

**Article 21.5 Proceeding**

Pursuant to the rules of the DSU, the United States and Canada agreed that the United States would have until December 17, 2004, to implement the recommendations and rulings of the DSB. To implement these recommendations and rulings, Commerce requested information from Canadian producers and from the Government of Canada and conducted a pass-through analysis, issuing a determination on December 6, 2004, that revised the subsidy rate for the investigation from 18.79% to 18.62%. On December 30, 2004, Canada alleged that the United States had not properly implemented the recommendations and rulings and requested the establishment of a dispute settlement panel under Article 21.5 of the DSU to review this implementation. The panel was established on January 14, 2005.

In its request under Article 21.5, Canada alleges that Commerce failed to implement the recommendations and rulings of the DSB by incorrectly (1) Limiting the pass-through analysis to only certain categories of sales; (2) determining that certain sales were not at arm's length and that a pass-through occurred; (3) applying the results of the pass-through analysis to a cash deposit rate "invalidated as a result of judicial review proceedings" and (4) not conducting a pass-through analysis in the first administrative review of the countervailing duty order that resulted from the countervailing duty investigation at issue.

The specific measures identified by Canada as inconsistent with U.S. WTO obligations under the SCM Agreement and the GATT 1994 are: (1) Notice of Implementation Under Section 129 of the Uruguay Round Agreements Act; Countervailing Measures Concerning Certain Softwood Lumber Products from Canada, 69 FR 75,305 (Dep't. Commerce December 16, 2004) and Section 129 Determination: Final Countervailing Duty Determination, Certain Softwood Lumber from Canada (December 6, 2004); (2) Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products From Canada, 67 FR 36,070 (Dep't Commerce May 22, 2002); and (3) Notice of Final Results of Countervailing Duty Administrative Review and Rescission of Certain Company-Specific Reviews: Certain Softwood Lumber Products From Canada, 69 FR 75,917 (Dep't Commerce December 20, 2004) and Issues and Decision Memorandum: Final Results of Administrative Review:

Certain Softwood Lumber Products From Canada, December 13, 2004.

The European Communities has indicated its interest to participate in the dispute as a third party.

**Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to [FR0438@ustr.gov](mailto:FR0438@ustr.gov), Attn: "Canada Lumber Final CVD (DS257)" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "Business Confidential" at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "Submitted in Confidence" at the top and bottom of each page of the cover page and each succeeding page; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room,

which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS-257, Canada Lumber Final CVD) may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel E. Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 05-3236 Filed 2-18-05; 8:45 am]

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**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

[Docket No. WTO/DS-320]

**WTO Dispute Settlement Proceeding Regarding United States—Continued Suspension of Obligations in the EC—Hormones Dispute**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative ("USTR") is providing notice that on January 13, 2005, the United States received from the European Communities ("EC") a request for the establishment of a panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding the U.S. suspension of obligations to the EC in the WTO dispute European Communities—Measures Concerning Meat and Meat Products (Hormones). The EC asserts that it has put into force new legislation that brings it into conformity with the recommendations and rulings of the Dispute Settlement Body ("DSB") and its obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"). The EC therefore challenges the continued U.S. suspension of obligations and imposition of import duties in excess of bound rates on imports from the EC, the alleged U.S. "unilateral determination" that the new EC legislation is in

violation of the EC's WTO obligations, and the alleged U.S. failure to have recourse to WTO dispute settlement proceedings. In particular, the EC asserts that by failing to discontinue suspension of obligations to the EC, the United States has breached its obligations under Articles I and II of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") and Articles 3.7, 21.5, 22.8 and 23.2(a) and (c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"). USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before April 1 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0519@ustr.eop.gov](mailto:FR0519@ustr.eop.gov), with "EC—Hormones (DS320)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the address above, in accordance with the requirements for submission set out below.

**FOR FURTHER INFORMATION CONTACT:** Jay T. Taylor, Assistant General Counsel, Office of the United States Trade Representative, (202) 395-9583.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that the establishment of a WTO dispute settlement panel has been requested pursuant to the DSU. The EC's request for the establishment of a panel may be found at [www.wto.org](http://www.wto.org) contained in a document designated as WT/DS320/6. Once a panel is established, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

#### Major Issues Raised by the EC

With respect to the claims of WTO-inconsistency, the EC's panel request refers to the following:

- the U.S. continued suspension of obligations and imposition of import duties in excess of bound rates on imports from the EC;
- the alleged U.S. "unilateral determination" that new EC legislation

is in violation of obligations under the WTO Agreement; and

- the alleged failure of the United States to seek recourse to Article 21.5 of the DSU and to have recourse to, and abide by, the rules and procedures of the DSU.

#### Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to [FR0519@ustr.eop.gov](mailto:FR0519@ustr.eop.gov), with "EC—Hormones (DS320)" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of each page of the cover page and each succeeding page; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute

settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS320, EC—Hormones), may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel E. Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending February 4, 2005

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2005-20315.

*Date Filed:* February 3, 2005.

*Parties:* Members of the International Air Transport Association.

*Subject:* Mail Vote 436—PTC2 EUR 0597, PTC2 EUR-AFR 0217 dated 4 February 2005—Resolution 010k—Special Passenger Amending Resolution from Algeria Intended effective date: 15 February 2005.

*Docket Number:* OST-2005-20327.

*Date Filed:* February 4, 2005.

*Parties:* Members of the International Air Transport Association.

*Subject:* Memorandum PTC COMP 1211 dated 4 February 2005 Resolution 011a—Mileage Manual Non-TC Member/Non-IATA Carrier Sectors (Amending).

**Renee V. Wright,**

*Acting Program Manager, Alternate Federal Register Liaison.*

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