

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

1. The reasonable period of time ("RPT") for the United States to implement the recommendations and rulings of the Dispute Settlement Body ("DSB") in this dispute should be six months from the adoption of the Panel and Appellate body reports. Article 21 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") requires a Member to promptly comply with DSB recommendations, which, according to jurisprudence developed by arbitrators under Article 21.3(c), requires compliance within the shortest period possible within the legal system of the Member. The particular facts and circumstances of the dispute can bear on the arbitrator's finding of a reasonable period of time, but only to the extent they assist the arbitrator in determining the shortest period possible in which the Member can comply.

2. The United States' 24 month-request ignores the United States' long period of inactivity after it became aware it would have to implement the Panel's findings. The United States knew its implementation obligations no later than November 2016, when it chose not to appeal the Panel report. It should have been preparing for compliance since that time, and under no circumstances should it be granted an RPT that includes time *after* the DSB's recommendations and rulings were adopted for pre-commencement planning and analysis. This is particularly true considering that China requested consultations with the United States nearly four years ago now, and its exporters have suffered under USDOC's WTO-inconsistent anti-dumping duties for the entire intervening time.

3. The United States reliance on the reasonable period of time agreed to by China in *EC – Fasteners (China)* is misplaced. Contrary to the United States' contention, China believes that the RPT for this dispute should be substantially shorter than that in *EC – Fasteners (China)*. The jurisprudence makes clear that compliance action requiring legislative means will be more time consuming than implementation that can be conducted entirely administratively. The "as such" ruling in *EC – Fasteners (China)* concerned a statute, not an administrative measure, as here, suggesting the RPT in that dispute should be longer than here. Additionally, as the "as such" ruling in *EC – Fasteners (China)* was appealed, unlike here, the European Union had far less time to prepare for implementation prior to the issuance of the DSB's recommendations than the United States has had in this dispute, again suggesting the need for a longer RPT. Finally, the number of "as applied" determinations that must be addressed is a red herring, as the USDOC is capable of running its redeterminations in parallel.

4. The United States' request for 24 months overstates the complexity of compliance. China does not object to the United States' proposal to conduct a proceeding pursuant to section 123 of the *Uruguay Round Agreements Act* ("URAA") to address the Panel's "as such" findings under the *Anti-Dumping Agreement*, and then to conduct proceedings pursuant to section 129 of the URAA to address the Panel's "as applied" findings. Nor does China object to the United States waiting to commence its section 129 proceedings until the preliminary determination in the section 123 proceeding has been issued. China, does, however, object to the time the United States proposes each of these processes should take. The USDOC should have concluded any and all "pre-commencement" preparatory work *prior* to the adoption of the recommendations and rulings, and should have been able to produce a preliminary determination under Section 123 in *two weeks*. The DSB's "as applied" recommendations relating to 13 original investigations and 25 administrative reviews undertaken by the USDOC likewise will not require anywhere near the 13 months requested by the United States, which in any case is more than is permitted under United States' law. Rather, this aspect of the United States' compliance obligations can be completed in five-and-a-half months.

5. China's "choice" to challenge 38 separate USDOC determinations is a function of the widespread use of WTO-inconsistent measures by USDOC and should not be the basis for a longer RPT. To the extent the United States is arguing for a longer RPT on the basis that the supposedly large number of Section 129 proceedings will be work-intensive, previous arbitrators have consistently rejected the proposition that the workload faced by the implementing agency of the implementing Member is a relevant "particular circumstance" to be considered by the arbitrator in setting the RPT.

---