

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

Communication from Japan

The following communication, dated 23 April 2010, addressed to the Chairman of the Arbitrator, has been received from the delegation of Japan.

Japan wishes to thank you and the other arbitrators, again, for agreeing to serve as the arbitrator in the proceeding *United States – Measures Relating to Zeroing and Sunset Reviews – Recourse by the United States to Article 22.6 of the DSU* (WT/DS322).

As you recall, on 6 June 2008, in accordance with certain procedures under the *Understanding between the United States and Japan Regarding Procedures under Article 21 and 22 of the DSU*¹ ("Confirmed Procedures"), Japan and the United States requested the Arbitrator to suspend its work. On 9 June 2008, in accordance with this joint request, the Arbitrator decided to suspend the arbitration proceeding effective as from that date until either party requests the resumption of the proceedings under the circumstances described in paragraph 3 of the Confirmed Procedures.

Paragraph 3 of the Confirmed Procedures provides as follows:

The arbitration will resume upon a request made by either Party following the adoption by the DSB of the Article 21.5 Panel report and, if any, the Appellate Body report, if:

- (a) The DSB finds that a measure taken to comply with the DSB's 23 January 2007 recommendations and rulings in this dispute does not exist or is inconsistent with a covered agreement, or
- (b) There is no disagreement between the Parties that a measure taken to comply does not exist with regard to certain measures subject to the DSB's 23 January 2007 recommendations and rulings.

On 31 August 2009, by adopting the Article 21.5 Panel report (WT/DS322/RW) and the Appellate Body report (WT/DS322/AB/RW)², the DSB found that the measures taken to comply with the DSB's 23 January 2007 recommendations and rulings in this dispute do not exist or are inconsistent with a covered agreement.

Accordingly, Japan hereby requests the Arbitrator to resume the arbitration.

¹ WT/DS322/26.

² WT/DS322/35.