

Articles 1 and 2.1 of the Anti-Dumping Agreement as well as Articles VI:1 and VI:2 of the GATT 1994 in the underlying investigation. We have concluded that the USDOC acted inconsistently with the second sentence of Article 2.4.2 in the underlying investigation because it identified a single pattern that aggregates differences in export prices across purchasers, regions and time periods, which the second sentence does not permit. We have rejected other aspects of Canada's claims under the second sentence of Article 2.4.2 as well as its claim under Article 2.4.

7.114. We consider our findings under the second sentence of Article 2.4.2 and under Article 2.4 to be sufficient to resolve this dispute. Therefore, we do not find it necessary to address Canada's claims under Articles 1 and 2.1 of the Anti-Dumping Agreement as well as Articles VI:1 and VI:2 of the GATT 1994.¹⁸⁷

7.115. Based on the foregoing, we exercise judicial economy on Canada's claims under Articles 1 and 2.1 of the Anti-Dumping Agreement as well as Articles VI:1 and VI:2 of the GATT 1994.

8 CONCLUSIONS AND RECOMMENDATION

8.1. For the reasons set forth in this Report, we find that in applying the DPM in the underlying investigation the United States acted inconsistently with:

- a. Article 2.4.2 of the Anti-Dumping Agreement by aggregating differences in export prices across unrelated categories, i.e. purchasers, regions and time periods to identify a single pattern of export prices which differed significantly among different purchasers, regions and time periods.

8.2. For the reasons set forth in this Report, we find that Canada has failed to demonstrate that in applying the DPM in the underlying investigation the United States acted inconsistently with:

- a. Article 2.4.2 of the Anti-Dumping Agreement by including, in the pattern, export transactions to those purchasers, regions or time periods whose prices differed significantly because they were significantly higher relative to export prices to other purchasers, regions or time periods.
- b. Article 2.4.2 of the Anti-Dumping Agreement by using zeroing under the W-T methodology provided in the second sentence of Article 2.4.2.
- c. Article 2.4 of the Anti-Dumping Agreement by using zeroing under the W-T methodology provided in the second sentence of Article 2.4.2.

8.3. For the reasons set forth in this Report, we do not need to address, and exercise judicial economy on, Canada's consequential claims under Articles 1 and 2.1 of the Anti-Dumping Agreement as well as Articles VI:1 and VI:2 of the GATT 1994.

8.4. 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. We conclude that, to the extent the measure at issue is inconsistent with the Anti-Dumping Agreement, it has nullified or impaired benefits accruing to Canada under this agreement.

8.5. Pursuant to Article 19.1 of the DSU, we recommend that the United States bring its measure into conformity with its obligations under the Anti-Dumping Agreement.

¹⁸⁷ Panels are not required to address each and every claim. Instead, a panel is only required to address those claims that are necessary to resolve a dispute. (Appellate Body Report, *Argentina – Import Measures*, para. 5.190).