

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

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

**May 1, 2013**

Mr. Chairperson, members of the Panel:

1. The United States has only a few brief closing comments. We have observed before that this dispute is incredibly large, involving around 100 individual alleged breaches of various provisions of the SCM Agreement. Despite the enormity of the dispute that China has chosen to bring before you, China included in its first written submission only sweeping generalizations and references to the facts of other disputes.
2. During the past two days, China has done little to remedy the deficiencies of its first written submission, instead insisting repeatedly that it has done enough. Today, though, we perhaps saw a crack in China's resolve, as it began to dribble out, in a piecemeal fashion, some new exhibits containing particularized references to Commerce's determinations. This is the kind of information that would have been most useful for the Panel if it had been included in China's first written submission, so that the United States was provided a full opportunity to respond to it in the U.S. first written submission. It is disturbing that China appears to intend to wait until its rebuttal submission to include still more information and argumentation of this nature.
3. Ultimately, this dispute is like all WTO disputes. It is about the meaning of the SCM Agreement and whether the measures at issue here are inconsistent with the obligations in that agreement. China's continued refusal to engage with the facts deprives the Panel of the argumentation necessary for the Panel to do its work in assessing whether the challenged measures are inconsistent with the SCM Agreement. Moreover, the legal interpretations China advances – including its assertion that the Panel is bound simply to follow prior Appellate Body reports without undertaking its own interpretative analysis under the customary rules of interpretation – lack support in the SCM Agreement and the DSU.
4. The Panel should make its own interpretative analysis under the customary rules, and it must assess for itself whether China has presented sufficient argument related to the facts to support its claims. We, of course, believe that China has failed in that task.
5. The United States recognizes that the Panel is only at the beginning of its work, and we hope that our first written submission and our presentation over these past two days have been helpful for the Panel. We look forward to receiving the Panel's written questions and we will endeavor to provide responses that bring clarity and understanding to the many complex issues in

this dispute. Ultimately, we seek to aid the Panel in arriving at the correct conclusions, based on proper interpretations of the covered agreements. We are confident that, if we are successful in that effort, the Panel will find in our favor and dismiss China's claims.

6. Once again, the United States thanks the Panel members, and the Secretariat staff, for their time and attention to this matter.