



8 October 2014

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**UNITED STATES – COUNTERVAILING MEASURES ON CERTAIN HOT-ROLLED CARBON
STEEL FLAT PRODUCTS FROM INDIA**

COMMUNICATION FROM THE APPELLATE BODY

The following notification, dated 6 October 2014, from the Chair of the Appellate Body addressed to the Chair of the Dispute Settlement Body, is circulated to Members in accordance with Article 17.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

I am writing to you pursuant to Article 17.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), 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 (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.

India notified the DSB on 8 August 2014 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 Tuesday, 7 October 2014. For the reasons expressed below, the Appellate Body will not be able to circulate its report by this date, or within the 90-day timeframe provided for in the last sentence of Article 17.5 of the DSU.

On 11 August 2014, the United States requested a one-week extension of the deadline for filing its appellee's submission in these appellate proceedings due to the size and complexity of India's appeal. The United States noted that India's Notice of Appeal appeared to include at least 67 separate claims of error. In a Procedural Ruling dated 19 August 2014, the Division hearing these appeals, having heard the views of the participants and third participants, decided to extend the date for filing the appellees' submissions, as well as the date for filing the third participants' notifications and written submissions.

Moreover, at the time that the Division was composed in this dispute, the Appellate Body comprised only six, rather than the full complement of seven, Appellate Body Members. The Appellate Body has also faced a substantial workload in the second half of 2014, and there has been overlap in the composition of the Divisions hearing different appeals during this period.

Due to the scheduling issues arising from these circumstances, and the number and complexity of the issues raised in these and concurrent appeal proceedings, as well as the additional time required for translation of the Report into all three official languages, it will not be possible for the Appellate Body to circulate its Report in this appeal within the 90-day timeframe provided for in Article 17.5 of the DSU.

We estimate that the Appellate Body Report in this appeal will be circulated to WTO Members no later than Monday, 8 December 2014.
