

Chattanooga, College of Engineering Building Auditorium, 735 Vine Street, Chattanooga, Tennessee.

*Status:* Open.

### Agenda

Approval of minutes of meeting held on January 14, 2004.

#### New Business

#### C—Energy

C1. Delegation of authority to the Executive Vice President, Fossil Power Group, to enter into a contract with Union Pacific Railroad for transportation of coal to various TVA fossil plants and third-party river terminals.

C2. Supplement to Contract No. 99998999 with G-UB-MK Constructors to provide management and craft labor for the planning and execution of modification and supplemental maintenance work at TVA's fossil and hydro plants, and other TVA-controlled facilities, and completion of multiple Selective Catalytic Reduction projects at TVA-assigned fossil plants.

C3. Supplement to Contract No. 297 with ALSTOM Power, Inc., to provide parts and services for pulverizers and burners and related technical services.

C4. Contract with Alcan Cable for aluminum conductor to be used for construction and maintenance of TVA's transmission lines.

C5. Contract with Consolidated Pipe & Supply Company, Inc., for purchase of pipe, valves, fittings, and related materials for any TVA location.

#### E—Real Property Transactions

E1. Modification of certain deed restrictions affecting approximately 1.0 acre of former TVA land on Chickamauga Reservoir in Rhea County, Tennessee, Tract No. XCR-169, S.8X, to allow for construction of a house and for an existing fill and garage to remain on part of the property.

E2. Modification of certain deed restrictions affecting approximately 12.6 acres of former TVA land on Fort Loudoun Reservoir in Knox County, Tennessee, Tract Nos. XTFL-79, S.1X and XTFL-86, S.1X, to allow the property to be sold for residential development.

E3. Sale of a 30-year easement and a temporary construction easement to the Middle Tennessee Natural Gas Utility District for the construction and operation of a refined petroleum pipeline, affecting approximately 4.0 acres of land on Great Falls Reservoir in Warren County, Tennessee, Tract No. XGFR-36P.

E4. Grant of a permanent easement to the State of Tennessee for a highway

improvement project, affecting approximately 13.76 acres of TVA land on Norris Reservoir in Grainger and Claiborne Counties, Tennessee, Tract No. XTNR-113H.

E5. Sale of a permanent easement to the City of Rockwood, Tennessee, for a road right-of-way, affecting approximately 0.5 acre of land at TVA's Rockwood Primary Substation in Roane County, Tennessee, Tract No. XTRWSS-1H.

E6. Grant of a noncommercial, nonexclusive permanent easement to Charles McLeroy for construction and maintenance of recreational water use facilities, affecting approximately 0.43 acre of land on Watts Bar Reservoir, Tract No. XWBR-715RE, in exchange for approximately 5.3 acres of land on Watts Bar Reservoir in Roane County, Tennessee, Tract WBR-1797.

E7. Grant of a permanent easement to the City of Parsons, Tennessee, for a raw water intake structure and waterline, affecting approximately 5.4 acres of TVA land on Kentucky Reservoir in Decatur County, Tennessee, Tract No. XTGIR-152E.

E8. Grant of a 30-year public recreation easement to Grainger County, Tennessee, for use as a public park, with an option to renew for additional 30-year terms, affecting approximately 90 acres of land on Cherokee Reservoir in Grainger County, Tennessee, Tract No. XTCK-67RE.

#### F—Other

F1. Approval to file condemnation cases to acquire easements and rights-of-way for a TVA power transmission line project affecting the Morgan Energy Center-General Motors Transmission Line in Limestone County, Alabama.

#### Information Items

1. Approval of a delegation of authority to add and remove Disclosure Control Committee members, and to amend TVA's Corporate Accountability and Disclosure Plan.

2. Approval of appointment of Janice K. Pulver as Assistant Secretary of TVA.

3. Approval of a contract pricing policy applicable to negotiations with distributors who have given notice that they are terminating their wholesale power contract with TVA and who later seek to negotiate a return to TVA service before that contract expires.

4. Approval of the recommendations resulting from the 68th Annual Wage Conference for Construction Project Hourly Wage Rates for 2004.

5. Approval of the recommendations resulting from the 68th Annual Wage Conference for Annual Trades and Labor employees for 2004.

6. Approval of a supplement to contract with Medco Health Solutions, Inc.

7. Approval of the sale of a permanent easement to the City of West Point, Mississippi, for commercial or light industrial development purposes, affecting approximately 4.14 acres in Clay County, Mississippi, Tract No. XWPAH-2E.

#### FOR FURTHER INFORMATION CONTACT:

Please call TVA Media Relations at (865) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898-2999. People who plan to attend the meeting and have special needs should call (865) 632-6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: March 9, 2004.

**Clifford L. Beach, Jr.,**

*Attorney and Assistant Secretary.*

[FR Doc. 04-5735 Filed 3-10-04; 10:05 am]

**BILLING CODE 8120-08-P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-281]

### WTO Dispute Settlement Proceeding Regarding Antidumping Measures on Cement From Mexico

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative ("USTR") is providing notice that the Government of Mexico has requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding various measures relating to the antidumping duty order on gray portland cement and cement clinker ("cement") from Mexico. Mexico alleges that determinations made by U.S. authorities concerning this product, and certain related matters, are inconsistent with Articles 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 18 and Annex II of the Agreement of Implementation of Article VI of the General Agreements on Tariffs and Trade 1994 ("AD Agreement"), Articles VI and X of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article XVI:4 of the WTO Agreement. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comment should be submitted on or before April 22, 2004, to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to *FR0068@ustr.gov*, with "Mexico Cement Dispute" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the address above, in accordance with the requirements for submission set out below.

**FOR FURTHER INFORMATION CONTACT:** William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that Mexico has requested the establishment of a dispute settlement panel pursuant to the WTO Dispute Settlement Understanding ("DSU"). The WTO Dispute Settlement Body ("DSB") has accepted Mexico's request and established a panel. The panelists, which will hold their meetings in Geneva, Switzerland, are currently being selected and would be expected to issue a report on its findings and recommendations within six to nine months from the date on which they are selected.

#### Major Issues Raised by Mexico

With respect to the measures at issue, Mexico's panel request refers to the following:

- The final results of the fifth through eleventh administrative reviews of the antidumping duty order on cement from Mexico, such reviews collectively covering the time period from August 1, 1994 to July 31, 2001. These final results, which were made by the U.S. Department of Commerce ("Commerce") are published at 62 FR 17148 (April 9, 1997); 63 FR 12764 (March 16, 1998); 64 FR 13148 (March 17, 1999); 65 FR 13943 (March 15, 2000); 66 FR 14889 (March 14, 2001); 67 FR 12518 (March 19, 2002); and 67 FR 12518 (January 14, 2003);
- The final sunset review determinations on cement from Mexico by Commerce (65 FR 41049 (July 3, 2000)), and the U.S. International Trade Commission ("ITC") (USITC Publication

No. 3361 (October 2000) and 65 FR 65327 (November 1, 2000)), as well as the resulting continuation by Commerce of the antidumping order on cement from Mexico (65 FR 68979 (November 15, 2000));

- The dismissal by the ITC of a request for the institution of a changed circumstances review of the ITC's affirmative antidumping determination on cement from Mexico (66 FR 65740 (December 20, 2001));
- Sections 736, 737, 751, 752 and 778 of the Tariff Act of 1930;
- The URAA Statement of Administrative Action, H.R. Doc. No. 103-316, vol. 1 (1994);
- Commerce's Sunset Policy Bulletin (63 FR 18871 (April 16, 1998));
- Commerce's sunset review regulations, 19 CFR 351.218;
- The ITC's sunset review regulations, 19 CFR 207.60-69; and
- Portions of Commerce's regulations governing the calculation of dumping margins, 19 CFR 351.102, 351.212(f), 351.213(j), 351.403, and 351.414(c)(2).

With respect to the claims of WTO-inconsistency, Mexico's panel request refers to the following:

- With regard to the administrative reviews and Commerce's sunset review:
  - Commerce's failure to revoke the antidumping duty order;
  - Commerce's failure to establish domestic industry support for the imposition of antidumping duties; and
  - Commerce's failure to otherwise bring the antidumping measures into conformity with U.S. WTO obligations.
- With regard to the sunset review conducted by the ITC:
  - The ITC's "likely" standard, as such and as applied;
  - The statutory requirements that the ITC determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury "within a reasonably foreseeable time" and that the ITC "shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time", both as such and as applied;
  - The ITC's finding that "all or almost all" of the producers in the "Southern Tier" of the United States would suffer material injury in the event of the antidumping duty order being revoked;
  - The ITC's failure to determine the "exceptional circumstances" and its incorrect determination that the appropriate region for purpose of analysing the effects of imports from Mexico was the grouping of states denominated the "Southern Tier";
  - The ITC's failure to conduct an "objective examination" of the record based on "positive evidence";

- The ITC's failure to base its determination on a proper analysis of dumped imports, their effect on prices in the domestic market, and the consequent impact of the dumped imports on the domestic industry;

- The ITC's failure to evaluate all relevant economic factors and indices having a bearing on the state of the domestic industry;
- The ITC's failure to consider "any known factors other than the dumped imports"; and
- The ITC's improper consideration of the WTO-inconsistent margin reported by Commerce.
  - With regard to the sunset review conducted by Commerce:
    - Commerce's "likely" standard, its determination in this regard, and Commerce's calculation of the likely dumping margin reported to the ITC, as such and as applied;
    - Commerce's standard for determining the "likely" dumping margin, its reliance on that margin, and its reporting of that margin to the ITC, as such and as applied; and
    - Commerce's standard relating to duty absorption, its reliance on the dumping margin based on duty absorption, and its reporting of that margin to the ITC, as such and as applied.
  - With regard to the ITC's determination to not initiate a changed circumstances review, the ITC's refusal to initiate the review after an interested party presented positive information substantiating the need for a review.
    - With regard to Commerce's dumping margin calculation methodologies:
      - Commerce's exclusion of domestic sales of identical Type II and Type V, LA cement;
      - Commerce's comparison of sales of bagged and bulk cement;
      - Commerce's calculation of a dumping margin without having compared the export price and the normal value on a weighted average basis or on a transaction-to-transaction basis;
      - Commerce's use of "zeroing" with respect to so-called "negative dumping margins";
      - Commerce's determination to levy antidumping duties on Mexican cement consigned for final consumption outside the "Southern Tier Region";
      - Commerce's application of the so-called "arm's length" test to determine whether sales to related customers were in the ordinary course of trade;
      - Commerce's improper application of the facts available by (i) failing to take account of cost-related evidence when making "difmer" adjustments; and (ii)

by calculating the dumping margin in the Seventh Administrative Review by using the facts available;

- Commerce's "amalgamation" of the firms Cementos de Chihuahua, S.A. de C.V. and CEMEX S.A. de C.V. in order to calculate a single weighted average dumping margin; and

- Commerce's "duty absorption" standard and the use of that finding in the calculation of the dumping margin reported to the ITC, as such and as applied.

- With regard to the imposition of antidumping duties on imports of cement from Mexico:

- The U.S. retrospective duty assessment system; and

- The U.S. requirement that interest be paid over and above the amount of the dumping margin.

- With regard to failure on the part of Commerce and the ITC to apply U.S. antidumping laws, regulations, decisions and rulings in a uniform, impartial and reasonable manner:

- Commerce's imposition of additional requirements on foreign parties, greater than those imposed on domestic parties, in response to Commerce's sunset initiation notice;

- Commerce's imposition of a more stringent standard on foreign parties than on the regional industry for assessing the adequacy of participation in sunset review process;

- The ITC's verification of information submitted by CEMEX and the failure to verify information submitted by members of the regional industry;

- Commerce's "below cost" investigations;

- The ITC's failure to require producers to provide sufficient detail to permit exporters to have a reasonable understanding of the substance of the information in the record.

#### Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting the comments may either send one copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to [Fr0068@ustr.gov](mailto:Fr0068@ustr.gov) with "Mexico Cement Dispute" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically, to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail.

Comments must be in English.

Interested persons who make submissions by electronic mail should not provide separate cover letters;

information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

- (1) Must clearly so designate the information or advice;

- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of each page of the cover page and each succeeding page; and

- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, D.C. 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel E. Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-291]

### WTO Dispute Settlement Proceeding Regarding Measures of the European Communities Affecting the Approval and Marketing of Biotech Products

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice that on March 4, 2004, a dispute settlement panel was composed under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") concerning measures of the European Communities (EC) affecting the approval and marketing of the products of agricultural biotechnology ("biotech products"). USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept comments received throughout the course of the dispute settlement proceedings, comments should be received on or before April 6, 2004, to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted either (i) electronically, to [FR040@ustr.gov](mailto:FR040@ustr.gov), with "EC-Biotech Dispute" in the subject line, or (ii) by fax, to Sandy McKinzy at 202-395-3640 with a confirmation copy sent electronically to the e-mail address above.

**FOR FURTHER INFORMATION CONTACT:** William Busis, Associate General Counsel, (202) 395-3150, or Richard White, Director, Sanitary and Phytosanitary Affairs, (202) 395-6127.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)), USTR is providing notice that, at the request of the United States, the WTO Dispute Settlement Body (DSB) has composed a panel to examine EC measures affecting the approval and marketing of biotech products. The DSB has also composed panels at the request of Argentina and Canada to examine the EC measures. The three proceedings have been combined and will be heard by a single panel.

Since October 1998, the EC has applied a moratorium on the approval of biotech products. Pursuant to the moratorium, the EC has suspended consideration of applications for, or granting of, approval of biotech