

**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, dated 15 September 2011, from the Chairman of the Arbitrator to the Chairperson of the Dispute Settlement Body, is circulated to Members at his request.

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In a communication dated 7 September 2011, the European Union and the United States have jointly requested the Arbitrator to suspend its work for a further period of four months and two days, in the context of further informal discussions with respect to implementation (see the request attached).

On the basis of this request, the Arbitrator has decided to suspend its work for a further period.

The suspension can be terminated at any time at the written request of either party. The suspension will be limited to four months and two days, 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 9 January 2012.

The last date at which a "contrary written communication" from the European Union referred to above may be received by the Arbitrator is 6 January 2012.

In the event that no such "contrary written communication" or written request for resumption from either party has been received by the Arbitrator by 6 January 2012, it will resume its work on 9 January 2012 and circulate its Decision on 16 January 2012.

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## ATTACHMENT

Mr. Felipe Jaramillo  
Chairman of the Arbitration Panel/Arbitrator<sup>1</sup>  
*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

7 September 2011

Dear Mr. Jaramillo,

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 and the European Union recall their joint communication to the Arbitration Panel/Arbitrator of 7 September 2010, and the subsequent communication from the Arbitration Panel/Arbitrator dated 8 September 2010 (WT/DS294/39) by which the Arbitration Panel/Arbitrator decided to suspend its work for a period of 12 months less one day.

The United States would like to inform the Arbitrator/Arbitration Panel that it has sought further 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 for a further period of four months and two days – that is, until Monday 9 January 2012 – on the same terms. In light of that, and having regard to Article 12.12 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)*,<sup>2</sup> 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 extend suspension:

- the suspension can be terminated at any time at the written request of either Party;
- the extension of the suspension will be limited to four months and two days, 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 9 January 2012;

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<sup>1</sup> 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.

<sup>2</sup> 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.

- 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;
- this joint request is conditional upon the Arbitration Panel/Arbitrator not deciding that its authority has lapsed pursuant to Article 12.12 of the *DSU* or otherwise as a result of a further suspension. If the Arbitration Panel/Arbitrator considers that will occur then neither Party makes this request for further suspension;
- neither Party will ever claim or argue that the occurrence of a suspension period equal to or in excess of 12 months in this dispute results in a lapse of the authority of the Arbitration Panel/Arbitrator, or otherwise extinguishes or diminishes any right enjoyed by the other Party pursuant to the covered agreements; and
- 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

David P. Shark  
Chargé d'affaires a.i.

Detlev Brauns  
Chargé d'affaires a.i.

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