

VIII. CONCLUSIONS AND RECOMMENDATION

8.1 In light of the above findings, we conclude that the United States acted inconsistently with Article 2.4.2, first sentence, of the *Anti-Dumping Agreement* by using "zeroing" in the Final Determination, as amended, and the Order to determine the dumping margins for individually investigated Thai exporters whose margins of dumping were not based on total facts available.

8.2 Under Article 3.8 of the DSU, in cases where there is an 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 has acted inconsistently with the provisions of the *Anti-Dumping Agreement*, it has nullified or impaired benefits accruing to Thailand under that Agreement. We therefore recommend that the Dispute Settlement Body request the United States to bring its measures into conformity with its obligations under the *Anti-Dumping Agreement*.
