

## VIII. CONCLUSIONS AND RECOMMENDATIONS

8.1 In accordance with our mandate under Article 21.5 of the DSU, we have examined the existence or consistency with covered agreements of measures taken by the United States to comply with recommendations and rulings adopted by the DSB in the original proceeding. In the light of our reasoning above:

- (a) We find 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 RPT.
  - (i) Accordingly, we find that the United States is in continued violation of its obligations under Articles 2.4 and 9.3 of the *AD Agreement* and Article VI:2 of the GATT 1994.
  - (ii) We decline to rule on Japan's claim that this failure to comply is inconsistent with the United States' obligations under Articles 17.14, 21.1 and 21.3 of the DSU.
- (b) We find that the United States has acted inconsistently with Articles 2.4 and 9.3 of the *AD Agreement* and Article VI:2 of the GATT 1994 by applying zeroing in the context of Reviews 4, 5, 6 and 9.
- (c) We find that the United States has failed to comply with the recommendations and rulings of the DSB regarding the United States' maintenance of zeroing procedures challenged "as such" in the original proceedings. In particular, we find that the United States has failed to implement the DSB's recommendations and rulings in the context of T-to-T comparisons in original investigations and under any comparison methodology in periodic and new shipper reviews.
  - (i) Accordingly, we find that the United States remains in violation of Articles 2.4, 2.4.2, 9.3 and 9.5 of the *AD Agreement* and Article VI:2 of the GATT 1994.
  - (ii) We decline to rule on Japan's claim that this failure to comply is inconsistent with the United States' obligations under Articles 17.14, 21.1 and 21.3 of the DSU.
- (d) We find 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 RPT, namely with respect to the USDOC liquidation instructions set forth in Exhibits JPN-40A and JPN-77 to JPN-80 and the USCBP liquidation notices set forth in Exhibits JPN-81 to JPN-87.
- (e) We find that the United States has failed to comply with the DSB's recommendations and rulings with respect to the 1999 sunset review.
  - (i) Accordingly, we find that the United States remains in violation of Article 11.3 of the *AD Agreement*.

- (ii) We decline to rule on Japan's claim that this failure to implement is inconsistent with the United States' obligations under Articles 17.14, 21.1 and 21.3 of the DSU.

8.2 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. We also recommend that the DSB request the United States to bring Reviews 4, 5, 6 and 9, and the liquidation actions referred to in para. 7.1(d) above, into conformity with the *AD Agreement* and the GATT 1994.

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