

US – SHRIMP (ECUADOR)¹
(DS335)

PARTIES		AGREEMENTS	TIMELINE OF THE DISPUTE	
Complainant	<i>Ecuador</i>	<i>ADA Art. 2.4.2</i>	Establishment of Panel	<i>19 June 2006</i>
			Circulation of Panel Report	<i>30 January 2007</i>
Respondent	<i>United States</i>		Circulation of AB Report	<i>NA</i>
			Adoption	<i>20 February 2007</i>

1. MEASURE AND PRODUCT AT ISSUE

- Measure at issue: United States' final anti-dumping measures including margins of dumping calculated using "zeroing" under the weighted-average-to weighted-average methodology.
- Product at issue: Certain frozen warmwater shrimp from Ecuador.

2. SUMMARY OF KEY PANEL FINDINGS

- ADA Art. 2.4.2 (zeroing): The Panel found that the United States Department of Commerce (USDOC) acted inconsistently with the first sentence of ADA Art. 2.4.2 by using "zeroing" in calculating margins of dumping under the weighted-average-to-weighted-average methodology in the context of an original investigation.

3. OTHER ISSUES

- Role of WTO panels and burden of proof in disputes where the respondent does not object to the complainant's claims: The Panel considered that, although the respondent did not contest any of the complainant's claims, its responsibilities remained as set forth under Article 11 DSU, i.e. to make "an objective assessment of the matter before it". With respect to the burden of proof, the Panel considered that merely because the respondent did not object to the claims did not absolve the claimant from having to make a prima facie case of violation.
- Status of prior adopted Appellate Body Reports: The Panel followed the reasoning of the Appellate Body in *US – Softwood Lumber V*, a dispute involving a similar claim against a similar measure. The Panel noted that while it was not, strictly speaking, bound by the reasoning of adopted Appellate Body reports, such reports create legitimate expectations among WTO Members.

¹ *United States – Anti-Dumping Measure on Shrimp from Ecuador*