

**UNITED STATES – CONTINUED EXISTENCE AND APPLICATION  
OF ZEROING METHODOLOGY**

Communication from the Appellate Body

The following communication, dated 22 December 2008, from the Chairman of the Appellate Body addressed to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 17.5 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

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I am writing to you pursuant to Article 17.5 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, which stipulates that, as a general rule, the Appellate Body will circulate its Report no later than 60 days after the appellant has formally notified the Dispute Settlement Body (the "DSB") of its decision to appeal. Article 17.5 states, furthermore, that when the Appellate Body considers that it cannot provide its Report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its Report.

The European Communities notified the DSB on 6 November 2008 of its decision to appeal certain issues of law covered in the Panel Report and legal interpretations developed by the Panel in this case, with the result that the 60-day period expires on Monday, 5 January 2009. Due to the time required for completion and translation of the Report, the Appellate Body will not be able to circulate its Report by Monday, 5 January 2009. We estimate that the Appellate Body Report in this appeal will be circulated to WTO Members no later than Wednesday, 4 February 2009.

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