

**UNITED STATES – LAWS, REGULATIONS AND METHODOLOGY FOR
CALCULATING DUMPING MARGINS ("ZEROING")**

Recourse to Article 22.6 of the DSU by the United States

Communication from the Arbitrator

The following communication has been received, on 8 September 2010, from the Chairman of the Arbitrator, with the request that it be circulated to the DSB.

The European Union and the United States have jointly requested the Arbitrator to suspend its work, in the context of informal discussions with respect to implementation (see the request attached).

On the basis of this request, the Arbitrator has decided to suspend its work.

The suspension can be terminated at any time at the written request of either Party. The suspension will be limited to 12 months less one day, and absent any contrary written communication from the European Union within that period, the suspension will be automatically terminated and the work of the Arbitrator will resume on the date that is 12 months less one day from the date of suspension.

The last date at which the "contrary written communication" from the European Union referred to above may be received by the Arbitrator is 7 September 2011.

In the event that no such "contrary written communication" or written request for resumption from either party has been received by the Arbitrator by 7 September 2011, it will circulate its Decision on 15 September 2011.

ATTACHMENT

Mr. Felipe Jaramillo
Chairman of the Arbitration Panel/Arbitrator¹
*United States – Laws, Regulations and Methodology
for Calculating Dumping Margins (“Zeroing”) - Recourse
to Article 22.6 of the DSU by the United States (DS294)*
World Trade Organization
Centre William Rappard
Rue de Lausanne 154
1211 Geneva 21

Tuesday, 7 September 2010

The United States and the European Union (the "Parties") wish to thank you and the other Members of the Arbitration Panel/Arbitrator for being available to serve in the above-referenced proceeding.

The United States would like to inform the Arbitrator/Arbitration Panel that it has sought informal discussions with the European Union with respect to implementation. In that context, the United States respectfully requests the Arbitrator/Arbitration Panel to suspend its work. In light of that, and having regard to Article 12.12 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)*², the European Union joins the United States in making such request, subject to the following conditions.

The Parties hereby agree the following matters, to be incorporated expressly or by reference in any decision by the Arbitration Panel/Arbitrator to suspend:

- the suspension can be terminated at any time at the written request of either Party;
- the suspension will be limited to 12 months less one day, and absent any contrary written communication from the European Union within that period, the suspension will be automatically terminated and the work of the Arbitration Panel/Arbitrator will resume on the date that is 12 months less one day from the date of suspension;
- the suspension is without prejudice to any of the Parties' claims and arguments in these dispute settlement proceedings, including the question of whether or not nullification or impairment during any period of suspension is to be accounted for in the suspension of concessions or other obligations; and

¹ The Parties recall that they have different views concerning what is the correct terminology to use in these proceedings, but are resolved that this joint letter should not imply that either Party relinquishes its position of principle with respect to that matter.

² The European Union recognizes that the Parties may have different views on whether Article 12.12 of the *DSU* applies or applies by analogy in these proceedings, or whether the Arbitration Panel/Arbitrator has an implied or inherent power to suspend, and that the Parties are resolved that this joint letter should not imply that either Party relinquishes its position of principle with respect to that matter.

- suspension will not otherwise affect the rights and obligations of either Party under the *Marrakesh Agreement Establishing the World Trade Organization* or in these dispute settlement proceedings.

For the United States

For the European Union

Michael Punke
Ambassador

John Clarke
Chargé d'Affaires a.i.
