

ANNEX D

ORAL STATEMENTS OF THIRD PARTIES OR EXECUTIVE SUMMARIES THEREOF

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ANNEX D-1

ORAL STATEMENT OF CHINA

China shares the view with Korea that it is well-settled by the Appellate Body and panels that the practice of zeroing employed by the Ministry of Commerce of the United States (the "USDOC") is not consistent with the requirement of Article 2.4.2 of the Anti-Dumping Agreement, first sentence.

Besides requesting that the Panel recommend that the United States be instructed to bring its measures into conformity with its obligations under the relevant covered agreements of the WTO, China further urges the United States to provide a package solution to this issue so as to avoid any more disputes on zeroing.

The USDOC modified its methodology in anti-dumping investigations with respect to the calculation of the weighted-average dumping margin on 16 January 2007. However, there are still many exporters suffering today from the zeroing methodology adopted in anti-dumping determinations conducted before that date, including Chinese exporters. According to current practice of the USDOC, these companies could not have the benefit of the modification by the USDOC simply because the USDOC refuses to recalculate the relevant anti-dumping rates conducted before that date.

China takes the view that it would be an unnecessary cost for the member whose companies are suffering from the zeroing methodology if it has to bring such case before the WTO. The precious resources of the WTO should not be wasted in such a manner. China requests the United States to recalculate the anti-dumping rates upon applications of relevant companies and provide a package solution to this issue so as to ensure that it fully brings its measures into conformity with its obligations under the relevant covered agreements of the WTO.

ANNEX D-2

ORAL STATEMENT OF THE EUROPEAN UNION

Mr. Chairman, distinguished members of the Panel,

1. Following your indication, the EU will be brief in its intervention of today. As mentioned in our written submission, the EU considers that there is no "dispute" before the parties as to the facts of the case, as shown by the evidence, the interpretation of the relevant law and its application to the facts. There is no "debate", "controversy" or "difference in opinion" between the parties. The rights and obligations of both parties seem to have been acknowledged by Korea and the U.S. in this case and, therefore, there is no need for the Panel to clarify the meaning of the covered agreements.¹

2. In the EU's view, where certain matters are put to the Panel as agreed between the parties, that might consequently have an effect on the precise terms of the findings that the Panel can make, which findings are eventually to be adopted by the DSB. Thus, under the circumstances of the present case, the report of the Panel could be limited to making the finding that the parties agree that there is no dispute, and then recommend that the United States bring the measures at issue into conformity with its obligation under the covered agreements. The Panel would distinguish between a finding that the parties agree with respect to a particular fact, evidentiary matter or legal issue; and the Panel itself making such finding or recommendation. This would be consistent with the Panel's obligations under Article 11 of the *DSU*.

Thank you for your attention. We are ready to respond to any questions you may have.

¹ *DSU*, Article 3.2 ("The Members recognize that it serves to preserve the rights and obligations of Members under the covered agreements, and to clarify the existing provisions of those agreements in accordance with customary rules of interpretation of public international law").

