

ANNEX B**EXECUTIVE SUMMARY OF KOREA'S SUBMISSION**

1. Korea requests that the Arbitrator determine a reasonable period of time of 6 months because implementation can be pursued exclusively through Section 129 proceedings, or 8 months if a Section 123 proceeding were to be considered as part of the implementation steps. This constitutes the shortest period of time possible within the legal system of the United States.

2. The United States has failed to explain why it requires "at least" 21 months for implementation. The requirements of the U.S. legal system, the complexities alleged by the United States, and the workload of the implementing agency do not justify such an extraordinarily lengthy implementation period.

3. Almost five months have passed since the Appellate Body and Panel reports were adopted and yet the United States has not taken any significant steps to bring its measures into conformity with the WTO Agreements. The United States should have begun implementation of the Panel's findings on disproportionality as soon as it was aware that these issues would not be appealed, and it should have begun implementation of the other findings immediately after the circulation of the Appellate Body report.

4. Contrary to the United States' proposal, there is no need to pursue implementation in three phases. The United States can implement the "as such" findings through Section 129 proceedings, and a prior Section 123 proceeding is unnecessary. The DPM is not reflected in the USDOC's regulations nor was it adopted by the USDOC through a formal rule-making process, but was reflected in various memoranda of the USDOC adopted in the context of specific proceedings.¹ Thus, the DPM should be capable of being modified in the context of such kind of proceeding. Similarly, implementation of the Appellate Body's findings with respect to the use of zeroing would require a revision in the USDOC's margin calculation program, which does not require a Section 123 proceeding.

5. In any case, the 16 months proposed by the United States to conduct a Section 123 proceeding are excessive. The time line proposed by the United States does not make use of the flexibilities inherent in the process, requesting several consecutive months to conduct steps that it could conduct concurrently. Moreover, contrary to the United States' assertions, the "as such" findings do not involve any particular complexities that would warrant additional time.

6. The time lines proposed by the United States to conduct two Section 129 proceedings to implement the "as applied" rulings in the anti-dumping and countervailing duty proceedings are also excessive. Section 129 contains no mandatory time lines for each step, and several of these steps can be conducted concurrently. The United States' proposed time line also contains steps that are not required under Section 129, such as collection and verification of additional factual data. Such non-mandatory steps should be given limited, if any, consideration.

7. Finally, it is well established that the workload of the implementing agency is not a relevant factor in determining a reasonable period of time.² Similarly, the "turnover of key decision makers at the USDOC or, in some cases, their absence pending completion of the nomination and confirmation process"³ are also factors that have been rejected as constituting a "particular circumstance" that warrants additional time.⁴

8. In conclusion, Korea requests that the Arbitrator award a reasonable period of time of 6 months, ending March 26, 2017. This reasonable period of time reflects the following time line for the two Section 129 proceedings:

¹ Panel Report, *US – Washing Machines*, para. 7.100.

² Award of the Arbitrator, *US – Countervailing Measures (China)* (21.3(c)), para. 3.49.

³ U.S. Submission, para. 59.

⁴ Award of the Arbitrator, *US – Stainless Steel (Mexico)* (Article 21.3(c)), para. 62.

Action Under Section 129	Approx. Time Period
USTR consults with administering authority and congressional committees	September 2016
Prior to issuing a determination, the administering authority shall provide interested parties with an opportunity to submit written comments, and in appropriate cases, may hold a hearing.	60 days
Before rendering a determination, USTR shall consult with congressional committees (to continue throughout implementation period)	30 months
Within 180 days of receipt of a written request from the USTR, the administering authority shall issue a determination rendering the action consistent with WTO obligations.	60 days
The administering authority shall publish in the <i>Federal Register</i> notice of the implementation	30 days

9. Finally, if the Arbitrator were to consider a Section 123 proceeding as part of the implementation steps, Korea requests that the Arbitrator award a reasonable period of time of 8 months, ending May 26, 2017.
