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UNITED STATES – ANTI-DUMPING MEASURES ON FISH FILLETS FROM VIET NAM

REPORT OF THE PANEL

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1 COMPLAINT BY VIET NAM

1.1. On 8 January 2018, Viet Nam requested consultations with the United States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), and Articles 17.2 and 17.3 of the Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement) with respect to the measures and claims set out below.¹

1.2. Consultations were held on 1 March 2018 but failed to settle the dispute.

2 PANEL ESTABLISHMENT AND COMPOSITION

2.1. On 8 June 2018, Viet Nam requested the establishment of a panel pursuant to Article 6 of the DSU with standard terms of reference.² At its meeting on 22 June 2018, the Dispute Settlement Body (DSB) deferred the establishment of a panel. At its meeting on 20 July 2018, the DSB established a panel pursuant to the request of Viet Nam in document WT/DS536/2, in accordance with Article 6 of the DSU.³

2.2. The Panel's terms of reference are the following:

To examine, in the light of the relevant provisions of the covered agreements cited by the parties to the dispute, the matter referred to the DSB by Viet Nam in document WT/DS536/2 and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements.⁴

2.3. On 22 November 2018, Viet Nam requested the Director-General to determine the composition of the panel, pursuant to Article 8.7 of the DSU. On 30 November 2018, the Director-General accordingly composed the Panel as follows:

Chairperson: Mr José Alfredo Graça Lima

Members: Mr Shahid Bashir
Mr Greg Weppner

2.4. Canada, China, Egypt, the European Union, India, Japan, Malaysia, the Russian Federation, Singapore, and Thailand notified their interest in participating in the Panel proceedings as third parties.⁵

3 PANEL PROCEEDINGS

3.1. After consultation with the parties, the Panel:

- a. adopted its Working Procedures and timetable on 14 January 2019;
- b. adopted the Additional Working Procedures of the Panel Concerning Business Confidential Information (BCI) on 22 January 2019;
- c. revised its timetable on 26 February 2019, 10 May 2019, 20 September 2019, and 31 January 2020.

3.2. On 7 March 2019, the United States submitted its first written submission, which included a request for a preliminary ruling that certain claims in the panel request were not included in the consultations request and that certain claims were not sufficiently identified in the panel request. On 22 July 2019 the Panel circulated its preliminary ruling to the parties, indicating that it would

¹ Request for consultations by Viet Nam, WT/DS536/1.

² Request for the establishment of a panel by Viet Nam, WT/DS536/2.

³ DSB, Minutes of the meeting held on 20 July 2018, WT/DSB/M/415, para. 4.4.

⁴ Constitution note of the Panel, WT/DS536/3, para. 2.

⁵ Constitution note of the Panel, WT/DS536/3, para. 5.

become an integral part of its Final Report, subject to any changes that may be necessary in light of comments received from the parties at the interim review stage.

3.3. The Panel held its first substantive meeting with the parties on 8 and 9 May 2019. The session with the third parties took place on 9 May 2019.

3.4. In its second written submission, filed on 26 June 2019, and by letter dated on 28 June 2019 Viet Nam informed the Panel that it was no longer pursuing certain claims.

3.5. The Panel held its second substantive meeting with the parties on 6 and 7 August 2019.

3.6. On 8 October 2019, the Panel issued the descriptive part of its Report to the parties. On 17 December 2019, the Panel issued its Interim Report to the parties. The Panel issued its Final Report to the parties on 7 February 2020.

3.7. The Panel's Final Report was scheduled to be circulated on 17 March 2020. On 16 March 2020, the Panel sent a communication informing the parties that the circulation of the Report would be delayed until 23 March 2020, due to logistical concerns related to COVID-19. On 19 March 2020, in light of the full lockdown of the WTO premises, the Panel informed the parties that there would be an indefinite further delay of the circulation of its Report, until such time as the relevant Secretariat staff are able to return to the WTO premises and resume their functions, and delegations are again able to access the building.

3.8. On 2 June 2020, the United States and Viet Nam jointly informed the Panel that they were engaged in discussions with respect to the resolution of this dispute. In that context, they requested that the Panel postpone the circulation of its Report until 31 August 2020. The circulation of the Panel's Report was therefore postponed until 31 August 2020. The Panel informed the DSB of this postponement in document WT/DS536/6. Since then, the parties jointly requested further postponements of the circulation of the Panel's Report.⁶

4 NOTIFICATION OF A MUTUALLY AGREED SOLUTION

4.1. By a joint communication dated 17 January 2025, pursuant to Article 3.6 of the DSU, the parties notified the DSB that they had reached a mutually agreed solution to the matter raised in this dispute.⁷ On the same date, the parties also informed the Panel of their mutually agreed solution.

4.2. The Panel takes note of the mutually agreed solution between the parties to the dispute and recalls Article 3.7 of the DSU, which provides that "[t]he aim of the dispute settlement mechanism is to secure a positive solution to a dispute. A solution mutually acceptable to the parties to a dispute and consistent with the covered agreements is clearly to be preferred."

4.3. The Panel also takes note of Article 12.7 of the DSU, which provides that "[w]here a settlement of the matter among the parties to the dispute has been found, the report of the panel shall be confined to a brief description of the case and to reporting that a solution has been reached."

4.4. Accordingly, the Panel concludes its work by reporting that a mutually agreed solution to this dispute has been reached between the parties.

⁶ Communications from the Panel, WT/DS536/7 to WT/DS536/25.

⁷ Circulated as WT/DS536/26 on 21 January 2025.