

***UNITED STATES - SUNSET REVIEWS OF ANTI-DUMPING
MEASURES ON OIL COUNTRY TUBULAR GOODS
FROM ARGENTINA***

WT/DS268

ARBITRATION UNDER ARTICLE 21.3(C) OF THE DSU

Submission of the United States

April 22, 2005

I. INTRODUCTION

1. Pursuant to Article 21.3(c) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”), Argentina has requested arbitration to determine the “reasonable period of time” for the United States to implement the recommendations and rulings of the Dispute Settlement Body (“DSB”), adopted December 17, 2004, in *United States - Sunset Reviews of Anti-dumping Measures on Oil Country Tubular Goods from Argentina* (WT/DS268).¹ After the DSB adopted its recommendations and rulings, the United States stated its intention to implement them in a manner consistent with its WTO obligations. The United States stated that it would need a reasonable period of time in which to do so and, accordingly, entered into discussions with Argentina pursuant to DSU Article 21.3(b) in an effort to reach agreement on a reasonable period of time for implementation. These discussions have not produced an agreement.

2. Implementation in this case entails amendments by the United States Department of Commerce (“Commerce”) to its regulations related to sunset reviews, as well as a redetermination of its final results of sunset review in *OCTG from Argentina*. Commerce intends to issue amended regulations in light of the findings that the waiver provisions of section 751(c)(4)(B) of the Tariff Act of 1930² and section 351.218(d)(2)(iii) of Commerce’s regulations³ are inconsistent with Article 11.3 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (“AD Agreement”).⁴ Commerce also intends to issue amended regulations in light of the finding that the waiver provision of section 351.218(d)(2)(iii) of Commerce’s regulations, with respect to incomplete submissions, is inconsistent with Articles 6.1 and 6.2 of the AD Agreement.⁵ In addition, Commerce intends to issue a new likelihood determination in light of the DSB’s finding that the original final results of sunset review are inconsistent with Article 11.3 of the AD Agreement.⁶ Commerce will issue its new determination after modifying its sunset regulations.

3. The United States has already begun the implementation process and expects that it will require 15 months from the adoption of the DSB recommendations and rulings in which to complete that process. The implementation process will require two phases *in seriatim*. In the first phase, Commerce will modify its regulations consistent with the DSB’s recommendations and rulings.⁷ In the second phase, Commerce will issue a new determination of likelihood of

¹These recommendations and rulings reflected the reports of the Appellate Body and panel in the dispute: *United States - Sunset Reviews of Anti-dumping Measures on Oil Country Tubular Goods from Argentina*, Report of the Appellate Body, WT/DS268/AB/R (29 November 2004) (“*US - Argentina Sunset (AB)*”); *United States - Sunset Reviews of Anti-dumping Measures on Oil Country Tubular Goods from Argentina*, Report of the Panel, WT/DS268/R (16 July 2004) (“*US - Argentina Sunset (Panel)*”).

²19 U.S.C. § 1675(c)(4)(B).

³19 C.F.R. 351.218(d)(2)(iii).

⁴*US - Argentina Sunset (AB)*, para. 235.

⁵*US - Argentina Sunset (AB)*, paras. 247, 253.

⁶*US - Argentina Sunset (Panel)*, paras. 7.221, 7.222. The United States did not appeal these “as applied” rulings of the Panel.

⁷Commerce intends to address the DSB’s recommendations and rulings concerning the waiver provision in the statute (section 751(c)(4)(B) of the Tariff Act of 1930) through modification of its regulations.

continuation or recurrence of dumping consistent with the DSB's recommendations and rulings. Because of what the Appellate Body described as the "impact" of the WTO-inconsistent waiver provisions on the likelihood determination,⁸ Commerce will not be able to begin the second phase until the regulations are amended to eliminate that impact.

4. During this 15-month period, the Office of the United States Trade Representative ("USTR") and Commerce expect to take – and have taken – steps, as detailed below, that include:

- Phase 1 - Modification of Commerce's Regulations
 - approximately three months for consultations between USTR and Commerce, initial consultations by USTR with the U.S. Congress, consultations between USTR and relevant private sector advisory committees, and submission of a report by USTR to the U.S. Congress describing the proposed rule, the reasons for the proposed rule, and the advice provided by the private sector advisory committees;
 - approximately three months for Commerce to circulate a proposed rule for internal approval, modify the proposal as a result of USTR consultations with the U.S. Congress and private sector advisory committees, seek approval from the Office of Management and Budget for publication, and publish the proposed rule and explanation for the proposed rule in the *Federal Register*; and
 - approximately three months for Commerce to make any modifications to the rule as result of public comments and address public comments in its final rule; USTR to hold final consultations with the U.S. Congress on the proposed content of final rule; and Commerce to publish the final rule in the *Federal Register*.
- Phase 2 - Issuance by Commerce of a New Determination of Likelihood of Continuation or Recurrence of Dumping
 - approximately one month for consultations between USTR and Commerce; and consultations by USTR with the U.S. Congress
 - approximately two months for Commerce to consider what information is needed

⁸The Appellate Body "agree[d] with the Panel's analysis of the impact of the waiver provisions on order-wide determinations." *US - Argentina Sunset (AB)*, paras. 233-234 (the "Panel concluded that '[t]o the extent that' the company-specific determinations were taken into account in the order-wide determination, the order-wide determination could not 'be supported by reasoned and adequate conclusions based on the facts before the investigating authority'"). See also *US - Argentina Sunset (AB)*, para. 260; and *US - Argentina Sunset (Panel)*, paras. 7.101, 7.222.

from parties; draft and send questionnaires, if appropriate; provide for extensions, if requested; draft and send supplemental questionnaires, if necessary; review, analyze, and respond to responses; verify information from respondents, if appropriate; issue a preliminary redetermination;

- approximately one month to allow interested parties to submit comments to Commerce, including through a hearing, on preliminary redetermination;
- one month for Commerce to review, analyze, and respond to comments and make any appropriate changes to its analysis before issuance of final redetermination; and
- approximately one month for USTR review of the final redetermination; consultation with the U.S. Congress on the final redetermination; and implementation of the final redetermination through instruction from USTR to Commerce to publish if in the *Federal Register*, if applicable.

5. In the period since adoption of the DSB rulings and recommendations, Commerce and USTR have consulted, USTR has consulted with Congress, and USTR is consulting with the private sector advisory committees. The United States expects the remaining steps to take six months, resulting in a nine-month period of implementation for the first phase. The United States expects the steps described in the five bullet points under Phase 2 to take six months.

II. FIFTEEN MONTHS IS A REASONABLE PERIOD OF TIME IN LIGHT OF DSB'S RECOMMENDATIONS AND RULINGS

A. THE WTO LEGAL FRAMEWORK

6. The arbitrator's role under Article 21.3 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") is limited to determining the reasonable period of time a Member has to implement the recommendations and rulings of the DSB. Article 21.3(c) sets forth guidance on making that determination. It establishes as a "guideline" that a reasonable period of time "should not exceed 15 months from the date of adoption of a panel or Appellate Body report." It also establishes that a reasonable period of time "may be shorter or longer, depending upon the particular circumstances."

7. Previous arbitration awards under Article 21.3(c) have identified "particular circumstances" that should be taken into account in determining a reasonable period of time for implementation. These include the legal form of implementation, the technical complexity of the necessary measures the implementing Member must draft, adopt and implement, and the period of time in which the implementing Member can achieve the proposed legal form of

implementation in accordance with its system of government.⁹

8. In this case, two circumstances in particular support a 15-month period for implementation. The first is the time required to accomplish certain procedural steps under the U.S. system. With respect to modification of Commerce's regulations, USTR has to seek input from the U.S. Congress, as well as private sector advisory committees; Commerce will need to draft, circulate, and publish a proposed rule, as well as seek and address comments for publication of the final rule. In the process of publishing the modified regulations, Commerce also will need time to seek approval for publication from the Office of Management and Budget, the agency with oversight for agency rulemaking. With respect to issuance of a new determination of likelihood of continuation or recurrence of dumping, Commerce will have to solicit and consider interested party information and comments both before and after issuance of the preliminary determination.

9. The second circumstance is the necessity that Commerce address the "as such" provisions found to be WTO-inconsistent before beginning the process of issuing a new determination. Commerce will not be in a position to commence the second phase until its modified regulations are effective because of the impact of the WTO-inconsistent waiver provisions on the order-wide likelihood determination.¹⁰

10. In discussing the relevance of particular circumstances, previous arbitration awards have consistently recognized the importance of the preparatory process in implementation involving regulatory action. In *Canada - Autos*, for example, the arbitrator apparently allowed approximately 90 days for "identification and assessment of the problem and publication of a Notice of Intent in the *Canada Gazette*," as well as consultations among government departments and with domestic parties interested in the matter.¹¹ In *Canada - Pharmaceuticals*,¹² Canada proposed three months and two weeks for identification and assessment, drafting, and other preparatory steps. The arbitrator accepted these estimates without change. The United States notes that no arbitration under Article 21.3(c) involving regulatory measures alone has awarded an implementation period of less than six months; most awards have been for eight to

⁹*Japan - Alcoholic Beverages*, Award of the Arbitrator, WT/DS10/15, WT/DS11/13, 14 February 1997, para. 12; *see also Canada - Patent Protection of Pharmaceutical Products*, Award of the Arbitrator, WT/DS114/12, 18 August 2000 ("*Canada - Pharmaceuticals*"), paras. 49-51.

¹⁰*See US - Argentina Sunset (AB)*, paras. 234, 260 ("as such" findings); *US - Argentina Sunset (Panel)*, paras. 7.101 ("as such" findings), 7.222 ("as applied" findings).

¹¹*Canada - Certain Measures Affecting the Automotive Industry*, Award of the Arbitrator, WT/DS139/12, WT/DS142/12, 4 October 2000 ("*Canada - Autos*").

¹²Including preparatory steps, Canada estimated four months between adoption of the panel report on April 7 and publication of the proposed regulatory change in the *Canada Gazette* in early August. *Canada - Pharmaceuticals*, paras. 1, 14, and 62. The arbitrator did not reduce this period. *Canada - Pharmaceuticals*, para. 62.

twelve months.¹³

11. In addition, the AD Agreement contains a number of “due process” and transparency obligations that should be taken into account in determining the amount of time required to issue this redetermination. For example, Article 6.2 of the AD Agreement requires that “[t]hroughout the anti-dumping investigation all interested parties shall have a full opportunity for the defense of their interests.” Article 6.2 requires national authorities, upon request, to “provide opportunities for all interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered.” Interested parties also have a right, upon justification, to present other information orally. Article 6.4 provides for “timely opportunities” for interested parties to see information relevant to their cases and to prepare presentations based on that information. Article 12 requires public notices and reports of final determinations that sufficiently detail the “findings and conclusions reached on all issues of fact and law considered material.”

12. Further, previous arbitration awards have recognized that while some steps in the implementation process may be mandated by law, others may not. Thus, the arbitration award in *EC - Tariff Preferences* explained, “[i]t is not unusual for domestic or other legal systems to follow procedural conventions that are not explicitly mandated by legal instruments.”¹⁴ The award went on to find that a reasonable period of time should take account of the EC Council’s seeking of an opinion from other EC entities, even though that step was not explicitly mandated by law. Similarly, here, the reasonable period of time for the issuance by Commerce of a new likelihood determination should take account of the time required for soliciting and analyzing additional information from interested parties even though that part of the process is not explicitly mandated by statute or regulation.

13. Finally, previous arbitration awards have recognized consistently that the arbitrator’s role under Article 21.3(c) is not to prescribe a particular method of implementation. It is the prerogative of the implementing Member to determine the most appropriate and effective method of implementing the recommendations and rulings of the DSB, including the timing and sequence of steps necessary to do so.¹⁵ Even where the panel or Appellate Body in the

¹³In *Canada - Autos*, for example, where “Canada stated that ‘in all likelihood’ it would simply repeal the [Motor Vehicles Tariff Order, 1998] and the [Special Remission Orders],” the arbitrator awarded an eight-month reasonable period of time. *Canada - Autos*, paras. 50, 56. Similarly, in *Canada - Pharmaceuticals*, the arbitrator found that implementation amounted to adoption of a single sentence repealing certain regulations and proceeded to award a six-month reasonable period of time. *Canada - Pharmaceuticals*, paras. 58 and 64. See also *Indonesia - Certain Measures Affecting the Automotive Industry*, WT/DS54/16, WT/DS55/15, WT/DS59/14, WT/DS64/13, 4 December 1998 (12 months); *Australia - Import Ban on Salmon*, WT/DS18/9, 23 February 1999 (“*Australia - Salmon*”) (eight months); and *Argentina - Measures Affecting the Export of Bovine Hides and the Import of Finished Leather*, WT/DS155/10, 31 August 2001 (12 1/2 months).

¹⁴*European Communities - Conditions for the Granting of Tariff Preferences to Developing Countries*, Award of the Arbitrator, WT/DS246/14, 20 September 2004 (“*EC - Tariff Preferences*”), para. 42.

¹⁵See, e.g., *Australia - Salmon*, para. 35.

underlying dispute suggested ways in which a Member could implement its recommendations – something the panel in the underlying dispute here expressly declined to do¹⁶ – the means of implementation is for the Member to decide and is outside the scope of an Article 21.3(c) arbitration.¹⁷

B. THE U.S. STATUTORY FRAMEWORK

14. As an implementing Member's legal system necessarily has a bearing on determination of a reasonable period of time for implementation, it is important to identify the process established under that system. There are two principle U.S. statutory provisions governing implementation in this dispute – section 123 of the Uruguay Round Agreements Act (“Section 123”), which governs implementation involving a Commerce regulation,¹⁸ and section 129 of the Uruguay Round Agreements Act (“Section 129”), which governs implementation involving an action by Commerce in an antidumping (or countervailing duty) proceeding.¹⁹ Each is discussed in turn below.

1. Section 123

15. Section 123 sets forth the requirements for implementation of DSB recommendations and rulings involving a Commerce regulation. Specifically, the following six steps must be taken. First, USTR is required to consult with committees in the U.S. Congress with jurisdiction over trade matters.²⁰ Second, USTR is required to seek advice from relevant private sector advisory committees.²¹ Third, Commerce is required to publish the proposed modification and explanation for the modification in the *Federal Register* and provide an opportunity for public comment.²² Fourth, USTR is required to submit a report to committees in the U.S. Congress with jurisdiction over trade matters, describing the proposed modification, the reasons for the modification, and a summary of the advice provided by the relevant private sector advisory committees.²³ Fifth, USTR and Commerce are required to consult with committees in the U.S. Congress with jurisdiction over trade matters on the proposed contents of the final rule.²⁴ Finally, Commerce is required to publish the final rule in the *Federal Register*.²⁵ However, the rule may not go into effect before the end of a 60-day period beginning on the date on which

¹⁶*US - Argentina Sunset (Panel)*, para. 8.3, 8.5.

¹⁷*See United States - Continued Dumping and Subsidy Offset Act of 2000*, Award of the Arbitrator, WT/DS217/14, WT/DS234/22, 13 June 2003, para. 52.

¹⁸Codified as 19 U.S.C. § 3533 (Exhibit US-1).

¹⁹Codified as 19 U.S.C. § 3538 (Exhibit US-2).

²⁰19 U.S.C. § 3533(g)(1)(A).

²¹19 U.S.C. § 3533(g)(1)(B).

²²19 U.S.C. § 3533(g)(1)(C).

²³19 U.S.C. § 3533(g)(1)(D).

²⁴19 U.S.C. § 3533(g)(1)(E).

²⁵19 U.S.C. § 3533(g)(1)(F).

consultations between USTR/Commerce and committees in the U.S. Congress with jurisdiction over trade matters begin.²⁶

2. Section 129

16. Broadly speaking, Section 129 sets forth three parts to the implementation of DSB recommendations and rulings involving an action by Commerce in an antidumping (or countervailing duty) proceeding. First, USTR is required to consult with Commerce and committees in the U.S. Congress with jurisdiction over trade matters.²⁷ Second, USTR formally requests Commerce to issue a redetermination that would render Commerce's actions not inconsistent with the findings of the panel or the Appellate Body.²⁸ Once this request is made, the statute provides 180 days for Commerce to issue a new determination.²⁹ During the period for making its redetermination, Commerce is required to "provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination."³⁰ Third, after Commerce issues its new determination, USTR again consults with Commerce and with trade committees in the U.S. Congress.³¹ Based on those consultations, USTR may then direct Commerce to implement its new determination.³² Finally, Commerce notifies the public of the implementation of the new determination through publication in the *Federal Register*.³³ As noted earlier, this phase of the implementation of the DSB's recommendations and rulings, involving a redetermination of Commerce's final results of sunset review in *OCTG from Argentina*, cannot begin until the modifications to the regulations

²⁶19 U.S.C. § 3533(g)(2). The 60-day period provides for consultation with committees in the U.S. Congress with jurisdiction over trade matters and provides an opportunity for those committees to express their views through a non-binding resolution on the proposed contents of the final rule. 19 U.S.C. § 3533(g)(3). The exception to the 60-day rule is where the President determines that an earlier effective date "is in the national interest." *Id.* One basis for such a determination would be a clear consensus in the U.S. Congress and the private sector on the proposed change. See Statement of Administrative Action ("SAA") accompanying transmittal of the Uruguay Round Agreements implementing bill, H. Doc. 103-316, Vol. I (27 September 1994), p. 352 (pages 351-358 of the SAA explain Sections 123 and 129 and are attached hereto as Exhibit US-3).

²⁷19 U.S.C. § 3538(b)(1). As explained in the SAA, "The requirement for the Trade Representative to consult with Commerce is intended to ensure that the Trade Representative benefits from Commerce's administrative and substantive expertise in evaluation of a panel's findings and the development of implementing actions, if any." Statement of Administrative Action accompanying transmittal of Uruguay Round Agreements implementing bill, H.Doc. 103-316, Vol. 1 (27 September 1994), p. 356 (Exhibit US-3).

²⁸19 U.S.C. § 3538(b)(2).

²⁹19 U.S.C. § 3538(b)(2). Under Section 129(b)(2), the 180-day period begins when USTR transmits a formal request to Commerce. In practice, USTR has sometimes delayed transmitting that request until just before Commerce indicated informally that it was ready to issue a new determination. Thus, the time between transmittal of USTR's letter and Commerce's issuance of a new determination in past cases should not be taken as an indication of the time Commerce needs to complete its work.

³⁰19 U.S.C. § 3538(d).

³¹19 U.S.C. § 3538(b)(3).

³²19 U.S.C. § 3538(b)(4).

³³19 U.S.C. § 3538(c)(2)(A).

go into effect.

C. COMMERCE'S ISSUANCE OF AMENDED REGULATIONS

17. In the underlying dispute, Argentina challenged the waiver provisions in U.S. law both “as such” and “as applied”.³⁴ With respect to the “as such” claims, the Panel agreed with Argentina, and found that company-specific likelihood determinations based on a respondent interested party’s waiver of participation had an “impact” on Commerce’s final order-wide likelihood determination.³⁵ The United States appealed this finding, arguing that a waiver does not affect the final order-wide likelihood determination.³⁶ The Appellate Body disagreed with the United States and upheld the Panel’s findings regarding waiver.³⁷ Thus, to comply with this portions of the DSB’s recommendations and rulings, Commerce intends to modify the sunset regulations to address the WTO-inconsistency of its “as such” waiver provisions.³⁸

18. As noted above, Commerce and USTR have begun the process required under U.S. law for modification of a Commerce regulation. Specifically, USTR and Commerce have held consultations; USTR has consulted with the U.S. Congress, and USTR is consulting with the relevant private sector advisory committees. USTR is also preparing its report to the U.S. Congress describing the proposed rule, the reasons for the proposed rule, and the advice provided by the private sector advisory committees.

19. Commerce now needs approximately three months to circulate a proposed rule for internal approval, modify the proposal as a result of USTR consultations with the U.S. Congress and private sector advisory committees, seek OMB approval for publication, and publish the proposed rule and explanation for the proposed rule in the *Federal Register*.

20. Commerce then will need an additional three months to make any modifications to the rule as a result of public comments and to address public comments in its final rule. During this same three months, USTR will hold final consultations with the U.S. Congress on the proposed content of the final rule. Commerce will then publish the final rule in the *Federal Register*.

³⁴US - Argentina Sunset (Panel), paras. 3.1(1) and 3.1(4) (listing Argentina’s claims with respect to the waiver provisions).

³⁵US - Argentina Sunset (Panel), paras. 7.100-7.103 (“as such”), and 7.222 (“as applied”).

³⁶See, e.g., US - Argentina Sunset (AB), paras. 230, 256 (summarizing U.S. arguments). The United States also argued before the Panel that waiver does not affect the final order-wide determination. See, e.g., US - Argentina Sunset (AB), note 341 (quoting U.S. response to Panel Question), and para. 256 (referring to U.S. arguments before the Panel).

³⁷US - Argentina Sunset (AB), para. 234.

³⁸Commerce intends to address the DSB’s recommendations and rulings concerning the waiver provision in the statute (section 751(c)(4)(B) of the Tariff Act of 1930) through modification of the “affirmative” waiver provision in 19 C.F.R. 351.218(d)(2).

D. COMMERCE'S ISSUANCE OF NEW DETERMINATION

21. After issuing the amended regulations, Commerce will then begin the process of redetermination in order to complete the implementation of the DSB's recommendations and rulings. As discussed above, Commerce cannot start this second phase until its modified regulations are effective because of the impact of the WTO-inconsistent waiver provisions on the order-wide likelihood determination.³⁹ Before starting the process of issuing a new likelihood determination, Commerce must consult with USTR, and USTR must consult with the U.S. Congress. The consultation process is intended to ensure that USTR "benefits from Commerce's administrative and substantive expertise in the evaluation of a panel's findings and the development of implementing action."⁴⁰ Commerce and USTR will need approximately one month for consultations between USTR and Commerce, and consultations by USTR with the U.S. Congress.

22. After completion of consultations, Commerce would start the actual redetermination process. Commerce will need time to issue additional questions to interested parties. Commerce also will need time to analyze information and argument provided by the parties and to prepare and issue its preliminary redetermination to the interested parties. It is estimated that Commerce will need two months to issue questions, review and analyze responses, and issue a preliminary redetermination.

23. Once Commerce issues its preliminary redetermination, it is required by Section 129(d) of the Uruguay Round Agreements Act to "provide interested parties with an opportunity to submit written comments."⁴¹ Further, "in appropriate cases, [Commerce] may hold a hearing, with respect to the determination."⁴² These statutory requirements are consistent with "due process" and transparency obligations contained in the AD Agreement and should be accounted for in determining the amount of time required to issue this redetermination.

24. The time Commerce will need to fulfill the requirements of Section 129(d) is approximately two months. Following the issuance of the preliminary redetermination, Commerce will seek comments from interested parties. Commerce will also hold a hearing, if one is requested, for further presentation of interested party views. Commerce will then need time to review, analyze and respond to any comments made by the interested parties. Additionally, to the extent that Commerce may find that the comments justify a change to the redetermination, it would use this time to incorporate any such change into its redetermination prior to issuance of a final redetermination. Like the preliminary redetermination, the final

³⁹See *US - Argentina Sunset (AB)*, paras. 234, 260 ("as such" findings); *US - Argentina Sunset (Panel)*, paras. 7.101 ("as such" findings), 7.222 ("as applied" findings).

⁴⁰SAA, p. 356 (Exhibit US-3).

⁴¹19 U.S.C. § 3538(d).

⁴²19 U.S.C. § 3538(d).

redetermination will have to undergo review within Commerce for consistency with appropriate laws.

25. The last stage in the implementation process entails USTR's review of Commerce's new determination, consultation with the U.S. Congress, and direction to Commerce to implement the new determination. Consultations between USTR and Commerce and between USTR and Congress at this stage in the process are mandated by Section 129(b)(3) of the Uruguay Round Agreements Act. This stage will take approximately one month.

26. After USTR has consulted with Commerce and the Congress, the final step is to decide whether to direct the implementation of Commerce's redetermination.⁴³ If USTR directs implementation, then Commerce is required to publish in the *Federal Register* a notice of that implementation.⁴⁴

III. CONCLUSION

27. In light of the need to comply with procedural requirements with respect to both the modification of Commerce's regulations and the issuance of a new likelihood determination, as well as the need to first address the "as such" measures found to be WTO-inconsistent before beginning the process of issuing a new determination, 15 months is a reasonable period of time for the United States to implement the recommendations and rulings of the DSB in this dispute. Accordingly, the United States requests that the arbitrator award a reasonable period of time of 15 months, ending March 17, 2006.

⁴³19 U.S.C. § 3538(b)(4).

⁴⁴19 U.S.C. § 3538(c)(2)(A).