

***EUROPEAN COMMUNITIES – REGIME FOR THE IMPORTATION, SALE AND
DISTRIBUTION OF BANANAS;
RECOURSE TO ARTICLE 21.5 BY THE UNITED STATES***

WT/DS27

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

NOVEMBER 7, 2007

1. Mr. Chairman, members of the Panel, the United States wishes to thank the Panel for its time and effort during this meeting and throughout this dispute.
2. I wish to note that the United States regrets very much some of the comments made by certain ACP speakers, and endorsed by other ACP speakers, that attack the integrity and motivations of the United States in bringing this proceeding.
3. The United States disagrees profoundly with those comments and statements. The United States was a party to the original *Bananas III* proceeding. It therefore has full rights to ensure that the EC complies with the recommendations and rulings of the DSB.
4. Mr. Chairman, you reminded us at the beginning of this panel meeting that the GATT recently celebrated its 60th anniversary. A bedrock principle of the GATT, and now the WTO agreements, is non-discrimination.
5. This is a dispute about this very principle of non-discrimination. The regime implemented by the EC on January 1, 2006, continues the long-standing discrimination against non-ACP banana suppliers that was found WTO-inconsistent over a decade ago, and more if you go back to the earlier GATT cases.
6. One of the speakers this morning stated that we should not have trade be used to the detriment of the poorest countries. We agree with that, and we believe that the regime implemented by the EC on January 1, 2006, does precisely that by picking winners and losers among similarly situated members of the WTO.
7. None other than EC Trade Commissioner Mandelson recently wrote that the EC's "current arrangements discriminate in favour of some developing countries – the ... ACP[] – and against others, often equally needy." He added: "That is not right morally nor compatible with international trade rules."¹ The United States agrees.

¹Peter Mandelson & Louis Michel, "This is not a poker game," *The Guardian*, October 31, 2007.

8. Finally, the United States would like to extend thanks to the EC for agreeing to open this meeting to the public and to those third parties who agreed to make their statements publicly. And, once again, we thank the Panel and the Secretariat for their efforts in opening this meeting to the public.