

WORLD TRADE ORGANIZATION

WT/DS422/1/Add.1
G/L/953/Add.1
G/ADP/D87/1/Add.1
27 July 2011

(11-3825)

Original: English

UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN FROZEN WARMWATER SHRIMP FROM CHINA^{*}

Request for Consultations by China

Addendum

The following communication, dated 22 July 2011, from the delegation of China to the delegation of the United States and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

This letter contains a request for consultations with the Government of the United States pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") and Article 17 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("Anti-Dumping Agreement") with regard to the "zeroing" practice by the United States Department of Commerce ("USDOC") in its anti-dumping measures on diamond sawblades and parts thereof from the People's Republic of China ("China") (Case No. A-570-900). The present request complements, constitutes an addendum to, and must be read together with, the original request for consultations filed by China on 28 February 2011 with regard to the USDOC's "zeroing" practice in its anti-dumping measures on certain frozen warmwater shrimp from China (Document WT/DS422/1, G/L/953, G/ADP/D87/1).

On 28 February 2011, the Government of China requested consultations with the Government of the United States under Article 4 of the DSU, Article XXII:1 of the GATT 1994 and Article 17 of the Anti-Dumping Agreement with regard to the "zeroing" practice by the USDOC in its anti-dumping measures on certain frozen warmwater shrimp from China (Case No. A-570-893).¹ Consultations were held by China and the United States on 11 May 2011.

In addition to the "zeroing" practice by the USDOC in its anti-dumping measures on certain frozen warmwater shrimp from China, China hereby would like to further consult with the Government of the United States with regard to the "zeroing" practice by the USDOC in its anti-dumping measures on diamond sawblades and parts thereof from China. The matters that China would like to consult with the United States concern, *inter alia*, the following anti-dumping measures imposed by the United States:

^{*} Given the product coverage of this addendum, this dispute will forthwith be called *United States – Anti-Dumping Measures on Certain Shrimp and Diamond Sawblades from China*.

¹ See WT/DS422/1, G/L/953, G/ADP/D87/1.

- (a) *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 Federal Register 29303 (22 May 2006), as amended by:
- *Notice of Amended Final Determination of Sales at Less Than Fair Value: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 Federal Register 35864 (22 June 2006);
- (b) Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the People's Republic of China, 15 May 2006;²
- (c) *Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 Federal Register 57145 (4 November 2009);
- (d) as well as any amendments, replacements and/or implementing measures for the measures identified above under subparagraphs (a) to (c).

In these measures, the USDOC has engaged in the "zeroing" practice in calculating the dumping margins. Specifically, for respondents subject to individual examination, the USDOC identified sub-groups of products within the product under investigation ("averaging groups") on a per model basis and calculated margins within each of the averaging groups by comparing the weighted average export price and the corresponding weighted average normal value. The results of these comparisons on an "averaging group" basis were added up to establish the dumping margin of the product under investigation as a whole; however, in this process, any negative margins or amounts of "dumping" resulting from the "averaging group" comparisons were put at zero. The USDOC's zeroing practice has artificially created or, at a minimum, inflated dumping margins for the individually investigated respondents. In addition, on the basis of these individual dumping margins, the USDOC further calculated a weighted-average margin (known as the "separate rate") that applied to the cooperating non-mandatory respondents.³

China considers that the zeroing practice in these measures is inconsistent with the obligations of the United States under Articles VI:1 and VI:2 of the GATT 1994 and Articles 1, 2.1, 2.4, 2.4.2, 5.8, 9.2, 9.3 and 9.4 of the Anti-Dumping Agreement.

The Government of China reserves its right to raise further factual and legal issues during the course of the consultations.

China looks forward to receiving the reply of the Government of the United States to this request and to setting a mutually convenient date for consultations.

² Accessed at <http://ia.ita.doc.gov/frn/summary/prc/E6-7763-1.pdf>. See also 71 Federal Register 29303, 22 May 2006.

³ Such non-selected respondents were also required to pass the "separate-rate test" in order to receive the separate rate.