



**UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN OIL
COUNTRY TUBULAR GOODS FROM KOREA**

**UNDERSTANDING BETWEEN THE REPUBLIC OF KOREA AND THE UNITED STATES
REGARDING PROCEDURES UNDER ARTICLES 21 AND 22 OF THE DSU**

The following communication, dated 6 February 2020, from the delegation of Korea and the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated at the request of these delegations.

The Dispute Settlement Body (DSB) adopted its recommendations and rulings in the dispute *United States – Anti-Dumping Measures on Certain Oil Country Tubular Goods from Korea* (WT/DS488) on 12 January 2018.

Pursuant to Article 21.3(b) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), the Republic of Korea and the United States of America ("the parties to the dispute") agreed that the reasonable period of time to implement the DSB recommendations and rulings would be twelve months, expiring on 12 January 2019 (WT/DS488/11), which was later mutually agreed to be modified to expire on 12 July 2019 (WT/DS488/13).

The parties to the dispute have also agreed on the following procedures for the exclusive purposes of this dispute. These procedures are designed to facilitate the resolution of the dispute and reduce the scope for procedural disagreements. These procedures are without prejudice to either party's views on the proper interpretation of the DSU.

1. If Korea considers that the situation described in Article 21.5 of the DSU exists, Korea will request consultations with the United States.¹ The parties to the dispute agree to hold such consultations within 14 days from the date of circulation of such request. The parties to the dispute agree that after the end of such period of consultations, Korea may, at any time, request the establishment of a panel pursuant to Article 21.5 of the DSU.
2. At the first DSB meeting at which Korea's request for the establishment of an Article 21.5 panel appears on the agenda, the United States shall accept the establishment of that panel.
3. The parties to the dispute shall cooperate to enable the Article 21.5 panel to circulate its report within 90 days of the panel's establishment, excluding such time during which the panel's work may be suspended pursuant to Article 12.12 of the DSU.
4. Following circulation of the report of the Article 21.5 panel, either party may request adoption of the Article 21.5 panel report at a meeting of the DSB within 60 days of circulation of the report. Each party to the dispute agrees not to appeal the report of the Article 21.5 panel pursuant to Article 16.4 of the DSU.
5. If the parties agree to arbitration procedures under Article 25 of the DSU to provide for review of the report of the Article 21.5 panel, they will amend this agreement on procedures accordingly.

¹ The parties to the dispute agree that under Article 21.5 of the DSU, consultations are not obligatory.

6. Furthermore, the parties to the dispute recognize that Korea has requested authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and the United States has objected in writing under Article 22.6 of the DSU to the level of suspension of concessions or other obligations. As such, the parties to the dispute agree that the matter has been referred to arbitration under Article 22.6 of the DSU pursuant to the U.S. objection.
 7. As the matter has been referred to arbitration, the United States and Korea shall, at the earliest possible moment, request the arbitrator under Article 22.6 to suspend its work. In the event that the DSB finds, pursuant to Article 21.5 of the DSU, that a measure taken to comply does not exist or is inconsistent with a covered agreement, either party may request the Article 22.6 arbitrator to resume its work.
 8. The parties to the dispute will cooperate to enable the arbitrator under Article 22.6 of the DSU to circulate its decision within 60 days of the resumption of the arbitration.
 9. If any of the original panelists is not available for either the Article 21.5 panel or the Article 22.6 arbitration (or both), the parties to the dispute will promptly consult on a replacement, and either party may request the Director-General of the WTO to appoint, within ten days of being so requested, a replacement for the proceeding or proceedings in which a replacement is required. If an original panelist is unavailable to serve in either of the proceedings, the parties to the dispute will further request that, in making this appointment, the Director-General seek a person who will be available to act in both proceedings.
 10. The parties to this dispute will continue to cooperate in all matters related to these agreed procedures and agree not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the parties to the dispute consider that a procedural aspect has not been properly addressed in these procedures, they will endeavor to find a solution within the shortest time possible that will not affect the other aspects and steps agreed herein.
 11. These agreed procedures in no way prejudice other rights of either party to take any action or procedural step to protect its rights and interests, including recourse to the DSU.
 12. This agreement applies specifically to this dispute and is without prejudice to a party's position on any systemic matter.
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