

UNITED STATES – ANTI-DUMPING AND COUNTERVAILING DUTIES

ON RIPE OLIVES FROM SPAIN

(DS577)

CLOSING STATEMENT OF THE UNITED STATES OF AMERICA

AT THE PANEL’S VIDEOCONFERENCE WITH THE PARTIES

October 22, 2020

Mr. Chairperson, Members of the Panel:

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

2. This dispute requires the interpretation of key provisions of the covered agreements, including a careful analysis of the content and scope of the rights and obligations to which WTO Members have agreed. In its submissions thus far, the EU has attempted to support many of its claims based on untenable interpretations and applications of the GATT 1994, the SCM Agreement, and the AD Agreement. Rather than advance an argument based on the plain meaning of the applicable provisions, the EU seeks to alter the meaning of the covered agreements by asking the Panel to accept interpretations of WTO rules that depart from the accepted rules of treaty interpretation and by inventing obligations found nowhere in the text of the relevant provisions. As a result, the EU's proposed interpretation of these provisions have little connection to how they are properly understood in light of their ordinary meaning, read in context, and in light of the object and purpose of the agreements at issue. By contrast, the United States has demonstrated in its submissions that, applying a proper interpretation of the relevant provisions, the EU'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 consistent with the SCM Agreement and the GATT 1994, the USDOC determined that (i) imports of ripe olives from Spain were sold at less-than-fair-value; and (ii) the EU and Government of Spain provided subsidies that benefited imports of ripe olives from Spain. In connection with the USDOC's antidumping and countervailing duty determinations, the USITC determined, in a manner consistent with Articles 3 of the Anti-

Dumping Agreement and Articles 15 of the SCM Agreement, that imports of subsidized ripe olives and ripe olives sold at less-than-fair-value caused material injury to the domestic U.S. industry.

4. With respect to these issues, the United States therefore respectfully requests that the Panel reject all of the EU's claims.

5. 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.