

Original: English

**UNITED STATES – ANTI-DUMPING MEASURES ON POLYETHYLENE
RETAIL CARRIER BAGS FROM THAILAND**

Request for Consultations by Thailand

The following communication, dated 26 November 2008, from the delegation of Thailand to the delegation of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of the United States (the "United States") pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU"), Article XXIII:1 of the *General Agreement on Tariffs and Trade 1994* (the "GATT 1994") and Articles 17.2, 17.3 and 17.4 of the *Agreement on Implementation of Article VI of GATT 1994* (the "Anti-Dumping Agreement") with respect to the application by the United States of the practice known as "zeroing" of negative dumping margins in the United States' determination of the margins of dumping in its anti-dumping investigation of Polyethylene Retail Carrier Bags from Thailand (Inv. No.A-549-821).

The final determination in this investigation was published by the United States Department of Commerce ("USDOC") on 18 June 2004¹ (the "Final Determination") and an amended final determination was published by the USDOC on 15 July 2004² (the "Amended Final Determination"). Following a final determination of injury by the United States International Trade Commission, the United States issued an anti-dumping duty order against imports of Polyethylene Retail Carrier Bags from Thailand on 9 August 2004³ (the "Order").

Specifically, the Government of the Kingdom of Thailand ("Thailand") requests consultations concerning the USDOC's use in the Final Determination and Amended Final Determination of the practice of "zeroing" negative anti-dumping margins in calculating overall weighted-average margins of dumping in this investigation. The effect of this practice was to create artificially margins of dumping where none would otherwise have been found or, at a minimum, to inflate margins of dumping. Thailand considers the USDOC's use of this practice of "zeroing" in the Final Determination, the Amended Final Determination, and the Order to be inconsistent with the

¹ See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand*, 69 Fed. Reg. 34122, 18 June 2004.

² See *Notice of Amended Final Determination of Sales at Less Than Fair Value : Polyethylene Retail Carrier Bags from Thailand*, 69 Fed. Reg. 42419, 15 July 2004.

³ See *Antidumping Duty Order: Polyethylene Retail Carrier Bags from Thailand*, 69 Fed. Reg. 48204, 9 August 2004.

obligations of the United States under Article VI of the GATT 1994, and, in particular, under Article 2.4.2 of the Anti-Dumping Agreement.

I look forward to receiving your reply to this request, and, in accordance with Article 4.3 of the DSU, to selecting a mutually-acceptable date for holding consultations. Thailand welcomes any suggestions that the United States may have concerning the date and venue for these consultations.
