

**UNITED STATES – COUNTERVAILING DUTY MEASURES  
ON CERTAIN PRODUCTS FROM CHINA  
(DS437)**

**CLOSING STATEMENT OF THE UNITED STATES OF AMERICA  
AT THE SECOND SUBSTANTIVE MEETING OF THE PANEL**

**July 24, 2013**

Mr. Chairperson, members of the Panel:

1. You have heard extensive arguments from both sides in our written submissions and oral presentations. At this point, the disagreements of the parties have been clearly established. Perhaps, then, we might acknowledge here a point on which the parties agree. As China said in the second paragraph of its opening statement at this meeting, “[t]he principal issues in this dispute involve questions regarding the proper legal interpretation of several of the most fundamental provisions of the SCM Agreement.” That is correct.
2. However, China goes on to note the “sharply divergent” views of the parties on the proper understanding of those provisions, and suggests that “[t]he resolution of China’s claims will require the Panel to choose between these competing interpretations.” On that, we cannot agree. China proposes an analytical approach that is simply without support in the DSU. Rather than choosing between the interpretations proposed by the parties, or choosing whether or not to apply an interpretation elaborated by the Appellate Body, the Panel’s role, and the way the Panel will help the parties resolve this dispute, is by undertaking its own interpretative analysis of the terms of the SCM Agreement in accordance with the customary rules of interpretation of public international law.
3. We are confident that when the Panel interprets the terms of the SCM Agreement in good faith in accordance with the ordinary meaning to be given to the terms of the Agreement in their context and in the light of its object and purpose, the Panel will agree with the proposed interpretations that the United States has advanced, and will find that China’s proposed interpretations are divorced from the text of the SCM Agreement and entirely inconsistent with the interpretative analysis required by the customary rules of interpretation.
4. In short, as we have demonstrated, for all of its nearly 100 individual claims, China simply has failed to make its case, on the law and on the facts. Accordingly, we respectfully request that the Panel reject China’s claims.
5. In closing, the United States once again would like to thank the Panel members, as well as the Secretariat staff, for your time and the careful attention you are giving to this matter.