

May 2, 2003

Mr. Yasuhei Taniguchi
Arbitrator
*United States - Continued Dumping and Subsidy
Offset Act of 2000: Arbitrations under
Article 21.3(c) of the DSU*
World Trade Organization
Centre William Rappard
154, Rue de Lausanne
1211 Geneva 21

Dear Mr. Taniguchi:

Thank you for your letter of April 30, 2003, providing a chart summarizing the U.S. legislative process and requesting that the United States confirm the accuracy of the chart and provide certain information relating thereto, as well as a copy of the schedule for the current Congress. My authorities have instructed me to provide the following reply.

With one clarification, the United States can confirm that the chart attached to your letter represents an accurate summary of the steps involved in the U.S. legislative process. With regard to step number 7, proposed legislation must be voted on by both the full House *and* Senate before it is submitted to a conference committee. As written, the chart appears to indicate that proposed legislation may be voted on by the House *or* the Senate (but not both) before it goes to conference committee, which is incorrect.

The steps in the U.S. legislative process are not governed by “law” in the United States. The U.S. Constitution provides a framework for the legislative process but the particular steps are set forth in House and Senate rules. As detailed in our submission, the United States has a complex legislative process in which neither the timetable nor the procedures are controlled by the executive branch of the U.S. government. The U.S. Congress is independent of the executive branch of the U.S. Government, and operates under its own procedures and timetables. Even though there are few mandatory time periods or steps in the legislative process, there are practical factors that dictate the pace of legislation, which cannot be ignored. For example, as explained in our written submission, Congress is considering technically complex options for the legislation required in this instance and this will be the first time that Congressional committees will be considering the issue.

With regard to the CDSOA itself, it was attached to the agriculture appropriations bill during the conference committee and therefore did not go through the normal legislative process. However, it is misleading to assert that the time for passage of the CDSOA was only 25 days, as the complaining parties do. The CDSOA was not new to Congress in 2000, but was first introduced years earlier. Since 1988, similar provisions had been debated and considered by Congress on several occasions. Thus, the actual figure for the time required to pass the CDSOA legislation was 12 years.¹

Finally, we are attaching the 2003 calendars for the U.S. Senate (one page) and for the U.S. House of Representatives (12 pages).² A calendar for 2004 is not yet available. As you can see, the attached U.S. House of Representatives monthly calendar is more detailed than the Senate calendar and shows that even on some days that Congress is in session, no vote may be taken by the House.

We look forward to discussing these issues further during the oral hearing on May 6th. The United States is providing a copy of this letter directly to Australia, Brazil, Canada, Chile, the European Communities, India, Indonesia, Japan, Korea, Mexico, and Thailand.

Sincerely,

Steven F. Fabry
Senior Legal Advisor

Enclosure

cc: Permanent Missions of Australia, Brazil, Canada, Chile, India, Indonesia, Japan, Korea, Mexico, and Thailand, and the Permanent Delegation of the European Commission

¹ Moreover, as noted by the arbitrator in *Korea - Alcoholic Beverages*, is not necessary to undertake *extraordinary* legislative procedures to implement the recommendations and rulings of the Dispute Settlement Body. WT/DS75/16, WT/DS84/14, Award of the Arbitrator circulated on 4 June 1999, para. 42.

² We have struck through by hand the dates on the Senate calendar that were printed in red in the original.