

**X. Findings and Conclusions**

216. For the reasons set forth in this Report, the Appellate Body:

(a) in relation to causation:

(i) finds that there is no requirement to establish the existence of a causal link between likely dumping and likely injury, as a matter of legal obligation, in a sunset review determination under Article 11.3 of the *Anti-Dumping Agreement* and that, therefore, the USITC was not required to demonstrate such a link in making its likelihood-of-injury determination in the sunset review at issue in this dispute; and

(ii) finds that the Panel did not act inconsistently with Article 11 of the DSU in its assessment of Mexico's arguments in this regard;

(b) in relation to cumulation:

(i) upholds the Panel's findings, in paragraphs 7.150, 7.151, and 8.8 of the Panel Report, that the USITC's decision to conduct a cumulative assessment of imports in making its likelihood-of-injury determination was not inconsistent with Articles 3.3 and 11.3 of the *Anti-Dumping Agreement*; and

(ii) finds that the Panel did not act inconsistently with Article 11 of the DSU in its assessment of Mexico's arguments in this regard;

(c) in relation to dumping margins:

(i) finds that the Panel did not act inconsistently with Article 11 of the DSU in not addressing Mexico's claim under Article 2 of the *Anti-Dumping Agreement*; and

(ii) finds it unnecessary to rule on Mexico's claim relating to Article 2 of the *Anti-Dumping Agreement*;

(d) finds that the Panel did not act inconsistently with Article 11 of the DSU in declining to make a specific finding that the United States had no legal basis to continue the anti-dumping duties on OCTG from Mexico beyond the five-year period established by Article 11.3 of the *Anti-Dumping Agreement*;

- (e) in relation to the SPB:
  - (i) finds that, in assessing the consistency of the SPB, as such, with Article 11.3 of the *Anti-Dumping Agreement*, the Panel failed to make an objective assessment of the matter, including an objective assessment of the facts of the case, as required by Article 11 of the DSU;
  - (ii) reverses the Panel's finding, in paragraphs 7.64 and 8.1 of the Panel Report, that Section II.A.3 of the SPB, as such, is inconsistent with Article 11.3 of the *Anti-Dumping Agreement*; and
  - (iii) finds that the Panel's statement, in paragraph 6.28 of the Panel Report, that Mexico had established a *prima facie* case that the SPB, as such, is inconsistent with Article 11.3 of the *Anti-Dumping Agreement*, is moot and of no legal effect; and
- (f) having reversed the Panel's finding that Section II.A.3 of the SPB is inconsistent with Article 11.3 of the *Anti-Dumping Agreement*:
  - (i) finds no merit in the argument that the Tariff Act, the SAA, and the SPB, "collectively and independently", establish a standard that is inconsistent with Article 11.3 of the *Anti-Dumping Agreement*; and
  - (ii) finds that it is not in a position to rule on Mexico's claim that the USDOC does not administer United States laws and regulations on sunset reviews in a uniform, impartial, and reasonable manner in accordance with Article X:3(a) of the GATT 1994.

217. As there is no appeal from the Panel's finding that the USDOC's likelihood-of-dumping determination in the sunset review at issue in this dispute was inconsistent with Article 11.3 of the *Anti-Dumping Agreement*, we do not make any *additional* recommendation regarding that finding. Given that we have not found in this Report that the United States acted inconsistently with any of its WTO obligations, we make no recommendation to the DSB pursuant to Article 19.1 of the DSU in this regard.

Signed in the original in Geneva this 18th day of October 2005 by:

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A.V. Ganesan  
Presiding Member

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John Lockhart  
Member

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Yasuhei Taniguchi  
Member