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Dispute Settlement Body
11 June 2009

MINUTES OF MEETING

Held in the Centre William Rappard
on 11 June 2009

Chairman: Mr. John Gero (Canada)

Prior to the adoption of the Agenda, the representative of the United States said that in relation to the item proposed for the Agenda of the present meeting, the United States wished to note that a corrigendum had been issued to the Appellate Body Report in document WT/DS294/AB/RW/Corr.1. Accordingly, the United States proposed that the corrigendum be taken up together with the Appellate Body Report to which it pertained.

It was so agreed.

1. United States – Laws, regulations and methodology for calculating dumping margins ("Zeroing"): Recourse to Article 21.5 of the DSU by the European Communities

(a) Report of the Appellate Body (WT/DS294/AB/RW and Corr.1) and Report of the Panel (WT/DS294/RW)

1. The Chairman drew attention to the communication from the Appellate Body contained in document WT/DS294/31 transmitting the Appellate Body Report on: "United States – Laws, Regulations and Methodology for Calculating Dumping Margins ("Zeroing"): Recourse to Article 21.5 of the DSU by the European Communities", which had been circulated on 14 May 2009 in document WT/DS294/AB/RW, in accordance with Article 17.5 of the DSU. He reminded delegations that the Appellate Body Report and the Panel Report pertaining to this dispute had been circulated as unrestricted documents. As Members were aware, Article 17.14 of the DSU required that: "An Appellate Body Report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body Report within 30 days following its circulation to Members. The adoption procedure was without prejudice to the right of Members to express their views on an Appellate Body report".

2. The representative of the European Communities said that the EC thanked the members of the Panel and of the Appellate Body as well as the WTO Secretariat for the time and the efforts dedicated to resolving the present dispute. After many decided and ongoing disputes against the United States on "zeroing", the EC could safely say that the issue of "zeroing" was not a new one to WTO Members. Indeed, the practice of "zeroing" had first been condemned in 2001 in a WTO dispute against the EC ("Bed Linen" case). The Appellate Body had since maintained a consistent and coherent line on this issue and had confirmed, on several occasions, that "zeroing" ran foul of fundamental obligations of the Anti-Dumping Agreement. Nonetheless, the United States had yet to

bring itself into full compliance. The United States continued to use the "zeroing" methodology, thereby forcing other WTO Members into new and continued litigation. The confirmation from the Appellate Body in this dispute that the United States had failed to implement the 2006 recommendations and rulings of the DSB on the use of "zeroing", and the recent appeal by the United States in the compliance dispute on "zeroing", initiated by Japan (DS322), might be an indication of the US approach and intentions. The EC was, therefore, satisfied that the Appellate Body had not only reversed the erroneous findings of the Panel in this case, but also that the important clarification had been provided with respect to WTO compliance obligations in the context of a "retrospective" system of duty assessment, such as the one in the United States. The EC welcomed the Appellate Body's finding that a panel established under Article 21.5 of the DSU had the mandate to rule on the WTO-consistency of "measures taken to comply" with the DSB's rulings, and agreed with the Appellate Body that what qualified a measure as a "measure taken to comply" was the existence of a "sufficiently close nexus, in terms of nature, effects, and timing" with the relevant DSB's recommendations and rulings. These findings were of systemic importance. When this reasoning was applied to the use of the WTO-inconsistent "zeroing" methodology by the United States in this dispute, the necessary conclusion was that any subsequent administrative review determination issued after the end of the reasonable period of time in which "zeroing" was used, or, if no such review was requested, an action after the end of the reasonable period of time by which anti-dumping liability was assessed on the basis of cash deposit rates calculated with "zeroing", constituted a failure to comply with the DSB's recommendations and rulings.

3. The EC regretted that the Appellate Body had not provided explicit guidance with respect to the US implementation obligations when government actions to liquidate duties were delayed as a result of domestic judicial proceedings. But in view of the clear language of the Appellate Body that "compliance with the DSB's recommendations and rulings implied not only cessation of zeroing in the assessment of duties, but also in consequent measures that, in the ordinary course of the imposition of anti-dumping duties, derived mechanically from the assessment of duties" (para. 310), it seemed obvious that such actions to liquidate duties could not be excluded from the US obligation to comply. The EC acknowledged that the application of the "close nexus" test could be difficult in practice. It could not, however, agree with the reasoning provided in the separate opinion concerning its application to certain US measures, namely, administrative reviews in Cases 1 and 6, and welcomed the fact that the majority of the Appellate Body division hearing this appeal did not share the views of the dissenting member.

4. The EC welcomed the Appellate Body's reversal of the Panel's findings concerning the blatant arithmetic error in Case 11, although the Appellate Body had not been able to complete its analysis because of an alleged lack of undisputed facts on the record. In fact, the EC believed that all relevant documentation relating to the error had been put before the Panel. Without this error, which the United States had not denied making, the result of the calculation of the dumping margin for the company concerned would have been *de minimis* and the measure would have been revoked. Since the facts were undisputed, the EC expected that the United States would now do the right thing and revoke the measure immediately. Failure to do this would constitute a serious systemic failure on the part of the United States, by maintaining a protective measure, which only existed because of its own mistake. To conclude, whilst the EC did not agree with each and every aspect of the Report, it welcomed the finding in principle that the United States should have immediately complied by the end of the reasonable period of time at the latest by eliminating "zeroing" from any further actions or inactions; and in any event the EC unconditionally accepted the Appellate Body Report, consistent with its DSU obligations. The EC also noted that the reasonable period of time for implementation in this dispute had expired on 9 April 2007, and that anything other than immediate compliance with the DSB's recommendations and rulings, to be adopted at the present meeting, would not be acceptable for the EC. In this regard, the findings of the Panel and the Appellate Body in this dispute concerning specific cases were clear and the United States was required to comply with them without delay by recalculating dumping margins without "zeroing" and collecting duties at non- zeroed rates. In the

end, it was purely a mathematical exercise, which could be accomplished by changing one line of computer code.

5. The representative of the United States said that his country wished to thank the Panel, the Appellate Body, and the Secretariat assisting them for their work in this proceeding. The United States recognized that there had been a number of disputes addressing the use of "zeroing" in anti-dumping duty investigations and "zeroing" in anti-dumping duty assessment proceedings. For reasons that the United States had previously discussed, the United States continued to believe that the reasoning relied upon by the Appellate Body in its Reports in these disputes was in error.[1] Nonetheless, the United States had taken steps to comply with the DSB's recommendations and rulings and, as it had stated in prior DSB meetings, the United States intended to comply with the recommendations and rulings in these disputes. However, the Reports being considered for adoption at the present meeting were not really about "zeroing". Rather, these Reports were about key issues involving the question of the scope of compliance proceedings and what a Member was expected to do after the end of the reasonable period of time with respect to collecting duties on entries of goods made prior to the end of the reasonable period of time. The compliance Panel had taken an approach that took into account some of the difficulties inherent in asking a Member to reach back in time and change duty determinations that had been made prior to the end of the reasonable period of time, indeed in some cases prior to the existence of any DSB recommendations and rulings. The Appellate Body had reversed the Panel, but had done so in a way that raised a number of new problems, questions and uncertainties, including with respect to compliance in disputes not about anti-dumping duties. For example, the Appellate Body Report had raised a number of issues for disputes involving ordinary tariffs in breach of a Member's tariff bindings. The United States had raised these concerns during the appeal, but, unfortunately, they had remained unaddressed in the Appellate Body Report.

6. In addition, the United States was disappointed that, in several respects, the Appellate Body Report was not based on the recommendations and rulings made by the DSB in the original dispute. This compliance proceeding was limited to the question of whether the United States had complied with the DSB's recommendations and rulings in this particular dispute. Here, the contested issues all related to findings "as applied" with respect to 31 specific, individually identified determinations – 15 original investigations and 16 administrative reviews. The United States had taken all steps necessary to ensure that none of these 31 measures – with one partial exception that the United States had never contested – were being applied to current imports. The Appellate Body had found that "the recommendations and rulings of the DSB did not extend" to certain administrative reviews, because those recommendations and rulings concerned only investigations and not reviews.[2] Nonetheless, the Appellate Body had found that these reviews fell within the jurisdiction of the compliance Panel.[3] The Appellate Body's finding was very troubling in light of the fact that, as a factual matter, it had not been disputed that these reviews did not alter in any way the effect of the US measures taken to comply, which had been to re-do the investigations in accordance with the DSB's recommendations and rulings, and to revoke the anti-dumping duties on entries going forward.

7. By extending the scope of the compliance Panel's jurisdiction to cover measures like these, the Appellate Body Report had expanded the scope of Article 21.5 of the DSU to cover measures that did not, in fact, have an identifiable link to the DSB's recommendations and rulings in the original dispute. In this regard, the United States noted the separate and dissenting opinion of one member of the Division that cautioned panels not to "overly broaden[] the scope of proceedings under Article 21.5" to include "measures that share only a limited link to the DSB's recommendations and

[1] WT/DS294/16; WT/DS294/18; WT/DS322/16; WT/DS344/11; see also WT/DSB/M/211, paras. 37-40; WT/DSB/M/225, paras. 73-76; WT/DSB/M/250, paras. 47-55; WT/DSB/M/265, paras. 76-79.
[2] Appellate Body Report, para. 250.
[3] Appellate Body Report, para. 252.

rulings, and to the measures that a Member takes to implement these rulings".[4] It was unfortunate that the majority of the Division had not heeded this useful warning.

8. Second, the Appellate Body expressly had not made any finding with respect to "zeroing" in administrative reviews "as such" in the original proceeding in this dispute. Nonetheless, the Appellate Body Report had stated – without any supporting reasoning – that the recommendations and rulings in this dispute meant that "the United States was required to ensure that the use of the zeroing methodology in the 31 Cases at issue in the original proceedings ceased by the end of the reasonable period of time".[5] The idea of "cases" as challenged measures was not involved in this dispute and there were no findings against "cases". Rather, the idea of "cases" appeared to be similar to the Appellate Body's approach in a subsequent "zeroing" dispute. In effect, the Appellate Body Report had replaced the DSB's recommendations and rulings in the original dispute with recommendations and rulings from a subsequent dispute. The Appellate Body Report raised serious systemic concerns by importing into this dispute – with all the potential consequences that resulted from a finding of non-compliance under Article 21.5 – findings derived from later rulings made in another dispute.

9. There was another significant and very troubling element of the Appellate Body's original, uncorrected Report. That was its finding of the existence of a supposed determination to assess duties at the cash deposit rate in "Case 31". Although the compliance Panel had found that "the European Communities did not identify any specific duty assessment determination after the end of the reasonable period of time"[6], the Appellate Body's uncorrected Report nonetheless had deduced the existence of such an assessment determination by the United States. The Appellate Body's reasoning, however, had relied on the assumption that the relevant exporter did not request an administrative review in May 2007. However, the uncontested facts on the record demonstrated that the exporter in question had, in fact, requested a review. Therefore, this supposed determination – which had never been mentioned by the EC or anyone else during the Panel or Appellate proceedings – had not, in fact, occurred. The United States was grateful that when it had brought this error to the Appellate Body's attention, the Appellate Body had issued a corrigendum removing the reference to this supposed determination. To help Members understand the background to this corrigendum, the United States referred Members to its request to the Appellate Body that had been circulated[7] pointing out this error and requesting its correction. Nonetheless, the fact that this error had occurred in the first place was of profound concern to the United States, and should be to all Members. Here, the Appellate Body had made factual findings, apparently on its own initiative, and based on its own assumptions about the relevant facts. The Appellate Body was not an investigating body and did not have authority to make factual findings. Nor should the Appellate Body be researching and developing supposed facts that no party had submitted or argued. This incident illustrated quite starkly some of the potential problems that arose when panels or the Appellate Body took a more expansive view of their role than was provided for under the WTO Agreements. Moreover, the corrigendum did not fully resolve the problem that had been created by the Report's initial assumptions regarding this supposed determination. For example, the Appellate Body Report had initially relied on the existence of this supposed determination when it reversed the finding of the compliance Panel that, with respect to Case 31, "the European Communities did not identify any specific duty assessment determination after the end of the reasonable period of time".[8] It would appear that the Appellate Body Report had acknowledged that no such determination had been identified – and yet the Report nonetheless had retained the reversal of the compliance Panel's finding on this point. The representative of the United States said he could go on but would stop here, having noted these very troubling aspects of the Report and the systemic concerns they raised.

[4] Appellate Body Report, para. 262.
[5] Appellate Body Report, para. 299 (emphasis added).
[6] Appellate Body Report, para. 342.
[7] WT/DS294/32.
[8] Appellate Body Report, para. 342.

10. The representative of Japan said that his country thanked the Appellate Body and the Panel for their Reports in this compliance dispute. As a third party, Japan had been actively participating in these compliance proceedings, both at the Panel and the Appellate Body stages, to assist the Panel and the Appellate Body in making proper findings on core issues in this "zeroing" dispute. This compliance dispute was factually complex and raised novel issues of law that had not been addressed or decided in previous disputes. Complexity of discussions set out in the Report, not to mention the existence of rarely rendered separate opinion, appeared to reflect the challenge that the Appellate Body and the Panel had faced in disposing of the issues presented in this compliance dispute. Japan, on its part, did not agree, or was not fully satisfied, with all of the findings and their reasoning, or lack thereof, in the Report. However, on balance, the Appellate Body had reached proper conclusions on certain key issues in this dispute. First, on the issue of whether the subsequent reviews had a sufficient close nexus with the DSB's recommendations and rulings so as to fall within the scope of the compliance proceedings under Article 21.5 of the DSU, the Appellate Body had properly rejected the Panel's erroneous finding that the reviews that pre-dated the adoption of the DSB's recommendations and rulings did not fall within the scope of compliance proceedings.[9] The Appellate Body had explained "[s]ince compliance with the recommendations and rulings of DSB can be achieved before the recommendations and rulings of the DSB are adopted, a compliance panel may have to review events pre-dating the adoption of those recommendations and rulings in order to resolve a disagreement as to the existence or consistency with a covered agreement of such measures".[10] The Appellate Body had further held that the Panel's erroneous finding appeared "premised on the notion that a panel's mandate under Article 21.5 is limited to"[11] the measures taken with the intention to comply with recommendations and rulings, but, "the relevant inquiry was not whether the subsequent reviews were taken with [such] intention".[12]

11. Second, on the same issue of the scope of the compliance proceedings under Article 21.5 of the DSU, the Appellate Body had examined the necessary link "in terms of natures or subject matter".[13] In this analysis, the Appellate Body had found the following facts to be relevant; (i) these subsequent reviews at issue "were issued under the same respective anti-dumping duty order as the measures challenged in the original proceedings and, therefore, constituted connected stages … involving the imposition, assessment and collection of duties under the same anti-dumping order"[14] and (ii) "the issue of zeroing was the precise subject of the recommendations and rulings of the DSB, … and only aspect of" these subsequent reviews challenged by the EC in the compliance proceeding.[15] Third, again on the same jurisdictional issue, the Appellate Body had concluded that there was "sufficient link, in terms of *effects*,"[16] where the subsequent reviews "generated assessment rates and cash deposit rates calculated with zeroing that replaced those found to be WTO-inconsistent in the original proceedings with the effect of assessment rates and cash deposit rated that continued to reflect the zeroing methodology".[17] Fourth, on the scope of the US compliance with DSB's recommendations and rulings in this dispute, the Panel and the Appellate Body had expressly rejected the US argument that the date of entry, or the legal regime that existed at that date, was decisive in establishing the scope of compliance with the DSB's recommendations and rulings with respect to the administrative reviews at issue. In this respect, Japan had noted the Panel's findings that under the US retrospective system, the anti-dumping duties "are not determined at the time of entry, but rather, are

[9] Appellate Body Report, paras. 222 – 227.
[10] Appellate Body Report, para. 224.
[11] Appellate Body Report, para. 223.
[12] Appellate Body Report, para. 226.
[13] Appellate Body Report, para. 230.
[14] Appellate Body Report, para. 230.
[15] Appellate Body Report, para. 230.
[16] Appellate Body Report, para. 231.
[17] Appellate Body Report, para. 231.

determined at a later date"[18] and that the legal regime that existed at the time of entry "is, at most, a provisional one as concerns the final anti-dumping duty liability incurred by the imports".[19] The Appellate Body had also rightly reversed the Panel's erroneous finding that "the United States' obligation to implement the recommendations of the DSB does not extend to the actual collection and liquidation of duties, and to the issuance of assessment or liquidation instructions, when these actions result from administrative reviews determinations made before the end of the reasonable period of time".[20]

12. Japan considered that these conclusions reached by the Appellate Body were proper and would serve to provide useful guidance for the United States in its effort to implement the DSB's recommendations and rulings. However, Japan also had some concerns about the Report and wished to make two points. First, even though the Appellate Body had reversed the Panel's erroneous findings that the US compliance with the DSB's recommendations and rulings did not cover liquidation actions after the end of the reasonable period of time based on the reviews determined before that date[21], the Appellate Body had declined to rule on the issue of whether US compliance would extend to such actions "that have been delayed as a result of judicial proceedings".[22] Although Japan agreed with the Appellate Body's reversal of the Panel's finding, it failed to see how the Appellate Body could have reached this conclusion without addressing the issue of judicial review, especially because the Panel's concern about consequence of the delay in liquidation as a result of judicial review was one of the main rationales behind the Panel's findings[23] that the Appellate Body had reversed. Second, Japan wished to recall that the Appellate Body had previously found in other disputes that the Panel's duty to provide a "basic rationale" under Article 12.7 of the DSU required panels to "set for the explanations and reasons sufficiently to disclose the essential, or fundamental, justification for those findings and recommendations".[24] The Appellate Body had reasoned that this was so because: (i) the implementing member "is entitled to know the reasons for [the adverse] finding as a matter of due process"; (ii) the Panel's explanation and reasons "assists such member to understand the nature of its obligations and to make informed decisions about … what must be done in order to implement the eventual rulings and recommendations made by the DSB"; and (iii) the Panel's explanation and reasons would serve "the objective … of providing security and predictability in the multilateral trading system and of clarifying the existing provisions of the covered agreement" as contemplated under Article 3.2 of the DSU.[25] Japan considered that the same rationales equally applied to Appellate Body reports. Japan, once again, thanked the Appellate Body, the Panel and the Secretariat for their efforts devoted to this compliance dispute. Japan had no objection to the adoption of the Reports by the DSB at the present meeting.

13. Finally, Japan wished to briefly touch on the US request for the correction of errors in the Report and the subsequent corrigendum[26] issued by the Appellate Body and wished to offer a few observations. First, as a general matter, an Appellate Body report, once adopted by the DSB, provided the basis for future implementations and guidance as to what should be done to comply with the DSB's recommendations and rulings. Thus, in principle, factual inaccuracies or findings based on such unwarranted facts should not be tolerated and must be eliminated to the maximum extent possible. Otherwise, the report might lose its credibility and could create confusion and possibly become a source of disagreement between the parties at the later stage, rather than serve to resolve

[18] Panel Report, para. 8.173.
[19] Panel Report, para. 8.176.
[20] Appellate Body Report, para.311, reversing the findings in para. 8.199 of the Panel Report.
[21] Appellate Body Report, para. 311. See also para.6 supra.
[22] Appellate Body Report, para. 314.
[23] Panel Report, para. 8.191.
[24] Appellate Body Report, "Mexico – Corn Syrup" (21.5), para. 106.
[25] Appellate Body Report, "Mexico – Corn Syrup" (21.5), para. 107.
[26] WT/DS294/AB/RW/Corr.1.

disputes. To this end, all people involved in disputes settlement procedures, not just WTO adjudicators and the Secretariat, but also the parties to disputes, must be diligent and be responsible for the high quality of reports. Second, according to the accounts set out in the communications exchanged between the participants on this subject, it appeared to Japan that neither participants had addressed nor argued the existence or non-existence of specific assessment determination in question, presumably because their respective claims, defenses, arguments or litigation strategies did not require them to do so. And in the absence of participants' active engagements in this particular factual matter, the Appellate Body had appeared to have drawn from evidence on the record available inference, which had turned out to be inaccurate. Putting aside the issue of whether the Appellate Body could assume the role of trier of fact, under this particular circumstance, Japan did not consider that the inference the Appellate Body had drawn would amount to wilful disregard or distortion of evidence[27] before it. In any event, Japan found the situation quite case-specific and an isolated incident. Third, in Japan's view, the corrigendum issued by the Appellate Body on 5 June 2009 had made necessary corrections that eliminated factual inaccuracy that the United States had raised and to that extent appeared to address the concerns expressed by the United States. Japan understood that the clerical correction made by the Appellate Body was not satisfactory for the United States. However, the solution offered by the United States, i.e. to eliminate all related discussions and findings in the relevant paragraphs, was not the only "logical consequences of the corrections", in Japan's view. Given the EC's "omission" arguments advanced throughout the proceedings, i.e. that the United States should have stopped collecting duties based on "zeroing" as of the end of the reasonable period of time[28], and the overall findings and conclusions elsewhere in the Report read in context[29], it appeared to Japan that the corrected version of the relevant part of the Report made sense and should offer a reasonable solution to the problem. Japan was ready to engage in the discussion with other interested delegations as to how to prevent this issue from happening in the future.

14. The representative of Norway said that her country welcomed the adoption of the Appellate Body Report in this long-standing dispute. The Appellate Body had, once again, confirmed the illegality of the "zeroing" methodology. It had made it clear that use of "zeroing" during administrative reviews after the expiration of the compliance period – regardless of the date of importation – was indeed not consistent with the WTO rules. In its third-party submission, Norway had addressed two issues in particular, the first of which being the preliminary issue of what measures were within the Panel's jurisdiction, as "measures taken to comply". Norway had argued that the temporal element was not decisive in this context, but that the relevant criterion was the "nexus-based" test. Norway welcomed the confirmation of this interpretation by the Appellate Body. Norway had addressed the establishment of the "all others" rate. Norway had argued that Article 9.4 of the Anti-Dumping Agreement did not leave the investigating authorities in a "free for all" situation so as to impose the margin they saw fit. The Appellate Body had confirmed this, stating that the absence of guidance in Article 9.4 did not imply the absence of any obligation in this respect, and that the investigating authorities' discretion to apply duties to non-investigated importers was not unbounded. Norway saw this as an important clarification of the interpretation of investigating authorities' obligations according to Article 9.4. There had been many "zeroing" disputes in the WTO, with most of them concerning the practice of the United States. To bring itself into conformity with the WTO Agreements, the United States would have to change its practice and discontinue the use of "zeroing". It was Norway's hope that this issue be finally settled, and that speedy implementation would take place. With regard to the request by the United States to issue a corrigendum, Norway had concerns about the use of such a procedure. With the exception of errors of a clerical nature, such a procedure should be abstained from. It was essential for the effectiveness

[27] See Appellate Body Report, "US – Carbon Steel", para.142. See also Appellate Body Report, "EC – Hormones III", para. 133.

[28] See, e.g. Panel Report, para. 8.214. See also Appellate Body Report, para. 280, citing Panel Report, footnote 629 to para. 8.85.

[29] See, e.g. Appellate Body Report, para. 299.

of, and confidence in the system that the Appellate Body Report was endorsed by all Members as final.

15. The representative of Hong Kong, China said that her delegation thanked the Appellate Body, the Panel and the Secretariat for their hard work on this case. Hong Kong, China was pleased that the Appellate Body had drawn up a bright line test on the compliance obligations for the WTO Members using a retrospective anti-dumping system. Under the Appellate Body's rulings, the responding Member was required to cease using WTO-inconsistent practice by the end of the reasonable period of time, regardless of the date of importation of goods or the date of determination of duty. Hong Kong, China had noted with concern that "zeroing" was still actively in use, despite its confirmed inconsistency with the Anti-Dumping Agreement. That in turn had led to a growing list of disputes about the practice itself and the related implementation actions. Hopefully, the simple and clear test set out by the Appellate Body could now help stop the interminable debates and reduce future attempts to delay compliance. Hong Kong, China also appreciated the Appellate Body's clarifications on the "scope of compliance proceedings" and "measures taken to comply" under Article 21.5 of the DSU. Hong Kong, China welcomed the Appellate Body's judgements, which would no doubt prompt an effective implementation of this case, as well as other pending disputes, and looked forward to a complete removal of "zeroing" in all its different manifestations, whether used in the original investigations or in reviews. Hong Kong, China strongly believed that this was the only way to fully implement the DSB's rulings and recommendations in various disputes. Hong Kong, China supported the adoption of the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report, and urged the United States to implement the DSB's rulings and recommendations forthwith.

16. The representative of Korea said that, as a third party to this dispute, his country welcomed the findings of the Reports in this dispute. Korea noted that the Appellate Body had properly addressed issues raised in this compliance dispute with the "close nexus" criteria, and hoped that this ruling would contribute to further clarifying the implementation scope and obligation, especially with regard to "zeroing" in the context of the US anti-dumping proceedings. However, Korea remained concerned about the ongoing "zeroing" practice by the United States, which had been repeatedly found inconsistent with the Anti-Dumping Agreement as well as other covered agreements. This situation could lead Members to a continuous circle of disputes, undermining the Members' expectation of security and predictability of the multilateral trading system. Korea expected that the United States would take prompt measures to fully implement the DSB's rulings and recommendations without delay and would continue to remain vigilant in monitoring the situation in the future.

17. The representative of Mexico said that his delegation had listened carefully to the US comments on the Appellate Body Report. Members were entitled to express their views on the report, however, they also had an obligation to unconditionally accept those reports. He recalled that prompt compliance with the DSB's recommendations and rulings was essential for the effective settlement of disputes. Thus, the best way for the United States to bring its measures into conformity with the WTO rules would be to eliminate the so-called "zeroing" practice. By doing so, the United States would not only settle this dispute, but would put an end to other disputes, which involved the same practice.

18. The DSB took note of the statements, and adopted the Appellate Body Report contained in WT/DS294/AB/RW and Corr.1, and the Panel Report contained in WT/DS294/RW, as modified by the Appellate Body Report.