***United States – Countervailing Measures Concerning Certain Products
from the European Communities
Recourse to Article 21.5 by the European Communities (WT/DS212)***

**Answers of the United States of America
to Questions from the European Communities to the United States
in Connection with the Substantive Meeting**

Q1. *In your second written submission, you explain the rationale behind the new change of ownership methodology as being based on the principle that it is not appropriate, in such circumstances, to distinguish between the company and its owners (paras 2 and 3). If the company and its owners are to be treated as one, why do you nonetheless consider it appropriate to distinguish between different groups of owners?*

1.   Consistent with the recommendations and rulings, Commerce's new privatization methodology does not distinguish between the company and its owners, but it does distinguish between the buyer(s) and the seller(s) of the company. Cf. Report of the Panel, para. 7.82. Without such a distinction, it would be meaningless to speak of a privatization transaction.

2.   Furthermore, one buyer from a particular seller may be offered different terms and conditions than another buyer from that seller. Where, for this reason, Commerce concludes that the two transactions (that is, the two sets of terms and conditions) are essentially distinct, Commerce will analyze them separately for purposes of applying its new privatization methodology. This enables Commerce to determine whether a particular privatization transaction has resulted in the privatized producer receiving something "for free" by not having to pay fair market value in an arm's-length transaction for all, or part, of the company. Cf. Report of the Panel, para. 7.72.

Q2. *Does the US unconditionally accept the findings of the Panel in paragraph 7.106 to 7.117 of the Panel Report concerning the sunset review determination? If not, why not?*

3.   As the United States noted at the meeting of the Panel, the relevance of this question is unclear.