

**UNITED STATES – MEASURES AFFECTING IMPORTS OF CERTAIN PASSENGER  
VEHICLE AND LIGHT TRUCK TYRES FROM CHINA**

Communication from the Appellate Body

The following communication, dated 5 September 2011, from the Chair of the Appellate Body addressed to the Chair of the Dispute Settlement Body, is circulated in accordance with Article 17.5 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

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I am pleased to provide you with a copy of the Appellate Body Report in *United States – Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China*, WT/DS399/AB/R. It will be circulated to Members of the World Trade Organization at 4.00 p.m. today. It is a confidential document until its circulation. The three Members of the Appellate Body who served on this appeal were: Mr. Shotaro Oshima, Mr. Peter Van den Bossche and myself, as Presiding Member.

I note that the Appellate Body was not able to complete work on this appeal during the 90-day timeframe provided for in Article 17.5 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*. Today's circulation date marks the 104th day from the date on which this appeal was filed. On 22 July 2011, pursuant to Article 17.5 of the DSU, we notified the DSB in document WT/DS399/7 that it would not be possible to complete the appeal within 60 days.

The delay in the completion of the Report in this case is a result of a number of factors, most importantly the large caseload that the Appellate Body was, and is, facing. When the appeal in this case was filed on 24 May 2011, the Appellate Body had yet to complete its reports in *Thailand – Cigarettes (Philippines)* and *EC – Fasteners (China)* and was fully engaged with the appeal of the Panel Report in *US – Large Civil Aircraft (2nd complaint)*. This workload reflects an overall trend of a greater number of increasingly complex appeals, with longer submissions by parties and more issues being appealed, all at a time when the resources available to the Appellate Body remained unchanged. The Appellate Body understands its obligations under Articles 17.5 and 17.12 of the DSU.

In this particular case, the working schedule for the appeal was established with the understanding that an appeal in *US – Orange Juice* was expected shortly thereafter. Therefore, the schedule was organized in a manner that would allow the Appellate Body to complete its work on the already pending appeals and to complete the work on both this appeal and *US – Orange Juice* in as expeditious a manner as possible. By the time the *US – Orange Juice* panel report was adopted without appeal by the DSB on 19 June, adjusting the timetable already established for this appeal, with the oral hearing scheduled for 7-8 July, was not a reasonable option.

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