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Page: 1/1

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**UNITED STATES – COUNTERVAILING DUTY MEASURES
ON CERTAIN PRODUCTS FROM CHINA**

**NOTIFICATION OF AN OTHER APPEAL BY THE UNITED STATES
UNDER ARTICLE 16.4 AND ARTICLE 17 OF THE UNDERSTANDING ON RULES
AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES (DSU),
AND UNDER RULE 23(1) OF THE WORKING PROCEDURES FOR APPELLATE REVIEW**

The following notification, dated 27 August 2014, from the Delegation of the United States, is being circulated to Members.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Rule 23 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Report of the Panel on *United States – Countervailing Duty Measures on Certain Products from China* (WT/DS437/R and Add.1).

The United States seeks review by the Appellate Body of the Panel's legal conclusion that section B.1.(d) of China's panel request is not inconsistent with Article 6.2 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU").¹ This finding is in error and is based on an erroneous application of Article 6.2 of the DSU to China's panel request. In particular, the Panel erred in finding that China's panel request provided a brief summary of the legal basis of the complaint sufficient to present the problem clearly. The panel request's description of the applications of facts available it intended to challenge, together with the description of the obligation at issue, were not sufficient to meet the requirement of Article 6.2. The United States respectfully requests the Appellate Body to reverse the Panel's findings and conclude that section B.1.(d) of China's panel request is not consistent with DSU Article 6.2. As a consequence, the United States further requests the Appellate Body to declare moot the Panel's findings with respect to Article 12.7 of the *Agreement on Subsidies and Countervailing Measures*² as these claims were outside the terms of reference of the Panel.

¹ Preliminary Ruling by the Panel, WT/DS437/4, para. 4.20, as incorporated by Panel Report, para. 1.16; Panel Report, Annex A-8, WT/DS437/R/Add.1.

² See Panel Report, paras. 7.307-7.325, 8.1(vii).