Short Title	Full Case Title and Citation
US – Steel Safeguards	Appellate Body Report, *United States – Definitive Safeguard Measures on Imports of Certain Steel Products*, WT/DS248/AB/R, WT/DS249/AB/R, WT/DS251/AB/R, WT/DS252/AB/R, WT/DS253/AB/R, WT/DS254/AB/R, WT/DS258/AB/R, WT/DS259/AB/R, adopted 10 December 2003, DSR 2003:VII, p. 3117
US – Tyres (China)	Appellate Body Report, *United States – Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China*, WT/DS399/AB/R, adopted 5 October 2011, DSR 2011:IX, p. 4811
US – Upland Cotton	Appellate Body Report, *United States – Subsidies on Upland Cotton*, WT/DS267/AB/R, adopted 21 March 2005, DSR 2005:I, p. 3
US – Upland Cotton	Panel Report, *United States – Subsidies on Upland Cotton*, WT/DS267/R, Add.1 to Add.3 and Corr.1, adopted 21 March 2005, as modified by Appellate Body Report WT/DS267/AB/R, DSR 2005:II, p. 299
US – Wheat Gluten	Appellate Body Report, *United States – Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities*, WT/DS166/AB/R, adopted 19 January 2001, DSR 2001:II, p. 717
US – Zeroing (EC)	Appellate Body Report, *United States – Laws, Regulations and Methodology for Calculating Dumping Margins ("Zeroing")*, WT/DS294/AB/R, adopted 9 May 2006, and Corr.1, DSR 2006:II, p. 417
US – Zeroing (Japan)	Appellate Body Report, *United States – Measures Relating to Zeroing and Sunset Reviews*, WT/DS322/AB/R, adopted 23 January 2007, DSR 2007:I, p. 3

1. INTRODUCTION

1.1 The United States and Korea each appeals certain issues of law and legal interpretations developed in the Panel Report, *United States – Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea*[1] (Panel Report). The Panel was established on 22 January 2014 to consider a complaint by Korea[2] with respect to the consistency of the United States' measures imposing definitive anti-dumping and countervailing duties on imports of large residential washers (LRWs) from Korea with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement), the Agreement on Subsidies and

[1] WT/DS464/R, 11 March 2016.
[2] Request for the Establishment of a Panel by Korea of 5 December 2013, WT/DS464/4.

Countervailing Measures (SCM Agreement), and the General Agreement on Tariffs and Trade 1994 (GATT 1994).

1.2 On 3 September 2014, after consultations with the parties, the Panel adopted additional working procedures for the protection of business confidential information (BCI Procedures).[3] On 12 December 2014, the Panel rejected China's request for enhanced third party rights.[4] On 13 February 2015, the Panel also rejected the European Union's request to amend certain aspects of its working procedures and found that there was no need to modify its BCI Procedures in light of the "reservations" raised by the European Union.[5]

1.3 With regard to the United States' measures imposing definitive anti-dumping duties on imports of LRWs from Korea[6], Korea challenged before the Panel certain aspects of the methodologies used by the United States Department of Commerce (USDOC) to determine whether to apply the weighted average-to-transaction (W-T) comparison methodology. Specifically, Korea challenged: (i) the so-called "Nails II methodology"[7] used in the anti-dumping investigation conducted by the USDOC concerning imports of LRWs from Korea[8] (*Washers* anti-dumping investigation); (ii) the so-called "Differential Pricing Methodology" that replaced the Nails II methodology as of March 2013 (DPM) "as such"; (iii) the DPM "as applied" in the first administrative review of the anti-dumping order imposing anti-dumping duties on LRWs from Korea issued by the USDOC on 15 February 2013[9] (*Washers* anti-dumping order); and (iv) the ongoing and future application of the DPM in connection with the *Washers* anti-dumping investigation. Korea also challenged the USDOC's use of "zeroing" in the context of the W-T comparison methodology.[10] Specifically, Korea challenged: (i) "as such" the rule or norm pursuant to which the USDOC engages in zeroing; and (ii) zeroing "as applied" in the *Washers* anti-dumping investigation.[11]

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[3] Panel Report, para. 1.10 and Annex A-2.

[4] China had indicated that it was a party to a parallel panel proceeding (WT/DS471) and accordingly requested enhanced third party rights. (Panel Report, paras. 1.11-1.12)

[5] Panel Report, paras. 1.13-1.14.

[6] The anti-dumping measures that the Panel referred to are those cited in paragraphs 2.4.a-2.4.e of the Panel Report.

[7] The methodology that was used by the USDOC to determine whether to apply the W-T comparison methodology, introduced in the Polyethylene Retail Carrier Bags from Taiwan anti-dumping investigation in March 2010.

[8] USDOC [A-580-868] Antidumping Duty Investigation of Large Residential Washers from the Republic of Korea.

[9] USDOC [A-201-842, A-580-868] Large Residential Washers From Mexico and the Republic of Korea: Antidumping Duty Orders, *United States Federal Register*, Vol. 78, No. 32 (15 February 2013), pp. 11148-11150 (Panel Exhibit KOR-121).

[10] Zeroing occurs in the context of establishing margins of dumping using the W-T comparison methodology when the USDOC sets at zero any negative comparison result when the results from multiple comparisons between the weighted average normal value and each of the individual export transactions are aggregated. (Panel Report, para. 7.172)

[11] Panel Report, para. 2.2.

1.4 With regard to the United States' measures imposing definitive countervailing duties on imports of LRWs from Korea in connection with the *Washers* countervailing duty investigation[12], Korea challenged under the SCM Agreement the USDOC's determinations that two tax credit programmes[13] were specific. Moreover, Korea raised claims under the SCM Agreement and the GATT 1994 challenging the manner in which the USDOC calculated the *ad valorem* subsidy rate for Samsung Electronics Co., Ltd (Samsung)[14] under those programmes.[15]

1.5 In the Panel Report, circulated to Members of the World Trade Organization (WTO) on 11 March 2016, the Panel found as follows concerning the anti-dumping measures at issue:

a. with regard to the *Washers* anti-dumping investigation:

   i. the United States acted inconsistently with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement by applying the W-T comparison methodology to transactions other than those constituting the patterns of transactions that the USDOC had determined to exist[16];

   ii. Korea failed to establish that the United States acted inconsistently with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement by determining the existence of a "pattern of export prices which differ significantly" among purchasers, regions or time periods on the basis of purely quantitative criteria, without any qualitative assessment of the reasons for the relevant price differences[17];

   iii. the United States acted inconsistently with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement by merely focusing on the difference between the margin of

[12] USDOC [C-580-869] Countervailing Duty Investigation of Large Residential Washers from the Republic of Korea. The countervailing duties that the Panel referred to are those cited in paragraphs 2.4.f-2.4.i of the Panel Report.

[13] The two tax credit programmes are established under Article 10(1)(3) of Korea's Restriction of Special Taxation Act (RSTA), entitled "Tax Deduction for Research and Manpower Development" (RSTA Article 10(1)(3) tax credit programme), and under Article 26 of the RSTA, entitled "Tax Deduction for Facilities Investment" (RSTA Article 26 tax credit programme), respectively.

[14] The amount of subsidy under the RSTA Article 10(1)(3) tax credit programme was conferred on Samsung and its three Korean subsidiaries, i.e. Samsung Gwangju Electronics Co., Ltd (SGEC), Samsung Electronics Service (SES), and Samsung Electronics Logitech (SEL), whereas the amount of subsidy under the RSTA Article 26 tax credit programme was conferred on Samsung and its two Korean subsidiaries, SGEC and SEL. (USDOC [C-580-869] Memorandum to File regarding Final Countervailing Duty Determination: Large Residential Washers from the Republic of Korea (18 December 2012) (Panel Exhibit USA-26 (BCI)), p. 5)

[15] Panel Report, para. 2.3.

[16] Panel Report, para. 8.1.a.i.

[17] Panel Report, para. 8.1.a.ii.

dumping calculated using the weighted average-to-weighted average (W-W) comparison methodology and the margin of dumping calculated using the W-T comparison methodology, and by failing to consider whether the factual circumstances surrounding the relevant price differences were suggestive of something other than "targeted dumping"[18]; and

iv. Korea failed to establish that the United States acted inconsistently with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement by failing to explain why the relevant price differences could not be taken into account appropriately by the transaction-to-transaction (T-T) comparison methodology[19];

b. with regard to the DPM:

i. the DPM is inconsistent "as such" with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement because it applies the W-T comparison methodology to "non-pattern transactions" when the aggregated value of sales to purchasers, regions, and time periods that pass the "Cohen's *d* test"[20] accounts for 66% or more of the value of total sales[21];

ii. Korea failed to establish that the DPM is inconsistent "as such" with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement by determining the existence of "a pattern of export prices which differ significantly" among purchasers, regions or time periods on the basis of purely quantitative criteria, without any qualitative assessment of the reasons for the relevant price differences[22];

iii. the DPM is inconsistent "as such" with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement because, in applying the "meaningful difference test"[23], the DPM focuses on the difference between the margin of dumping calculated using the W-W comparison methodology and the margin of dumping calculated using the W-T comparison methodology or the "mixed" comparison

[18] Panel Report, para. 8.1.a.iii.
[19] Panel Report, para. 8.1.a.iv.
[20] The Cohen's *d* test is used by the USDOC as part of the DPM to evaluate the extent of price differences. The Cohen's *d* test is described in greater detail in paragraph 5.9 of this Report.
[21] Panel Report, para. 8.1.a.vi.
[22] Panel Report, para. 8.1.a.v.
[23] Under the "meaningful difference test", the USDOC examines whether the W-W comparison methodology can appropriately account for identified differences in prices. The meaningful difference test is described in greater detail in paragraph 5.12 of this Report.

methodology.[24] The Panel also found that the DPM fails to provide for any consideration of whether the factual circumstances surrounding the relevant price differences are suggestive of something other than "targeted dumping"[25];

iv. Korea failed to establish that the DPM is inconsistent with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement when, having concluded that the W-W comparison methodology cannot appropriately take into account the observed pattern of significantly different prices, it does not also consider whether the relevant price differences could be taken into account appropriately by the T-T comparison methodology[26];

v. the DPM is inconsistent "as such" with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement because, by aggregating random and unrelated price variations, the DPM does not properly establish "a pattern of export prices which differ significantly among different purchasers, regions or time periods"[27];

vi. Korea failed to establish that the United States' use of "systemic disregarding"[28] under the DPM is inconsistent "as such" with the second sentence of Article 2.4.2 of the Anti-Dumping Agreement[29]; and

vii. Korea failed to establish that the United States' use of "systemic disregarding" under the DPM is inconsistent "as such" with Article 2.4 of the Anti-Dumping Agreement[30]; and

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[24] As we explain below, where the value of the transactions that pass the Cohen's *d* test accounts for more than 33% but less than 66% of the value of total sales, the USDOC combines the application of the W-T comparison methodology to certain transactions (i.e. those transactions that pass the Cohen's *d* test) with the application of the W-W comparison methodology to other transactions (i.e. those transactions that do not pass the Cohen's *d* test). This was referred to as the "mixed" comparison methodology by the Panel. Where the value of the transactions that pass the Cohen's *d* test accounts for 66% or more of the value of total sales, the USDOC applies the W-T comparison methodology to all sales.

[25] Panel Report, para. 8.1.a.vii.

[26] Panel Report, para. 8.1.a.viii.

[27] Panel Report, para. 8.1.a.ix.

[28] As we explain below, "systemic disregarding" occurs when the W-T comparison methodology applied to the transactions that pass the Cohen's *d* test is combined with the W-W comparison methodology applied to the transactions that do not pass the Cohen's *d* test and, if the latter yields an overall negative comparison result, the same is disregarded or set to zero.

[29] Panel Report, para. 8.1.a.x.

[30] Panel Report, para. 8.1.a.xi.

c. with regard to zeroing:

i. the United States' use of zeroing when applying the W-T comparison methodology is inconsistent "as such" with Article 2.4.2 of the Anti-Dumping Agreement[31];

ii. the United States' use of zeroing when applying the W-T comparison methodology is inconsistent "as such" with Article 2.4 of the Anti-Dumping Agreement[32];

iii. the USDOC acted inconsistently with Article 2.4.2 of the Anti-Dumping Agreement by using zeroing when applying the W-T comparison methodology in the *Washers* anti-dumping investigation[33];

iv. the USDOC acted inconsistently with Article 2.4 of the Anti-Dumping Agreement by using zeroing when applying the W-T comparison methodology in the *Washers* anti-dumping investigation[34]; and

v. the United States' use of zeroing when applying the W-T comparison methodology in administrative reviews is inconsistent "as such" with Article 9.3 of the Anti-Dumping Agreement and Article VI:2 of the GATT 1994.[35]

1.6 In addition, the Panel found as follows concerning the countervailing duties at issue:

a. the USDOC's original and remand determinations that the "RSTA Article 10(1)(3) tax credit programme"[36] is *de facto* specific because Samsung received subsidies under that programme in disproportionately large amounts are inconsistent with Article 2.1(c) of the SCM Agreement[37];

b. the USDOC acted inconsistently with Article 2.1(c) of the SCM Agreement by failing to take account of the two mandatory

[31] Panel Report, para. 8.1.a.xii.
[32] Panel Report, para. 8.1.a.xiii.
[33] Panel Report, para. 8.1.a.xiv.
[34] Panel Report, para. 8.1.a.xv.
[35] Panel Report, para. 8.1.a.xvi. The Panel, however, declined to make any findings regarding Korea's allegations concerning the USDOC's use of average export prices rather than actual export prices in calculating standard deviation and the USDOC's alleged "sufficiency test". (*Ibid.*, para. 8.2) Moreover, the Panel did not consider it necessary to address Korea's claims against zeroing under Articles 1 and 2.1 of the Anti-Dumping Agreement and Article VI:1 of the GATT 1994 in the *Washers* anti-dumping investigation, in "subsequent connected stages", and "as such". Nor did it consider it necessary to address Korea's claims against zeroing under Article 9.3 of the Anti-Dumping Agreement and Article VI:2 of the GATT 1994 in "subsequent connected stages" of the *Washers* anti-dumping investigation. The Panel also did not consider it necessary to address Korea's "as applied" and "ongoing conduct" claims concerning the DPM. (*Ibid.*, para. 8.3)
[36] See *supra*, fn 13.
[37] Panel Report, para. 8.1.b.i.

factors referred to in the final sentence of that provision in its determination of *de facto* specificity[38];

c. Korea failed to establish that the USDOC's determination of regional specificity in respect of the "RSTA Article 26 tax credit programme"[39] is inconsistent with Article 2.2 of the SCM Agreement[40];

d. Korea failed to establish that the USDOC's failure to tie the subsidies claimed by Samsung under the RSTA Article 10(1)(3) and Article 26 tax credit programmes to Samsung's digital appliance products (including LRWs) is inconsistent with Article 19.4 of the SCM Agreement and Article VI:3 of the GATT 1994[41]; and

e. Korea failed to establish that the USDOC acted inconsistently with Article 19.4 of the SCM Agreement and Article VI:3 of the GATT 1994 by limiting the denominator to the sales value of products produced by Samsung in Korea when allocating the benefit conferred to Samsung under the RSTA Article 10(1)(3) tax credit programme.[42]

1.7 In accordance with Article 19.1 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), and having found that the United States had acted inconsistently with certain provisions of the Anti-Dumping Agreement, the SCM Agreement, and the GATT 1994, the Panel recommended that the United States bring its measures into conformity with its obligations under those Agreements.[43]

1.8 On 19 April 2016, the United States notified the Dispute Settlement Body (DSB), pursuant to Articles 16.4 and 17 of the DSU, of its intention to appeal certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel and filed a Notice of Appeal[44] and appellant's submission pursuant to Rule 20 and Rule 21, respectively, of the Working Procedures for Appellate Review[45] (Working Procedures). On 25 April 2016, Korea notified the DSB, pursuant to Articles 16.4 and 17 of the DSU, of its intention to appeal certain issues of law covered in the Panel Report and certain legal interpretations developed by the Panel and filed a Notice of Other Appeal[46] and other appellant's submission pursuant to Rule 23 of the Working Procedures. On 9

38 Panel Report, para. 8.1.b.ii.
39 See *supra*, fn 13.
40 Panel Report, para. 8.1.b.iii.
41 Panel Report, para. 8.1.b.iv.
42 Panel Report, para. 8.1.b.v.
43 Panel Report, para. 8.5.
44 WT/DS464/7.
45 WT/AB/WP/6, 16 August 2010.
46 WT/DS464/8.

May 2016, Korea and the United States each filed an appellee's submission.[47] On 9 May 2016, China filed a third participant's submission.[48] On 10 May 2016, Brazil, Canada, the European Union, Japan, Norway, and Viet Nam each filed a third participant's submission.[49] On 17 June 2016, India, Saudi Arabia, Thailand, and Turkey each notified its intention to appear at the oral hearing as a third participant.[50]

1.9 On 22 April 2016, the Appellate Body Secretariat transmitted the Working Schedule for Appeal drawn up by the Appellate Body Division hearing this appeal, setting out the deadlines for filing written submissions.

1.10 On 5 April 2016, Korea and the United States had jointly addressed a letter to the Chair of the Appellate Body, attaching a request that the Division that would eventually hear an appeal in this dispute adopt, pursuant to Rule 16(1) of the Working Procedures, additional procedures for the protection of BCI on the record of this dispute (joint request). Korea and the United States requested the Division to adopt additional procedures for the protection of BCI on the basis of the BCI procedures adopted by the Panel, and attached draft procedures to the joint request. They explained that BCI procedures in this appeal would serve "the interest of fairness and orderly procedure in the conduct of an appeal", according to Rule 16(1) of the Working Procedures. On 8 April 2016, the European Union addressed a letter to the Chair of the Appellate Body commenting on the joint request. The European Union expressed the view that BCI procedures at the appellate stage should not be based on the Panel's BCI procedures.

1.11 By letter dated 19 April 2016, the United States sought guidance from the Appellate Body on how to proceed with filing its appellant's submission, which was to be filed that day and contained information that was designated as BCI in the Panel proceedings. In a letter issued on the same day, the Chair of the Appellate Body, on behalf of the Division hearing this appeal, informed the United States, Korea, and the third parties that, pending a final decision on the joint request, the Division had decided to provide provisional additional protection to information marked as BCI in the United States' appellant's submission and in an eventual other appellant's submission by Korea.[51]

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47 Pursuant to Rules 22 and 23(4) of the Working Procedures.

48 Pursuant to Rule 24(1) of the Working Procedures.

49 *Ibid*.

50 India, Saudi Arabia, Thailand, and Turkey each submitted its delegation list for the oral hearing to the Appellate Body Secretariat and the participants and third participants in this dispute. For the purposes of this appeal, we have interpreted these actions as notifications expressing the intention of India, Saudi Arabia, Thailand, and Turkey to attend the oral hearing pursuant to Rule 24(4) of the Working Procedures.

51 This provisional additional protection prescribed that: (i) no person may have access to BCI except a Member of the Appellate Body or its Secretariat, an employee of a participant, third participant or third party, and an outside advisor for the purposes of this dispute to a participant, third participant or third party; (ii) an outside advisor is not permitted access to BCI if that advisor is an officer or employee of an enterprise engaged in the production, export, or import of the products that

1.12 On 21 April 2016, the Chair of the Appellate Body addressed a letter on behalf of the Division hearing this appeal to the participants, asking them to substantiate further why certain information contained in their submissions and in the Panel record warranted special protection at the appellate stage beyond that already provided under the confidentiality standards set out in Articles 17.10 and 18.2 of the DSU, and the Rules of Conduct.[52] Korea and the United States responded to this request with separate communications on 26 April 2016. On the same date, the Division invited the third participants to provide further comments on the joint request and on Korea's and the United States' responses of 26 April 2016. On 27 April 2016, the European Union provided comments and, on 28 April 2016, China indicated that it had no objection to the requested additional protection of BCI.

1.13 On 9 May 2016, the Division hearing this appeal issued a Procedural Ruling on the protection of BCI on the record in this dispute, which is contained in Annex D of the Addendum to this Report, WT/DS464/AB/R/Add.1.

1.14 By letter dated 19 May 2016 to the Chair of the Appellate Body, Korea requested authorization, pursuant to Rule 18(5) of the Working Procedures, to correct certain clerical errors in its Notice of Other Appeal, other appellant's submission, and appellee's submission. In accordance with Rule 18(5), the Division, by letter dated 20 May 2016, provided the United States, the third participants, and third parties with an opportunity to comment in writing on the request by 23 May 2016. No objections to Korea's request were received and, on 25 May 2016, the Division authorized Korea to correct the clerical errors in its Notice of Other Appeal, other appellant's submission, and appellee's submission, as identified in its letter of 19 May 2016.

1.15 In a letter from the Appellate Body dated 15 June 2016, the United States and Korea were asked to keep their opening statements at the oral hearing to 30 minutes each and the third participants to keep their opening statements to a maximum of five minutes each. In a communication dated 16 June 2016, China requested the Division to allocate further five minutes for its opening statement. China also stated that it looked forward to a full opportunity to engage on the relevant issues during the hearing, in light of its direct and immediate interest in the issues raised in this appeal.[53] By letter dated 17 June 2016, the Presiding

were the subject of the investigations at issue in this dispute; (iii) a participant, third participant or third party having access to BCI shall not disclose that information other than to those persons authorized to receive it pursuant to these provisional procedures; and (iv) each participant and third participant shall have responsibility in this regard for its employees, as well as any outside advisors used for the purposes of this dispute.

[52] The Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes, as adopted by the DSB on 3 December 1996 (WT/DSB/RC/1), are directly incorporated into the Working Procedures for Appellate Review (WT/AB/WP/6), as Annex II thereto. (See WT/DSB/RC/2, WT/AB/WP/W/2)

[53] China explained that several issues of interpretation raised in this appeal are directly relevant to the parallel panel proceedings in the dispute *United States – Certain Methodologies and their Application to Anti-Dumping Proceedings involving China* (DS471).

Member explained that, in light of the many issues raised in this appeal and in order to be able to complete the hearing within a reasonable time-frame, the Division did not consider that it would be appropriate to extend the time allocated for opening statements.

1.16 On 17 June 2016, the Chair of the Appellate Body notified the Chair of the DSB that the Appellate Body would not be able to circulate its Report in this appeal within the 60-day period stipulated in Article 17.5 of the DSU, or within the 90-day period pursuant to the same provision, and informed the Chair of the DSB that the circulation date of the Appellate Body Report in this appeal would be communicated to the participants and third participants after the oral hearing.[54] The Chair of the Appellate Body explained that this was due to a number of factors, including the substantial workload of the Appellate Body in 2016, scheduling difficulties arising from overlap in the composition of the Divisions hearing the different appeals, the number and complexity of the issues raised in this and concurrent appellate proceedings, together with the demands that these concurrent appeals place on the WTO Secretariat's translation services, and the shortage of staff in the Appellate Body Secretariat. On 7 July 2016, the Chair of the Appellate Body notified the Chair of the DSB that the Report in this appeal would be circulated to WTO Members no later than Wednesday, 7 September 2016.[55]

1.17 The oral hearing in this appeal was held on 20-21 June 2016.[56] The participants and six third participants (Brazil, Canada, China, Japan, Norway, and Viet Nam) made opening oral statements. The participants and third participants responded to questions posed by the Appellate Body Division hearing this appeal.

2. ARGUMENTS OF THE PARTICIPANTS

2.1 The claims and arguments of the participants are reflected in the executive summaries of their written submissions provided to the Appellate Body.[57] The Notices of Appeal and Other Appeal, and the executive summaries of the participants' claims and arguments, are contained in Annexes A and B of the Addendum to this Report, WT/DS464/AB/R/Add.1.

[54] WT/DS464/9.
[55] WT/DS464/10.
[56] On 25 April 2016, the United States had informed the Appellate Body that it would have significant difficulty participating in an oral hearing scheduled during the week of 6 June 2016 or 4 July 2016, due to the unavailability of key members of the United States' delegation during those periods.
[57] Pursuant to the Appellate Body's communication on "Executive Summaries of Written Submissions in Appellate Proceedings" and "Guidelines in Respect of Executive Summaries of Written Submissions in Appellate Proceedings" (WT/AB/23, 11 March 2015).