

each distinct financial transaction at issue in its subsidy investigation.

- Commerce assumed that every Korean private financial institution involved in its subsidy investigation was under the direction or entrustment of the Government of Korea;
  - Commerce failed to demonstrate that a benefit was conferred on the respondent Hynix Semiconductor, Inc. (“Hynix”), given available market benchmarks among Hynix’s creditors;
  - Commerce disregarded market benchmarks for measuring benefit established by a foreign bank operating in the Korean market that extended financing to Hynix during the period of investigation;
  - Commerce failed to utilize relevant market benchmarks in determining whether Hynix was “creditworthy” or “equityworthy” and Commerce’s application of an improper “uncreditworthy” benchmark and discount rate in calculating the benefit to Hynix;
  - Commerce levied countervailing duties in excess of the amount allowed;
  - Commerce imposed an improper burden of proof on the Government of Korea and Hynix;
  - Commerce disregarded the fact that many Korean companies underwent debt restructuring similar to that undergone by Hynix; and
  - Commerce conducted various private verification meetings in the territory of Korea, at which the Government of Korea had no representatives, over the explicit objection of the Government of Korea.
- With respect to the ITC determinations:
- The ITC determinations on injury and causation were not based on positive evidence and an objective assessment of the effects of allegedly subsidized imports;
  - The ITC determinations on injury and causation improperly assessed the significance of the volume and price effects of subject imports;
  - The ITC improperly assessed the overall condition of the domestic industry;
  - The ITC improperly ignored the definition of domestic industry as set forth in Article 16 of the SCM Agreement, defined the domestic industry and imports inconsistently, and thus distorted the volume of imports and the effects thereof on the domestic industry;
  - The ITC failed to demonstrate the requisite causal link between subject imports and injury, improperly assessed the role of other factors, and improperly attributed the effect of other factors to the allegedly subsidized imports; and

• The ITC’s injury determination did not set forth in sufficient detail the ITC’s findings and conclusions on all material issues of fact and law.

• With respect to the CVD order, the order was not imposed in accordance with the relevant provisions of the SCM Agreement or the relevant provisions of the GATT 1994.

#### Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to [FR0084@ustr.gov](mailto:FR0084@ustr.gov), with “Korea DRAMS (DS296)” in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically to the electronic mail address listed above. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

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 submitter. Confidential business information must be clearly marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by 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” at the top and bottom of the cover page and each succeeding page of the submission; 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)), USTR will

maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–296, Korea DRAMS, may be made by calling the USTR Reading Room at (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.

**Daniel E. Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

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#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–280]

#### WTO Dispute Settlement Proceeding Regarding Countervailing Duty Measures on Certain Steel Plate From Mexico

**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 establishment of a dispute settlement panel requested by the Government of Mexico under the Marrakesh Agreement Establishing the World Trade Organization (“WTO Agreement”). The Government of Mexico has requested that the panel review the calculation by the Department of Commerce (“Commerce”) of countervailing duties in the Final Results of Administrative Review in Certain Cut-to-Length Carbon Steel Plate from Mexico (C–201–810), published in the **Federal Register** on March 13, 2001. The Government of Mexico’s request for the establishment of a panel alleges that Commerce’s determination was inconsistent with various provisions of the Agreement on Subsidies and Countervailing Measures (“SCM Agreement”). USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 21, 2004 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0402@ustr.gov](mailto:FR0402@ustr.gov), Attn: "Mexican Steel Plate Dispute" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the e-mail address above.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth V. Baltzan, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)), USTR is providing notice that on August 8, 2003, the Government of Mexico submitted a request for establishment of a dispute settlement panel to examine the final results of administrative review, in which Commerce concluded that imports of steel plate from Mexico were subsidized and sold in the United States.

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

In the final results of administrative review, Commerce imposed countervailing duties following the application of what is known as the "change-in-ownership" methodology. On the basis of this methodology, Commerce determined that the foreign producer was the "same person" before and after its privatization. According to the Government of Mexico, Commerce therefore concluded that the subsidies continued to confer a benefit on the foreign producer, for which reason countervailing duties continued to be imposed.

The Government of Mexico alleges that in so doing, Commerce did not fulfill its obligation to determine the existence of a subsidy and the benefit to the recipient. The Government of Mexico further alleges that failure to fulfill this obligation constitutes a violation of Articles 10, 14, 19, and 21 of the SCM Agreement.

On June 30, 2003, Commerce published in the **Federal Register** a Notice of Final Modification of Agency Practice Under section 123 of the Uruguay Round Agreement Act ("Notice"), in which Commerce modified its "change in ownership" methodology, including the "same person" test. According to the Notice,

the modification is applicable to investigations and reviews initiated on or after June 30, 2003. Commerce did not apply the modified methodology to the administrative review that is the subject of this dispute as the review predated the modification.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to [FR0402@ustr.gov](mailto:FR0402@ustr.gov), with "Mexican Steel Plate Dispute" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

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Information or advice contained in a comment submitted, other than business confidential information, may be determined by 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" at the top and bottom of the cover page and each succeeding page of the submission; 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)), USTR will maintain a file on this dispute settlement proceeding, accessible to the

public, in the USTR Reading Room, which is located at 1724 F Street, NW, Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (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.

**Bruce R. Hirsh,**

*Acting Assistant United States Trade Representative for Monitoring and Enforcement.*

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#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-295]

#### WTO Dispute Settlement Proceeding Regarding Mexican Antidumping Measure on Long-Grain White Rice and Mexico's Foreign Trade Act

**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 that on November 7, 2003, the WTO, at the request of the United States, established a WTO dispute settlement panel to examine Mexico's definitive antidumping measure on U.S. long-grain white rice and certain provisions of Mexico's Foreign Trade Act. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 15, 2004 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0433@ustr.gov](mailto:FR0433@ustr.gov), with "Mexico Rice Dispute (DS295)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.