

**UNITED STATES – MEASURES RELATING TO ZEROING
AND SUNSET REVIEWS**

*Arbitration
under Article 21.3(c) of the
Understanding on Rules and Procedures
Governing the Settlement of Disputes*

Report of the Arbitrator
Florentino P. Feliciano

1. On 23 January 2007, the Dispute Settlement Body (the "DSB") adopted the Appellate Body Report¹ and the Panel Report², as modified by the Appellate Body Report, in *United States – Measures Relating to Zeroing and Sunset Reviews*.³ At the DSB meeting of 20 February 2007, the United States confirmed its intention to implement the recommendations and rulings of the DSB in this dispute and stated that it would require a "reasonable period of time" in which to do so, pursuant to Article 21.3 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU").⁴

2. On 29 March 2007, Japan informed the DSB that consultations with the United States had not resulted in agreement on the reasonable period of time for implementation. Japan, therefore, requested that such period be determined by binding arbitration, in accordance with Article 21.3(c) of the DSU.⁵

3. Japan and the United States were unable to agree on an arbitrator within 10 days of the matter being referred to arbitration. Therefore, by letter dated 17 April 2007, Japan requested that the Director-General appoint an arbitrator pursuant to footnote 12 to Article 21.3(c) of the DSU. In a joint letter dated 25 April 2007, Japan and the United States communicated to the Chairman of the DSB their agreement that, notwithstanding the 90-day period for arbitration described in Article 21.3(c) of the DSU (which had expired on 24 April 2007), an arbitration award issued within 60 days after the date of the appointment of the arbitrator would be deemed by the parties to be the award of the arbitrator under Article 21.3(c) of the DSU.⁶ The Director-General appointed me as arbitrator on 27 April 2007, after consulting the parties.⁷ On the same day, I informed the parties of my acceptance of the appointment.

4. By joint letter dated 4 May 2007, the parties informed me that they had reached agreement on the reasonable period of time for implementation in this matter and, accordingly, Japan no longer seeks to have the reasonable period of time determined by binding arbitration pursuant to Article 21.3(c) of the DSU.⁸ Under the circumstances, it will not be necessary for me to issue an award in this arbitration.

¹WT/DS322/AB/R.

²WT/DS322/R.

³WT/DS322/15.

⁴WT/DSB/M/226, para. 34.

⁵WT/DS322/17.

⁶WT/DS322/18.

⁷WT/DS322/19.

⁸See also WT/DS322/20.

Signed in the original at Manila this 8th day of May 2007 by:

Florentino P. Feliciano
Arbitrator