UNITED STATES – ANTI-DUMPING MEASURE ON OIL COUNTRY TUBULAR GOODS FROM ARGENTINA

(DS617)

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

July 11, 2024

Madam Chairperson, members of the Panel,

1. The United States thanks you again for agreeing to serve on this Panel, and also thank you to the Secretariat staff assisting you with your work.

2. The United States has demonstrated in its submission that, applying a proper interpretation of the relevant provisions, Argentina's claims in this dispute must fail. We hope that our submissions and oral presentation thus far have been helpful for the Panel in this respect.

3. Applying U.S. laws and regulations consistently with the AD Agreement, Commerce determined that the underlying application seeking an anti-dumping investigation on oil country tubular goods from Argentina was made by or on behalf of the domestic industry, in full accordance with Articles 5.1, 5.2, 5.3, and 5.4 of the AD Agreement. In addition, the ITC, applying laws and regulations consistently with the AD Agreement—including the statutory provision on cumulating subject imports—properly determined that the conditions of competition warranted cumulating such imports, including those from Argentina, in assessing whether material injury existed. The ITC also properly conducted a thorough and objective investigation of the evidence of record before it determined that positive evidence demonstrated that the dumped imports are causing injury to the domestic industry within the meaning of the AD Agreement. None of the ITC's findings were inconsistent with Articles 3.1-3.5 of the AD Agreement. Indeed, all of Argentina's arguments to the contrary are unavailing.

4. It is important to keep in mind the Panel's standard of review here. The relevant standard of review calls upon the Panel to determine whether an unbiased and objective investigating authority, looking at the same record as the relevant investigating authority, could have—not would have—reached the same conclusions that the authority reached. The DSU calls on the

Panel to assess the "applicability of and conformity with the covered agreements," not to conduct a new investigation or in hindsight substitute its judgment for that of the investigating authority.

5. In this regard, we observe that Argentina has now decided to rely on new material, for example, U.S. domestic court proceedings, applying U.S. law – not the text of the AD Agreement. None of this is relevant in light of the Panel's standard of review or the Panel's role under the DSU. For example, look at Argentina's argument that Commerce somehow acted inconsistently with the AD Agreement by refusing to "poll" the domestic industry– a concept emanating specifically from U.S. law and not required by the AD Agreement. But Argentina's claims are under the AD Agreement, not U.S. law, as they must be in WTO dispute settlement, and Argentina has failed to demonstrate any inconsistency with WTO commitments.

6. For these reasons, and the reasons expressed in our opening statement and first written submission, the United States respectfully requests that the Panel reject Argentina's claims.

7. This concludes the U.S. closing statement. Thank you, and we look forward to responding in writing to any additional questions the Panel may have.