

VII. Findings and Conclusions

213. For the reasons set out in this Report, the Appellate Body:

- (a) upholds the Panel's findings, in paragraphs 7.107, 7.114, and 7.116 of the Panel Report, that Review 9 was properly within the Panel's terms of reference;
- (b) upholds the Panel's finding, in paragraphs 7.154 and 8.1(a) of the Panel Report, that the United States has failed to comply with the DSB's recommendations and rulings regarding the importer-specific assessment rates determined in Reviews 1, 2, 3, 7, and 8 that apply to entries covered by those Reviews that were, or will be, liquidated after the expiry of the reasonable period of time; and also upholds the Panel's finding, in paragraphs 7.154 and 8.1(a)(i) of the Panel Report, that the United States is in continued violation of its obligations under Articles 2.4 and 9.3 of the *Anti-Dumping Agreement* and Article VI:2 of the GATT 1994;
- (c) upholds the Panel's finding, in paragraphs 7.168 and 8.1(b) of the Panel Report, that the United States has acted inconsistently with Articles 2.4 and 9.3 of the *Anti-Dumping Agreement* and Article VI:2 of the GATT 1994 by applying zeroing in the context of Reviews 4, 5, 6, and 9; and
- (d) upholds the Panel's finding, in paragraphs 7.208 and 8.1(d) of the Panel Report, that the United States is in violation of Articles II:1(a) and II:1(b) of the GATT 1994 with respect to certain liquidation actions taken after the expiry of the reasonable period of time, namely, with respect to the USDOC liquidation instructions set forth in Panel Exhibits JPN-40.A, and JPN-77 to JPN-80, and the Customs liquidation notices set forth in Panel Exhibits JPN-81 to JPN-87.

214. To the extent that the United States has failed to comply with the recommendations and rulings of the DSB in the original dispute, the recommendations and rulings remain operative. The Appellate Body recommends that the DSB request the United States to bring into conformity with its obligations under the *Anti-Dumping Agreement* and the GATT 1994 the measures found in this Report and in the Panel Report to be inconsistent with those Agreements.

Signed in the original in Geneva this 31st day of July 2009 by:

Giorgio Sacerdoti
Presiding Member

Lilia R. Bautista
Member

Yuejiao Zhang
Member