

**UNITED STATES – MEASURES AFFECTING TRADE  
IN LARGE CIVIL AIRCRAFT  
(SECOND COMPLAINT)**

Recourse to Article 22.6 of the DSU by the United States

*Communication from the Arbitrator*

The following communication, dated 29 November 2012, has been received from the Chairperson of the Arbitrator with the request that it be circulated to the Dispute Settlement Body.

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On 27 November 2012, I received from the delegation of the United States and the delegation of the European Union requests to suspend the arbitration proceedings in this dispute (see the requests attached).

In accordance with the parties' requests, the Arbitrator has suspended the arbitration proceedings from 28 November 2012.

I would be grateful if you could circulate this communication and attachments to the DSB.

**Communication dated 27 November 2012,  
Addressed to Mr Crawford Falconer, Chairperson of the Arbitrator,  
from the delegation of the United States**

The United States would like to thank you and the other arbitrators for accepting to serve in the proceeding *United States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint): Recourse by the United States to Article 22.6 of the DSU* (DS353).

On 12 January 2012, the United States and the European Union reached agreement on certain procedures under Articles 21 and 22 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article 7 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement") (WT/DS353/14) (the "Agreed Procedures").

Paragraphs 1 to 5 of the Agreed Procedures set out the procedure to be followed for compliance proceedings under Article 21.5 of the DSU, and paragraphs 6 to 9 set out the procedure to be followed should the European Union request the Dispute Settlement Body ("DSB") to authorize countermeasures and should the United States object to that request. Paragraph 8 of the Agreed Procedures states the following:

If the matter is referred to arbitration prior to adoption by the DSB of its rulings following an Article 21.5 proceeding, the United States and the EU shall, at the earliest possible moment, request the arbitrator under Article 22.6 to suspend its work. In the event that the DSB rules that a measure taken to comply does not exist or is inconsistent with a covered agreement, either party may request the Article 22.6 arbitrator to resume its work.

Accordingly, the United States hereby requests the Arbitrator to suspend its work. The United States understands that the European Union is also submitting a request that the Arbitrator suspend its work.

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**Communication dated 27 November 2012,  
Addressed to Mr Crawford Falconer, Chairperson of the Arbitrator,  
from the delegation of the European Union**

The European Union wishes to thank you and the other panellists for accepting to serve in the above-captioned proceeding.

On 12 January 2012, the Parties reached agreement on certain procedures under Articles 21 and 22 of the DSU and Article 7 of the SCM Agreement (WT/DS353/14) (the "Agreed Procedures").

Paragraphs 1 to 5 of the Agreed Procedures set out the procedure to be followed for compliance proceedings under Article 21.5 of the DSU, and paragraphs 6 to 9 set out the procedure to be followed should the European Union request the DSB to authorize countermeasures and should the United States object to that request. Paragraph 8 of the Agreed Procedures states the following:

If the matter is referred to arbitration prior to adoption by the DSB of its rulings following an Article 21.5 proceeding, the United States and the EU shall, at the earliest possible moment, request the arbitrator under Article 22.6 to suspend its work. In the event that the DSB rules that a measure taken to comply does not exist or is inconsistent with a covered agreement, either party may request the Article 22.6 arbitrator to resume its work.

Accordingly, the European Union hereby requests the Arbitration Panel to suspend its work. As noted, the Parties have agreed that in the event that the DSB, following a proceeding under Article 21.5 of the DSU, rules that a measure taken to comply does not exist or is inconsistent with a covered agreement, either party may request the Article 22.6 Arbitration Panel to resume its work.

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