

***UNITED STATES – ANTI-DUMPING MEASURES
ON CERTAIN SHRIMP FROM VIET NAM***

Recourse to Article 21.3(c) of the DSU

(DS429)

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

October 15, 2015

1. At its meeting on April 22, 2015, the DSB adopted its recommendations and rulings in *United States – Anti-Dumping Measures on Certain Shrimp from Viet Nam* (DS429). Pursuant to Article 21.3 of the DSU, the United States informed the DSB on May 20, 2015, that it intends to comply with the DSB’s recommendations and rulings and that it would need a reasonable period of time (RPT) to do so. The United States engaged in discussions with Vietnam 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 is implementing DSB recommendations and rulings with respect to six matters. The most practical way under U.S. law to implement these six matters is by conducting three sequential proceedings, utilizing Sections 123 and Section 129 of the Uruguay Round Agreements Act. First, the United States will employ Section 123 to address the Panel’s finding that the presumption that all producers and exporters in Vietnam belong to a Vietnam-wide entity is inconsistent with the AD Agreement. The Section 123 process will need to be completed before any other determination regarding implementation can be finalized, because the United States will need to incorporate applicable findings made pursuant to the Section 123 process into certain subsequent determinations. Once all other determinations regarding implementation has been finalized, the United States will be able to reevaluate the results of the first five-year sunset review as it will need to study whether these determinations should play a role in its reconsideration of that sunset review to address the Panel’s finding that aspects of that review were inconsistent with the AD Agreement.
4. Both parties 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 Panel report. 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 those recommendations and rulings. This would preserve the rights of the United States to have a reasonable time for compliance and ensure that antidumping 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 taking the necessary 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.