Section 6 of the Act,[7] in general, and with Sections 6(b)(5),[8] 6(b)(6)[9] and 6(b)(7)[10] in particular, in that: (1) It promotes just and equitable principles of trade and protects investors and the public interest; (2) it is designed to ensure that Exchange members and persons associated with members are appropriately disciplined for violations of the provisions of the Act, the rules and regulations thereunder, or the rules of the Exchange; and (3) it provides a fair procedure for the disciplining of Exchange members and persons associated with members by helping to ensure that the Exchange continues to attract experienced panelists for all hearings, including complex and protracted matters.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any inappropriate or unnecessary burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing including whether the proposal is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–01–16 and should be submitted by April 9, 2001.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(6).

[10] 15 U.S.C. 78f(b)(7).

**IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change**

The Exchange requests accelerated approval pursuant to Rule 19(b)(2)(B)[11] in order to expedite the adoption of amended Phlx Rule 960.5(a)(4). After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange,[12] and that accelerated approval is appropriate.

Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(7) of the Act.[13] This Section requires, among other things, that the rules of an exchange provide a fair procedure for disciplining members and persons associated with members. The Commission believes that if hearing panelists are compensated for the time they devote to hearing-related matters that are extraordinary, as proposed by the Exchange, experienced panelists may be more incline to preside over hearings that involve complex and protracted matters, thus helping to ensure that members receive hearings before panelists qualified to hear them.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** in order allow the Exchange to more quickly implement its policy to compensate hearing panelists when extraordinary circumstances warrant payment.

*It Is Therefore Ordered,* pursuant to Section 19(b)(2)[14] of the Act that the proposed rule change (SR–Phlx–01–16) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

**Margaret H. McFarland,**

*Deputy Secretary.*

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[11] 15 U.S.C. 19s(b)(2)(B).

[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation.

[13] 15 U.S.C. 78f(b)(7).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. WTO/D–162]**

## WTO Dispute Settlement Proceeding Regarding Antidumping Act of 1916

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (''USTR'') is providing notice of the date by which the United States is to respond to the recommendations and rulings of the Dispute Settlement Body (''DSB'') of the World Trade Organization (''WTO'') in United States—Antidumping Act of 1916. The Antidumping Act of 1916 was the subject of separate disputes brought by the European Communities (the ''EC''), and Japan. In both cases, Japan and the EC alleged that this statute is inconsistent with obligations of the United States under the General Agreement on Tariffs and Trade 1994 (''GATT 1994'') and the Agreement on Implementation of Article VI of GATT 1994 (''the Antidumping Agreement''). In both cases, the panels determined that the 1916 Act is inconsistent with Article VI of GATT and certain provisions of the Antidumping Agreement; the WTO Appellate Body affirmed the panel's findings in both cases. In October 2000, the United States confirmed to the DSB its commitment to implement the recommendations and rulings of the DSB in a manner which respects U.S. WTO obligations. As a result of arbitral proceedings the United States has a period of ten months from the date of adoption of the panel report—i.e., until July 26, 2001—to implement the recommendations and rulings of the DSB. The USTR invites written comments from the public concerning the manner in which it should respond.

**DATES:** Comments should be submitted by April 16, 2001, to be assured of timely consideration by the USTR in developing a response to the DSB recommendations and rulings.

**ADDRESSES:** Comments are to be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: U.S.—Antidumping Act of 1916 dispute, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, 20508.

**FOR FURTHER INFORMATION CONTACT:** Rhonda K. Schnare, Associate General Counsel, (202) 395–3582.

**SUPPLEMENTARY INFORMATION:** On November 11, 1999, the EC submitted a

request for the establishment of a WTO dispute settlement panel to examine the Antidumping Act of 1916. The DSB established a panel for this purpose on February 1, 2000, and the panel was composed on April 1, 1999. On March 31, 2000, after full briefing and hearings, the panel issued recommendations and rulings.

Separately, on June 3, 1999, Japan also submitted a request for the establishment of a WTO dispute settlement panel to examine the same matter. The DSB established a panel for this purpose on July 26, 1999, and the panel was composed on August 11, 1999. On May 29, 2000, after full briefing and hearings, the panel issued its recommendations and rulings.

Thereafter, the United States appealed both panel reports to the WTO Appellate Body. After further briefing and a hearing, the Appellate Body issued a report affirming the panel reports on August 28, 2000. The Appellate Body's recommendations and rulings were adopted by the DSB on September 26, 2000.

In October 2000 the United States affirmed that it would implement the DSB's recommendations and rulings. On November 17, 2000, the EC and Japan requested arbitration on the reasonable period of time for the United States to implement the DSB's recommendations and rulings. The arbitrator issued a report on February 28, 2001, granting the United States a period of ten months, or until July 26, 2001, to implement the DSB's recommendations and rulings.

**Major Issues Raised and Legal Basis of the Complaint**

The EC and Japan both alleged that the 1916 Act is inconsistent with Articles III and VI of GATT 1994 and various provisions of the Antidumping Agreement. Specifically, in addition to Article III of GATT 1994, the EC alleged that the 1916 Act is inconsistent with Articles VI:2 and VI:1 of GATT 1994 and Articles 1, 2, 3, 4, 5 of the Antidumpting Agreement.

Japan alleged that the 1916 Act is inconsistent with article VI:2 of GATT and 18.1 of the Antidumping Agreement, which Japan asserted permits the imposition of antidumping duties as the only possible remedy for dumping. Japan also alleged that the 1916 Act is inconsistent with Articles 1, 2, 3, 4, 5, 9 and 11 of the Antidumping Agreement and Article XI of GATT 1994.

Finally, both the EC and Japan asserted that the United States failed to comply with Article XVI:4 of the Marakesh Agreement establishing the WTO which requires that Members bring their laws into compliance with their obligations under the WTO agreements.

In the EC dispute, the panel found that the 1916 Act is inconsistent with Article VI:1 and VI:2 of the GATT 1994; Articles 1, 4, and 5.5 of the Antidumping Agreement; and Article XVI:4 of the WTO Agreement. Specifically, the panel found that 1916 Act violates Article VI because it does not provide exclusively for the material injury test set forth under Article VI, and that by providing for the imposition of treble damages, fines or imprisonment instead of antidumping duties, the 1916 Act violates Article VI:2. The panel also found that by not requiring that cases be filed by or behalf of a domestic industry, the Act violates the Antidumping Agreement's standing provision in Article 4: and that the Act fails to provide the notice required by Article 5 of the Antidumping Agreement.

Similarly, in the Japan dispute, the panel found that the 1916 Act violates Article VI:1 and VI:2 of GATT 1994. The panel also found that the Act is inconsistent with the procedural requirements in Articles 1, 4.1, 5.1, 5.2, 5.4 of the Antidumping Agreement, and Articles 18.1 and 18.4 of the Anti-dumping Agreement by virtue of the other procedural violations. Article 5.1 requires that a request for initiation of an anti-dumping investigation be made by or on behalf of the domestic industry. Article 4.1 defines ''domestic industruy'' for the purpose of the AntiDumping Agreement. Article 5.4 requires the investigating authorities to determine hat an application is supported by those producers whose collective output constitutes more than 50 per cent of the total production of the like product of those producers supporting or opposing the application, and Article 5.2 requires that the application include evidence of dumping, injury and causation.

In both cases, the panel declined to reach the GATT Article III claim and found that the United States is in violation of Article XVI:4 of the WTO Agreement only to the extent that it is in violation of other WTO provisions. In the Japan case, the panel also declined to rule upon the GATT Article XI claim.

The disputes were combined for purposes of briefing and hearings before the WTO Appellate Body, which affirmed the panel's findings in both cases.

**Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Comments must be in English and provided in fifteen copies to Sandy McKinzy at the address provided above. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by the USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), the USTR maintains a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. the public file will include all non-confidential comments received by the USTR from the public in response to this request. An appointment to review the public file (Docket WTO/D–162, United States—Anti-dumping Act of 1916) may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

**A. Jane Bradley,**

*Assistant U.S. Trade Representative for Monitoring and Enforcement.*

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