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**UNITED STATES – COUNTERVAILING MEASURES ON  
SUPERCALENDERED PAPER FROM CANADA**

**RECOURSE TO ARTICLE 22.2 OF THE DSU BY CANADA**

The following communication, dated 18 June 2020, from the delegation of Canada to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 22.2 of the DSU.

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On 5 March 2020, the Dispute Settlement Body (DSB) adopted the panel and Appellate Body Reports in *US – Supercalendered Paper*. The DSB's recommendations and rulings include findings that the United States maintains an "ongoing conduct" measure that consists of the U.S. Department of Commerce applying adverse facts available to find countervailable subsidies in relation to discovered programs that were not reported in response to an "other forms of assistance" question<sup>1</sup> in a manner that is inconsistent with Article 12.7 of the *Agreement on Subsidies and Countervailing Measures*.<sup>2</sup>

The United States has not informed the DSB of its intentions in respect of implementation of these recommendations and rulings in accordance with Article 21.3 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). Nor has it proposed a reasonable period of time to comply. In view of the failure by the United States to state its intentions in respect of implementation, Canada considers that the United States failed to comply with the recommendations and rulings of the DSB.

Canada and the United States have not reached an agreement on compensation. Accordingly, Canada is requesting authorization to suspend the application to the United States of concessions or other obligations pursuant to Article 22.2 of the DSU.

Canada requests authorization to suspend concessions or other obligations at an annual level commensurate with the trade effects of any future countervailing duties on Canadian imports of any given good that are attributable to the U.S. "ongoing conduct" at issue in this dispute. This request reflects the nullification or impairment that Canada will suffer if the "ongoing conduct" continues to exist and applies to exports from Canada in the future.

Canada requests that this communication be circulated to the Members.

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<sup>1</sup> Appellate Body Report, *United States – Countervailing Measures on Supercalendered Paper from Canada*, WT/DS505/AB/R, adopted 5 March 2020, para. 1.2. ("*US – Supercalendered Paper*")

<sup>2</sup> Appellate Body Report, *US – Supercalendered Paper*, paras. 6.2-6.10; and Panel Report, *United States – Countervailing Measures on Supercalendered Paper from Canada*, WT/DS505/R and Add.1, adopted 5 March 2020, paras. 8.4-8.6.