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**UNITED STATES – COUNTERVAILING AND ANTI-DUMPING MEASURES
ON CERTAIN PRODUCTS FROM CHINA**

**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 17 April 2014, from the Delegation of the United States, is being circulated to Members.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and 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 – Countervailing and Anti-Dumping Measures on Certain Products from China* (WT/DS449/R) and certain legal interpretations developed by the Panel in this dispute.

In particular, the United States seeks review by the Appellate Body of the Panel's legal conclusion that Section D of China's Panel Request was not inconsistent with Article 6.2 of the DSU¹ because it provided a brief summary of the legal basis of the complaint sufficient to present the problem clearly.² This finding is in error and is based on erroneous findings on issues of law and related legal interpretations, including, for example: the Panel's conclusion that a reference to Article 19 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement") in China's panel request "warrant[ed] the inference" that the specific obligation at issue was Article 19.3 of the SCM Agreement;³ that a panel request may satisfy the requirements of DSU Article 6.2 if it permits "sufficiently clear inferences" as to the obligations at issue;⁴ that multiple, distinct legal obligations under an article of a covered agreement may be interpreted to determine whether a particular obligation forms part of the legal basis of the complaint;⁵ that a panel request's reference to an external source may inform whether the panel request provides a brief summary of the legal basis of the complaint sufficient to present the problem clearly;⁶ and that subsequent statements may cure a deficient panel request.⁷ The United States respectfully requests the Appellate Body to reverse the Panel's findings and conclude that Section D of China's Panel Request was not consistent with DSU Article 6.2. As a consequence, the United States further requests that the Panel's findings of inconsistency with respect to Articles 10, 19.3, and 32.1 of the SCM Agreement also be reversed as these claims are outside the terms of reference of this dispute.⁸

¹ See Panel Report, para. 8.1(a).

² See Preliminary Ruling by the Panel, WT/DS449/4, para. 3.52.

³ See Preliminary Ruling by the Panel, WT/DS449/4, para. 4.1.

⁴ See Preliminary Ruling by the Panel, WT/DS449/4, para. 3.32.

⁵ See Preliminary Ruling by the Panel, WT/DS449/4, paras. 3.39-3.40.

⁶ See Preliminary Ruling by the Panel, WT/DS449/4, paras. 3.42-3.43.

⁷ See Preliminary Ruling by the Panel, WT/DS449/4, paras. 3.1-3.15.

⁸ See Panel Report, paras 7.298-7.396, 8.1(c).