

**UNITED STATES – IMPORT PROHIBITION OF
CERTAIN SHRIMP AND SHRIMP PRODUCTS**

Status Report by the United States

The following communication, dated 15 July 1999, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 21.6 of the DSU.

Status Report Regarding Implementation of the Recommendations and Rulings
in the Dispute Regarding
United States - Import Prohibition of Certain Shrimp and Shrimp Products
Panel Report (WT/DS58/R) and Appellate Body Report (WT/DS58/AB/R)

On 25 November 1998, the United States informed the Dispute Settlement Body (DSB) of its intention to implement the recommendations and rulings of the DSB in connection with this matter and to do so in a manner which is consistent with the U.S. firm commitment to the protection of endangered species, including sea turtles. At that time, the United States also advised the DSB that a "reasonable period of time" would be required to complete this process. On 21 January 1999, the United States and the other parties to the dispute reached agreement on 13 months as a reasonable period for implementation. Therefore, as provided for in Article 21.6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, this first report on the status of U.S. implementation is being presented.

The U.S. implementation of the recommendations and rulings of the DSB in this matter has several distinct elements and has and will continue to include opportunities for input from the other parties to the dispute. One key element of the U.S. implementation has been a revision by the United States Department of State of its guidelines implementing the Shrimp/Turtle law. As part of this revision process, on 25 March 1999 the State Department published proposed changes to these guidelines for comment from any interested party. After reviewing the comments received, the State Department made a number of adjustments to its proposal and issued final revised guidelines on 8 July 1999. The revised guidelines, in accordance with the recommendations and rulings of the DSB, are intended to: (1) introduce greater flexibility in considering the comparability of foreign programs and the U.S. program and (2) elaborate a timetable and procedures for certification decisions, including an expedited timetable to apply in 1999 only. These latter changes are designed to increase the transparency and predictability of the certification process and to afford foreign governments seeking certification a greater degree of due process.

More specifically, the revisions to the guidelines make clear that the Department of State will fully consider any evidence that another nation may present that its program to protect sea turtles in the course of shrimp trawl fishing is comparable to the U.S. Program. As outlined in the revised

guidelines, the Department will take into account any demonstrated differences in foreign shrimp fishing conditions in making this comparability assessment.

With respect to due process issues, the proposed revisions to the guidelines institute a broad range of procedural changes in the manner in which the Department of State will make certification decisions. The proposed revisions ensure that the governments of harvesting nations will be notified on a timely basis of all pending and final decisions and are provided a meaningful opportunity to be heard and to present any additional information relevant to the certification decision. The governments of harvesting nations that are not granted a certification will receive a full explanation of the reasons that the certification was denied. Steps needed to receive a certification in the future will be clearly identified.

In addition to the aforementioned changes, the revisions to the guidelines also expand the list of exemptions for methods of harvesting shrimp that do not pose a threat to sea turtles and are thus outside the scope of any embargo under the Shrimp/Turtle law.

As another element of the implementation process the United States has redoubled its efforts, begun in 1996, to negotiate an agreement with the governments of the Indian Ocean region on the protection of sea turtles in that region. During the summer of 1998, the United States approached several governments in the Indian Ocean region, as well as numerous non-governmental organizations, in an effort to get such negotiations underway. In October 1998, the Department of State formally renewed this proposal to a wide range of nations in the Indian Ocean region, including the four complainants. In each case, the United States presented a list of "elements" that it believes could form the basis of such an agreement. The United States also made clear its willingness to support the negotiating process in a number of ways. Since that time the United States has been meeting with countries in the region to discuss and build support for its proposal.

Finally, the United States has renewed its offer of technical training in the design, construction, installation and operation of TEDs to any government that requests it. Any government that wants to receive such training need only make such a request to the United States in writing, through diplomatic channels. The United States will make every effort to meet such requests. Training programs will be scheduled on a first come, first served basis, although special efforts will be made to accommodate nations whose governments are making efforts to adopt and maintain nation-wide TEDs programs and who have not previously received such training.
