

**Statements by the United States at the Meeting of the WTO Dispute Settlement Body
Geneva, October 20, 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.142)
 - The United States provided a status report in this dispute on October 9, 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.

Second Intervention

- In response to the comments about systemic concerns about the dispute settlement system, the facts simply do not support Members' assertions or justify such systemic concerns. The record is clear: the United States has come into compliance, fully and promptly, in the vast majority of its disputes.
- As for the remaining few instances where our efforts to do so have not yet been entirely successful, the United States has been working actively towards resolving such matters.
- Indeed, these efforts are illustrated by the steps taken by the United States in the *Cotton* and *Clove Cigarettes* disputes. As the United States will describe more fully today in its statements under Other Business, the United States has successfully resolved these outstanding disputes.
- Accordingly, contrary to the statements we have just heard, the record shows that the United States has a strong record of support for the dispute settlement system, including through implementation actions and working with other Members to resolve disputes.
- Similarly, the United States will continue to work to implement the DSB's recommendations and rulings in this dispute.

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.142)

- The United States provided a status report in this dispute on October 9, 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 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

C. UNITED STATES - SECTION 110(5) OF THE US COPYRIGHT ACT:
STATUS REPORT BY THE UNITED STATES (WT/DS160/24/ADD.117)

- The United States provided a status report in this dispute on October 9, 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, 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.80)

- The United States thanks the EU for its status report and its statement today.
- At recent meetings of the DSB and in bilateral discussions, the United States has noted, with increasing concern, that the EU has not approved a single new biotech product in 2014.
- 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 at least 10 years have these EU regulatory committees performed their role of taking decisions based on the science-based recommendations. Instead, all biotech approval decisions have been left to the political level of the EU Commission.
- The United States understands that the current EU College of Commissioners is scheduled to meet on Wednesday, October 22, and Wednesday, October 29. These are the last meetings before the establishment of a new Commission on November 1.
- The current Commission will therefore have an opportunity to act in accordance with the EFSA recommendations by approving long-pending biotech product applications. The United States notes that despite positive EFSA recommendations, some of these applications have been pending before the Commission for years.
- Should the current Commission choose not to act on the pending applications, the strong implication would be that the EU authorization process has become purely political, with no connection to science-based decision-making.
- Further, the United States is concerned that if the current Commission does not act, all pending applications will face additional and significant delays pending action by a new set of Commissioners. In fact, the EU is already announcing that the new Commission may conduct yet another reexamination of the EU biotech approval process.
- In closing, the United States again recalls that the ongoing delays are causing serious disruption of trade in agricultural products.
- We urge the EU to take steps to address these matters.

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.28)

- The United States provided a status report in this dispute on October 9, 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 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, which is 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, 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.
- 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”).
- China maintains this ban by imposing a licensing requirement on EPS suppliers, while at the same time providing no procedures for foreign suppliers 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 China’s WTO obligations, the United States calls on China to adopt the regulations necessary for allowing foreign EPS suppliers to operate in China.

Second Intervention

- As we have stated before, we strongly disagree with China’s statement. The DSB’s rulings and recommendations clearly state that “China has made a commitment on market access concerning mode 3”¹² and that “China has made a commitment on national treatment concerning mode 3.”²³
- 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.

¹² *China – Certain Measures Affecting Electronic Payment Services, WT/DS413/R (adopted Aug. 31, 2012)*, at para. 7.575.

²³ *Id.*, at para. 7.678.

OTHER BUSINESS

UNITED STATES — SUBSIDIES ON UPLAND COTTON

A. STATEMENT BY THE UNITED STATES REGARDING TERMINATION OF THE DISPUTE

- Mr. Chairman, we are pleased to inform the DSB that the United States and Brazil have reached a negotiated solution to the longstanding dispute *United States — Subsidies on Upland Cotton*.
- As indicated in a notification submitted last week under Article 3.6 of the Dispute Settlement Understanding, the dispute is terminated. Accordingly, there will be no countermeasures applied or further Article 21.5 proceedings in this dispute. The United States understands that the notification is being processed by the Secretariat and shortly will be circulated to Members.
- Attached to the notification is a Memorandum of Understanding between Brazil and the United States. This Understanding, along with changes to U.S. farm programs in the 2014 Farm Bill, provided a basis for Brazil and the United States to conclude the dispute. This outcome is the result of more than four years of work by the United States and Brazil under a Framework agreed to in 2010.
- The United States is pleased that we have been able to put this dispute behind us. We look forward to building on this success and deepening the trade relationship between the United States and Brazil.

OTHER BUSINESS

UNITED STATES — MEASURES AFFECTING THE PRODUCTION AND SALE OF CLOVE CIGARETTES

B. STATEMENT BY THE UNITED STATES REGARDING TERMINATION OF THE DISPUTE

- Mr. Chairman, the United States is similarly pleased to inform the DSB of the notification submitted by the United States and Indonesia under Article 3.6 of the DSU, circulated as WT/DS406/17, regarding the termination of the dispute *United States — Measures Affecting the Production and Sale of Clove Cigarettes*.
- In light of their mutually agreed solution, Indonesia has withdrawn its request under Article 22.2 of the DSB for authorization to suspend concessions or other obligations, and the United States has withdrawn its objection to that request.
- As a result of these actions, and in response to the joint request of the parties, the Article 22.6 Arbitrator has notified the DSB that it was not necessary for it to issue a decision on the matter referred to it, and that it has completed its work. This document has been circulated as WT/DS406/18.
- The United States welcomes the resolution of this dispute, and looks forward to the ongoing enhancement of the overall trade relationship between Indonesia and the United States.