

**UNITED STATES – CONTINUED DUMPING AND  
SUBSIDY OFFSET ACT OF 2000**

Understanding between Australia and the United States

The following communication, dated 23 December 2004, from the delegation of Australia and the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated at the request of those delegations.

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Australia and the United States would like to inform the Dispute Settlement Body of the attached "Understanding between Australia and the United States" with respect to the dispute, *United States – Continued Dumping and Subsidy Offset Act of 2000* (WT/DS217).

We ask that you please circulate this notification to the Members of the Dispute Settlement Body.

Understanding between Australia and the United States

Noting that the United States has informed the Dispute Settlement Body (DSB) that it will continue to work to bring the Continued Dumping and Subsidy Offset Act of 2000 into conformity with its WTO obligations,

Our two governments have reached the following understanding with regard to this dispute:

1. Australia will not in this dispute at this stage request authorization from the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU).
2. If Australia at some future date decides to request DSB authorization to suspend concessions or other obligations under Article 22.2 of the DSU, it will provide the United States advance notice and will consult with the United States before making such a request.
3. Australia will retain its right to be granted DSB authorization to suspend concessions or other obligations pursuant to Article 22.6 of the DSU at any future date and the United States will not seek to block Australia's request for DSB authorization regardless of the timing of this request.
4. The United States retains the right to object to the level of suspension proposed, or to claim that the principles and procedures set forth in Article 22.3 of the DSU have not been followed, and to have the matter referred to arbitration under Article 22.6 of the DSU.
5. Australia and the United States agree to request jointly the adoption by the DSB of the draft decision attached to this Understanding at its meeting on 25 January 2005.

Signed:

H.E. Mr David Spencer  
Ambassador  
Permanent Representative of Australia

H.E. Ms Linnet F. Deily  
Ambassador  
Permanent Representative of the United States

Draft Decision of the DSB

The DSB takes note of the Understanding reached between Australia and the United States and agrees that, upon a request by Australia, the DSB shall grant Australia authorization to suspend concessions or other obligations unless (i) the DSB decides by consensus not to do so or (ii) the United States objects to the level of suspension proposed or claims that the principles and procedures in DSU Article 22.3 have not been followed, referring the matter to arbitration under Article 22.6 of the DSU.

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