute on September 17, 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.91)

- The United States thanks the European Union (“EU”) for its status report and its statement today.
- As the United States has noted repeatedly since the adoption of the DSB recommendations and rulings in this dispute, the United States remains concerned with the EU’s measures affecting the approval and marketing of biotech products.
- Dozens of biotech applications remain pending in the EU approval system. One of these applications has been pending for well over a decade. The ongoing backlog and delays remain a serious impediment to trade in biotech products.
- Further, even when the EU does approve a biotech product, the approval may not apply within one or more EU Member states. Instead, EU Member states have banned such products, and have done so without any apparent scientific basis.
- Instead of taking steps to address this problem, the EU Commission has proposed an amendment to EU biotech approval regulations that would facilitate the adoption of additional EU Member State bans on biotech products approved at the EU-level.
- The United States is concerned about the relationship of such a proposal to the EU’s obligations under the SPS Agreement, and on the negative impacts of this proposal with respect to the movement and use of biotech products throughout the entirety of the EU.
- The United States urges the EU to ensure that its biotech approval measures are consistent with its obligations under the SPS Agreement. And to the extent that the EU considers revisions to its biotech approval regulations, the EU should ensure that any revisions are consistent with its WTO obligations and should notify these revisions to the SPS Committee pursuant to Article 7 of the SPS Agreement.

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.39)

- The United States provided a status report in this dispute on September 17, 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. 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 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.
- With respect to Japan’s remarks, the United States continues to view Japan’s statement that it will not apply the suspension of concessions in the coming year as a positive development.
- However, we regret Japan’s statement that it may renew the suspension of concessions in the future.

3. CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

A. STATEMENT BY THE UNITED STATES

- Despite numerous interactions between the United States and China in the DSB and elsewhere, the United States continues to have serious concerns that China has failed to bring its measures into conformity with its WTO obligations.
- China continues to impose its ban on foreign suppliers of electronic payment services (“EPS”) by requiring a license, while at the same time failing to issue all specific measures or procedures for obtaining that license.
- The United States previously has taken note of an April 2015 State Council decision, which indicates China’s intent to open up its EPS market following issuance of implementing regulations by the People’s Bank of China and the China Banking Regulatory Commission.
- The United States notes that the People’s Bank of China has issued draft regulations setting forth some procedures for EPS suppliers to follow when seeking a license.
- To date, however, the China Banking Regulatory Commission has not issued any draft or final regulations implementing the State Council’s April 2015 decision. Nor has the People’s Bank of China issued final regulations.
- As a result, a single, Chinese enterprise continues to be the only EPS supplier able to operate in China’s domestic market.
- As required under its WTO obligations, China must adopt the implementing regulations necessary for allowing the operation of foreign EPS suppliers in China, and any regulations must be implemented in a consistent and fair way.
- We continue to look forward to the prompt issuance and implementation of all measures necessary to permit foreign EPS suppliers to do business in China.

Second Intervention

- As we have stated before, we strongly disagree with China’s statement. The DSB’s findings clearly state that “China has made a commitment on market access concerning mode 3”² and that “China has made a commitment on national treatment concerning mode 3.”³
- Indeed, China itself has noted that it is working on regulations that would provide access to foreign EPS suppliers.
- The United States urges China to move forward with these regulations and to allow the licensing of foreign EPS suppliers in China, consistent with China’s WTO obligations.

² *China – Certain Measures Affecting Electronic Payment Services, WT/DS413/R (adopted Aug. 31, 2012)*, at para. 7.575.

³ *Id.*, at para. 7.678.

5. UNITED STATES – ANTI-DUMPING AND COUNTERVAILING MEASURES ON CERTAIN COATED PAPER FROM INDONESIA

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY INDONESIA (WT/DS491/3)

- As the United States stated at the August meeting of the DSB, the U.S. actions described in Indonesia's request are fully consistent with U.S. obligations under the WTO Agreement.
- Accordingly, the United States regrets that Indonesia 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 Indonesia has no legal basis for its claims.