

E. CONCLUSIONS AND RECOMMENDATION

7.258 In light of our findings above, we conclude that:

- (a) By maintaining *model zeroing* procedures in the context of original investigations USDOC acts inconsistently with Article 2.4.2 of the *AD Agreement*.
- (b) By using model zeroing in the anti-dumping investigation of imports of cut-to-length carbon quality steel products from Japan USDOC acted inconsistently with Article 2.4.2 of the *AD Agreement*.

7.259 We also conclude that:

- (a) By maintaining simple zeroing procedures in the context of original investigations USDOC does not act inconsistently with Articles 1, 2.1, 2.4.2, 2.4, 3.1-3.5, 5.8 and 18.4 of the *AD Agreement*, Articles VI:1 and VI:2 of the GATT 1994 and Article XVI:4 of the WTO Agreement.
- (b) By maintaining simple zeroing procedures in the context of periodic reviews and new shipper reviews USDOC does not act inconsistently with Articles 1, 2.1, 2.4.2, 2.4, 9.1-9.3, 9.5 and 18.4 of the *AD Agreement*, Articles VI:1 and VI:2 of the GATT 1994 and Article XVI:4 of the WTO Agreement.
- (c) By applying simple zeroing in 11 periodic reviews USDOC did not act inconsistently with Articles 1, 2.1, 2.4.2, 2.4, 9.1-9.3 of the *AD Agreement* and Articles VI:1 and VI:2 of the GATT 1994.
- (d) Japan has failed to make a *prima facie* case that by maintaining zeroing procedures in the context of changed circumstances reviews and sunset reviews USDOC acts inconsistently with Articles 2 and 11 of the *AD Agreement*.
- (e) By relying on dumping margins calculated in previous proceedings in the sunset reviews of corrosion-resistant carbon steel from Japan and of anti-friction bearings from Japan USITC and USDOC did not act inconsistently with Articles 2 and 11 of the *AD Agreement*.

7.260 We have also concluded, on grounds of judicial economy, that it is not necessary for the Panel to make findings on:

- (a) the claims of Japan that maintaining model zeroing procedures in the context of original investigations is inconsistent with Articles 1, 2.1, 2.4, 3.1-3.5, 5.8 and 18.4 of the *AD Agreement*, Articles VI:1 and VI:2 of the GATT 1994 and Article XVI:4 of the WTO Agreement; and
- (b) the claims of Japan that the use of model zeroing in the anti-dumping investigation of imports of cut-to-length carbon quality steel products from Japan was inconsistent with Articles 1, 2.4 and 3.1-3.5 of the *AD Agreement*.

7.261 Under Article 3.8 of the DSU, in cases where there is infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment of benefits under that agreement. Accordingly, we conclude that to the extent the United States acted inconsistently with the provisions of the *AD Agreement*, it has nullified or impaired benefits accruing to Japan under the *AD Agreement*.

7.262 We therefore recommend that the Dispute Settlement Body request the United States to bring its measures into conformity with its obligations under the *AD Agreement*.

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