

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

### Status Report by the United States

#### Addendum

The following communication, dated 7 November 2011, from the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 21.6 of the DSU.

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#### Status Report Regarding Implementation of the DSB Recommendations and Rulings in the Dispute United States – Measures Relating to Zeroing and Sunset Reviews (WT/DS322)

The United States submits this report in accordance with Article 21.6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU").

On 23 January 2007, the Dispute Settlement Body ("DSB") adopted its recommendations and rulings in *United States – Measures Relating to Zeroing and Sunset Reviews* (WT/DS322). At the following DSB meeting, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and Japan subsequently agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on 24 December 2007.

On 6 March 2006, the US Department of Commerce published a notice requesting comments on its intention to no longer perform average-to-average comparisons in anti-dumping investigations without offsets. On 26 January 2007, the Department published a notice that the date after which it would no longer perform such comparisons would be 22 February 2007. Accordingly, as of 22 February 2007, the United States is no longer performing average-to-average comparisons in anti-dumping investigations without offsets.

With respect to the one investigation that Japan challenged "as applied," the United States issued a revised determination in connection with that investigation on 21 December 2007. On 20 May 2008, the Department published a notice of implementation of the revised determination, in which it calculated the anti-dumping duty margins with offsets.

On 31 August 2009, the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report, regarding the recourse to Article 21.5 of the DSU by Japan.

On 28 December 2010, in part in response to the findings in this dispute with respect to administrative reviews, new shipper reviews, sunset reviews, and investigations using transaction-to-transaction comparisons, the US Department of Commerce announced a proposal to change the methodology for calculating weighted average dumping margins and assessment rates in certain anti-dumping proceedings, including administrative and new shipper reviews. The Department proposes to compare monthly weighted average export prices with monthly weighted average normal values, and to grant an offset for comparisons that show an export price that exceeds normal value in the calculation of the weighted average margin of dumping and assessment rate. The modifications the Department has made with respect to investigations, and is proposing to make with respect to reviews, address the underlying issue with respect to sunset reviews. In addition, to the extent that any prior application of the transaction-to-transaction methodology in an investigation could be considered as establishing a practice with respect to offsets, the Department is proposing to withdraw any such practice.

The proposal has been published in the Federal Register, 75 FR 81533 (Dec. 28, 2010). Under US law, there is a period for public comment on this proposal and for consultations with appropriate committees in the US Congress.

The United States is continuing its ongoing work on the proposal and will continue to consult with interested parties.

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