

**UNITED STATES – MEASURES RELATING TO ZEROING
AND SUNSET REVIEWS**

Notification of an Other Appeal by the United States
under Article 16.4 and Article 17 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes (DSU),
and under Rule 23(1) of the *Working Procedures for Appellate Review*

The following notification, dated 23 October 2006, from the Delegation of the United States, is being circulated to Members.

Pursuant to Rule 23 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Report of the Panel on *United States – Measures Relating to Zeroing and Sunset Reviews* (WT/DS322/R) ("Panel Report") and certain legal interpretations developed by the Panel in this dispute.

The United States seeks review by the Appellate Body of the Panel's finding and related legal interpretations that the United States maintains a measure referred to as "zeroing procedures" in transaction-to-transaction and average-to-transaction comparisons in the context of original investigations.¹ This finding is in error and is based on an erroneous application of the law and related legal interpretations. In addition, the Panel failed to make an objective assessment of the matter before it in connection with the issue of the existence of "zeroing procedures" that may be challenged as such in transaction-to-transaction and average-to-transaction comparisons in the context of original investigations, including a failure to make an objective assessment of the facts of the case, contrary to Article 11 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). The Panel's finding and related legal interpretations were also contrary to Articles 3.3, 4.2, 6.2, and 7.1 of the DSU.

¹Panel Report, paras. 7.34 through 7.59, 7.90, 7.143, 7.161, 7.166, 7.170, 7.175, and 7.259(a).