

***UNITED STATES – ANTI-DUMPING AND COUNTERVAILING MEASURES
ON LARGE RESIDENTIAL WASHERS FROM KOREA***

Recourse to Article 21.3(c) of the DSU

(DS464)

**EXECUTIVE SUMMARY OF THE
WRITTEN SUBMISSION
OF THE UNITED STATES OF AMERICA**

February 2, 2017

1. At its meeting on September 26, 2016, the DSB adopted recommendations and rulings in *United States – Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea* (DS464). Pursuant to Article 21.3 of the DSU, the United States informed the DSB at its meeting on October 26, 2016, that the United States intends to comply with the DSB’s recommendations and rulings in a manner that respects its WTO obligations and that it would need a reasonable period of time to do so. The United States engaged in discussions with Korea in an effort to agree on the RPT, but the parties were unable to reach agreement.

2. The amount of time a Member requires for implementation of DSB recommendations and rulings depends on the particular facts and circumstances of the dispute, including the scope of the recommendations and rulings and the types of procedures required under the Member’s laws to make the necessary changes in the measures at issue. Specific circumstances identified in previous awards as relevant to the Arbitrator’s determination of the RPT include: (1) the legal form of implementation; (2) the technical complexity of the measure the Member must draft, adopt, and implement; and (3) the period of time in which the implementing Member can achieve that proposed legal form of implementation in accordance with its system of government.

3. In this dispute, the United States intends to comply with DSB recommendations and rulings with respect to numerous matters. The most practical way under U.S. law to implement these matters is by conducting three proceedings, utilizing both section 123 and section 129 of the Uruguay Round Agreements Act. First, the United States intends to conduct a proceeding pursuant to section 123 to address the Appellate Body’s and Panel’s “as such” findings under the AD Agreement and the GATT 1994. Second, the United States intends to conduct two separate proceedings pursuant to section 129 to address the Appellate Body’s and the Panel’s “as applied” findings as they relate to the washers antidumping and countervailing duty investigations. The United States anticipates that it will not be possible to commence the section 129 proceeding relating to the antidumping duty investigation until the section 123 proceeding has been mostly completed. Many of the Panel and Appellate Body findings regarding Korea’s “as applied” challenges to the washers antidumping investigation mirror those pertaining to Korea’s “as such” challenges. Consequently, the United States expects that, in the section 129 proceeding, the USDOC will apply a number of the revised approaches and methodologies that will be developed in the section 123 determination.

4. Both parties, as well as the WTO dispute settlement system as a whole, have a strong interest in setting the RPT at a length that allows for an implementation process that takes account of all available information and uses a well-considered approach to implementing the findings in the Appellate Body and Panel reports. The RPT determined by the Arbitrator in this dispute thus should be of sufficient length to allow the United States to implement the DSB recommendations and rulings in a manner consistent with relevant WTO obligations. Such a result would preserve the rights of the United States to have a reasonable time for compliance and to impose antidumping and countervailing duties where appropriate, while at the same time would preserve Korea’s rights to ensure that antidumping and countervailing duties are imposed only in accordance with WTO rules. If the RPT is too short to allow for effective implementation, the likelihood of a “positive solution” to the dispute would be reduced.

5. The United States is actively working on administrative actions to bring itself into compliance with the DSB's recommendations and rulings. For the reasons outlined in the U.S. submission, an RPT of at least 21 months is a reasonable period of time for implementation in this dispute.