

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

RE: Final Results of Proceeding Under Section 129 of the Uruguay
Round Agreements Act: Antidumping Measures on Certain Cut-
to-Length Carbon-Quality Steel Plate Products from Japan

SUBJECT: Issues and Decision Memorandum for the Final Results

Summary

This memorandum addresses issues briefed in the above-referenced proceeding. Below is a complete list of the issues in this proceeding for which we have received comments from the parties:

- Comment 1: Whether Customs Instructions Should Be Clarified to Retain the Deposit Rates for Producers Whose Margins Were Not Recalculated
- Comment 2: Whether the Preliminary Results Are Consistent with U.S. Law
- Comment 3: Whether the Statute Equates the Dumping Margin with the Antidumping Duty Assessment
- Comment 4: Whether the Department's Interpretation of the Term 'Dumping Margin' is Inconsistently Applied to Antidumping Investigations and Administrative Reviews

Background

On November 19, 2007, the Department of Commerce (the Department) advised interested parties that it was initiating a proceeding under section 129 of the Uruguay Round

Agreements Act (URAA) to issue a determination that is not inconsistent with the findings of the World Trade Organization (WTO) dispute settlement panel in *United States - Measures Relating to Zeroing and Sunset Reviews* (WT/DS322) (September 20, 2006) (Panel Report). On November 26, 2007, the Department issued its preliminary results, in which it recalculated the weighted-average dumping margins from the antidumping investigation of certain cut-to-length carbon-quality steel plate products from Japan by allowing an offset for non-dumped comparisons. See Memorandum from Stephen J. Claeys to David M. Spooner entitled “Calculation of the Weighted-Average Dumping Margins” (Preliminary Results Memorandum); see also Memorandum to The File, through Mark Manning, Program Manager, Office 4, from Maisha Cryor, Office 4, Regarding the “Preliminary Recalculation of the Weighted-Average Margin for Kawasaki Steel Corporation (Kawasaki); Section 129 Determination in the Implementation of the Findings of the WTO Panel in United States – Antidumping Measure on Certain Cut-to-Length Carbon-Quality Steel Plate Products from Japan (Preliminary Calculation Memorandum),” dated November 26, 2007.

The Department invited interested parties to comment on the preliminary results. See Preliminary Results Memorandum at 4. On December 3, 2007, we received a case brief from IPSCO Steel Inc. (IPSCO), a domestic interested party. We received no other case briefs. In addition, we received no rebuttal briefs.

Discussion of Issues

Issue 1: Whether Customs Instructions Should Be Clarified to Retain the Deposit Rates for Producers Whose Margins Were Not Recalculated

IPSCO notes that Kawasaki was the only company in the less-than-fair-value (LTFV) investigation to receive a calculated rate, while the rates for Kobe Steel Ltd. (Kobe), Nippon Steel Corporation (Nippon), and Sumitomo Metal Industries, Ltd. (Sumitomo), were based on total adverse facts available. IPSCO urges the Department to clarify in the customs instructions pursuant to this proceeding that the deposit rates for Kobe, Nippon and Sumitomo were not revised as a result of the calculations made in this proceeding.

Department’s Position: In the draft customs instructions (to afford parties an opportunity to comment) issued simultaneously with the Preliminary Results Memorandum, the Department only listed the recalculated dumping margins for Kawasaki and “All Others.” However, to clarify the rates for the other companies who received a dumping margin in the LTFV investigation, the Department will list their original rates, in addition to the re-calculated Kawasaki and “All Others” rates, in the final customs instructions.

Issue 2: Whether the Preliminary Results Are Consistent with U.S. Law

IPSCO argues that, when calculating weighted-average dumping margins, the offsetting of positive margins with negative margins violates the language and intent of the U.S. statute.

Specifically, citing to § 771(35)(A) of the Tariff Act of 1930, as amended (the Act), IPSCO argues that the result of a comparison between the normal value (NV) and export price (EP) where the NV is less than the EP does not comport with the statutorily established condition for a dumping margin – that the “normal value exceeds the export price.” (Emphasis in original.) IPSCO argues that, in the Section 129 proceedings the Department erred by not excluding the result of negative margin comparisons from the numerator of the weighted-average dumping margin ratio, or by not zeroing-out results where the NV was less than the EP.

In addition, citing Timken Company v. United States, 354 F.3d 1334, 1342 (Fed. Cir. 2004) (Timken), IPSCO argues that, given the ambiguity in the word “exceeds,” the Timken court found that the statute does not “unambiguously preclude the existence of negative dumping margins.” However, IPSCO argues that the statutory definition of “dumping margin” is not limited to the meaning of the single word “exceeds,” but instead involves the meaning of the entire statutory phrase at §771(35)(A) of the Act, namely, that “the term ‘dumping margin’ means the amount by which the normal value exceeds the export price.” IPSCO contends that the single word “exceeds” alone cannot indicate anything about the dumping margin, other than that it involves the mathematical inequality set up by the word “exceeds”. IPSCO states that the language “normal value exceeds export price” bifurcates the results of comparisons between the NV and the EP into two mutually exclusive groups: the first group consists of comparisons where the NV exceeds EP; and the second group consists of comparisons where the NV does not exceed the EP. IPSCO contends that the result of a comparison between the NV and EP, which is the comparison that establishes whether or not a dumping margin occurs, may fall into only one of these two mutually exclusive groups. IPSCO argues that to comply with the statutory definition, a dumping margin cannot occur as the result of a comparison for which the NV is less than the EP because for that comparison the NV does not exceed the EP. Similarly, IPSCO argues that the numerator of the weighted-average dumping margin ratio cannot include the result of a comparison for which the NV is less than the EP because, if any such result is included in the numerator, it necessarily cannot equal the “amount by which the normal value exceeds the export price.” Therefore, IPSCO states that the numerator of the weighted-average dumping margin ratio may consist of only the result of comparisons where the NV is greater than the EP, and cannot include the result of comparisons where the NV is less than the EP. IPSCO asserts that the statute by its plain language requires the dumping margin to equal the amount by which the NV exceeds the EP. Further, because the Kawasaki LTFV margin was calculated in this manner, IPSCO maintains that this margin should not be revised in reaching the final results of the present proceeding.

IPSCO, citing “Final Results for the Section 129 Determinations: Certain Hot-rolled Carbon Steel from the Netherlands, Stainless Steel Bar from France, Stainless Steel Bar from Germany, Stainless Steel Bar from Italy, Stainless Steel Bar from the United Kingdom, Stainless Steel Wire Rod from Sweden, Stainless Steel Wire Rod from Spain, Stainless Steel Wire Rod from Italy, Certain Stainless Steel Plate in Coils from Belgium, Stainless Steel Sheet and Strip in Coils from Italy, Certain Cut-To- Length Carbon-Quality Steel Plate Products from Italy, Certain Pasta from Italy: Issues and Decision Memorandum for the Final Results of the Section 129

Determinations,” dated April 9, 2007 (EC Final Results Memo), states that in previous Section 129 proceedings, the Department refers to the result of comparisons where the NV is less than the EP as negative margins, or as “offsets.” Specifically, in the EC Final Results Memo, IPSCO notes that the Department stated:

The CAFC, in construing U.S. law, held that the denial of offsets when calculating the weighted-average dumping margin is not required by statute, but is instead a reasonable interpretation of the statute. See Corus Staal BV v. Department of Commerce, 395 F.3d 1343, 1347 (Fed. Cir. 2005), cert denied, 126 S. Ct. 1023 (2006); Timken Co. v. United States, 354 F.3d 1334, 1341-1342 (Fed. Cir.), cert denied sub nom., Koyo Seiko Co. v. United States, 543 U.S. 976 (2004). While many parties have expressed disagreement with these CAFC decisions, they are binding legal precedent.

Id. at 9. IPSCO states that these “offsets” are the results of comparisons where the NV is less than the EP that are subtracted from the results of comparisons where the NV is greater than the EP. However, IPSCO contends that the cases the Department cited in the EC Final Results Memo, as support of its claim that the “denial of offsets in calculating the weighted-average dumping margin is not required by statute,” did not involve the question of whether offsets may be subtracted from positive dumping margins. Instead, IPSCO maintains that all of the cases that the Department cited involved a different issue – whether “zeroing” is permitted by the statute. Given its assertion that none of the cases cited by the Department involved the question of offsets, IPSCO contends that the Department’s claim that “the denial of offsets in calculating the weighted-average dumping margin is not required by statute” is without any precedential support from case law.

However, IPSCO argues that the U.S. courts have consistently found zeroing to be a permissible practice. IPSCO asserts that the amount of the weighted-average dumping margin that results from zeroing properly equals the amount of results of only comparisons where the NV exceeds the EP. Similarly, IPSCO asserts that zeroing has the same effect on the weighted-average dumping margin as disregarding the results of comparisons where the NV is less than the EP. Therefore, IPSCO states that there are two means under the statute by which the Department may exclude the results of comparisons where the NV is less than the EP from the numerator of the weighted-average dumping margin ratio. However, IPSCO asserts that the Department did neither of these in the Section 129 proceeding, but instead violated the terms of the statute by offsetting dumped sales by non-dumped sales.

IPSCO argues that the fact that zeroing is not required under the statute does not permit an interpretation by which the result of comparisons where the NV is less than the EP may be considered as a dumping margin or included in the numerator of the weighted-average dumping margin ratio. IPSCO contends that it is erroneous to conclude that because zeroing is not required, though permissible, the same treatment must be accorded to offsets in the face of contradictory language in the statute. However, IPSCO argues that this is the position the Department has taken in the Section 129 proceeding.

Moreover, IPSCO argues that when the full text of § 771(35)(A) of the Act is considered, the statute is not silent as to whether a negative margin may be treated as a dumping margin under § 771(35)(A) of the Act. IPSCO argues that § 771(35)(A) of the Act defines the dumping margin as “the amount by which the NV exceeds the EP.” IPSCO asserts that this provision precludes a negative margin, which necessarily involves an amount by which the NV does not exceed the EP, from consideration as a dumping margin. IPSCO states that the dumping margin, which is established by the comparison of an NV with an EP, necessarily cannot consist of a negative margin (for which the NV is less than the EP) because if it did the dumping margin would not equal the statutorily mandated amount that the NV exceeds the EP. IPSCO asserts that the full text of § 771(35)(A) of the Act is not silent as to the impact of negative margins. Instead, IPSCO argues that the full text of § 771(35)(A) of the Act prohibits the Department from considering a negative margin as a dumping margin. Therefore, IPSCO maintains that considering a negative margin as a dumping margin and including the result of comparisons where the NV is less than the EP in the numerator of the weighted-average dumping margin ratio is prohibited by the language of § 771(35)(A) and (B) of the Act. IPSCO contends that the exclusion of negative margins, either by zeroing or by disregarding them altogether, from the numerator of the weighted-average dumping margin ratio is required by the plain meaning of the text of the statute.

Department’s Position:

The Department responded to this issue previously with respect to the proceeding under Section 129 of the URAA involving multiple LTFV investigations from the European Community countries, as well as from Ecuador. See EC Final Results Memo at Comment 1; see also Final Results of Proceeding Under Section 129 of the Uruguay Round Agreements Act (URAA): Antidumping Measures on Frozen Warmwater Shrimp from Ecuador, dated July 26, 2007 (Ecuador Final Memo) at Comment 1. As we explained in those proceedings:

While the Department, through these section 129 proceedings, is taking actions to bring these investigations into conformity with an adopted WTO panel report, the Department must apply U.S. law. See SAA at 1023 (USTR may request that the Department issue a new determination in response to a WTO report only if the action required to render the agency determination not inconsistent with the panel report is in accord with U.S. law). The {Court of Appeals for the Federal Circuit} CAFC, in construing U.S. law, held that the denial of offsets when calculating the weighted-average dumping margin is not required by statute, but is instead a reasonable interpretation of the statute. See Corus Staal BV v. Department of Commerce, 395 F.3d 1343, 1347 (Fed. Cir. 2005), cert. denied, 126 S. Ct. 1023 (2006); Timken Co. v. United States, 354 F.3d 1334, 1341-42 (Fed. Cir.), cert. denied sub nom., Koyo Seiko Co. v. United States, 543 U.S. 976 (2004). While many parties have expressed disagreement with these CAFC decisions, they are binding legal precedent. See Paul Muller Industrie GmbH v. United States, 435 F. Supp. 2d 1241, 1245 (CIT 2006) (stating new argument alone does not defeat binding precedent).

Section 771(35)(A) of the {Tariff Act of 1930, as amended (the Act)} Act defines “dumping margin” as “the amount by which the normal value exceeds the export price or constructed export price of the subject merchandise.” The “weighted average dumping margin” is defined as “the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer.” Section 771(35)(B) of the Act. Some parties argue that the use of the word “exceeds” in section 771(35)(A) of the Act demonstrates that only positive dumping margins should be aggregated when calculating the weighted-average dumping margin. This position, however, has been rejected by the CAFC in Timken.

In interpreting section 771(35)(A) of the Act, the CAFC examined closely the use of the word “exceeds.” Although dictionary definitions cited to the CAFC defined the word “exceeds” in terms of being greater than or going beyond something else, the court found that these dictionary definitions were not so clear so as to compel the denial of offsets. Timken, 435 F.3d at 1341. Rather, in a mathematical context, the court held that the word “exceeds” does not unambiguously preclude the calculation of a negative dumping margin.” Id.

The Department’s calculation of the weighted-average dumping margins in these section 129 proceedings, therefore, is consistent with U.S. law. The Department has aggregated all of the comparison results for a particular exporter or producer, regardless of whether the specific comparisons yielded a positive or negative result. As the CAFC held in Timken, the use of the word “exceeds” in section 771(35)(A) of the Act does not require the exclusion of those comparisons that yielded a negative result.

Id.

In addition, as we found in Ecuador Final Memo, no new situation or circumstance has been presented in this proceeding to warrant any change in the Department’s position, as expressed above, for purposes of this final determination. While IPSCO claims that the cases cited by the Department in the EC Final Results Memo pertain to zeroing the results of comparisons where EP exceeds NV (i.e., negative margins), rather than aggregating negative and positive margins such that the negative margins have the effect of offsetting the positive margins, we find that the instruction of the relevant precedent is nevertheless the same. In particular, whether the results of comparisons where EP exceeds NV are “zeroed” or excluded from the aggregation, the result is identical. The Federal Circuit found that the definition of dumping margin contained in § 771(35)(A) of the Act did not require negative margins to be “zeroed.” Accordingly, it follows that such negative margins may be included in the calculation of the weighted-average dumping margin.

With respect to IPSCO’s argument that the aggregation of negative margins and positive margins violates U.S. law, we disagree. As explained above, the Federal Circuit has held that the definition of dumping margin set forth in § 771(35)(A) and (B) of the Act does not require exclusion of negative comparison results from the calculation of the weighted-average dumping

margin. As such, IPSCO's allegations regarding the Department's calculations resulting from the inclusion of negative comparison results in the weighted-average dumping margin are misplaced. By including such negative comparison results in this case, the Department is appropriately calculating the weighted-average dumping margin in accordance with one interpretation of how that term is defined in the statute. Accordingly, we continue to find that the Department's calculation of the weighted-average dumping margins for respondent Kawasaki in this proceeding is consistent with U.S. law.

Issue 3: Whether the Statute Equates the Dumping Margin with the Antidumping Duty Assessment

IPSCO argues that in the EC Final Results Memo the Department described its offset methodology of calculating the weighted-average dumping margin by stating that it "aggregated all of the comparison results for a particular exporter or producer regardless of whether specific comparisons yielded positive or negative results." See EC Final Results Memo at 9. IPSCO notes that in Timken, the Federal Circuit noted that when the amount of negative margins exceeds that of positive margins, the Department would owe the importer a payment if the Department could not zero-out the negative margins. Therefore, given the correspondence of the antidumping duty assessment to the dumping margin, IPSCO argues that negative margins must be zeroed-out or disregarded entirely so that the U.S. government is not required to grant U.S. importers a credit or pay importers of foreign-produced merchandise the net amount of negative margins when negative margins exceed positive margins. IPSCO notes that zeroing creates a statistical bias, whereby positive margins are included in the numerator of the weighted-average dumping margin ratio but negative margins are not. However, IPSCO states that this bias is intended by Congress. IPSCO argues that the differentiation between positive and negative margins is required by statute at § 771(35) of the Act and effectuates the proper assessment of the antidumping duty liability in accordance with § 751(a)(2)(A) and (C) of the Act.

IPSCO reiterates its argument that the plain meaning of § 771(35) of the Act prohibits the Department from including negative margins in the weighted-average dumping margin. Further, citing Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 843 (1984), IPSCO maintains that the U.S. Courts will not consider the Department's interpretation of a statute if Congressional intent is clear, and IPSCO maintains the intention is clear in the present case. In equating the assessment to the dumping margin, IPSCO maintains that Congress clearly intended the antidumping assessment to be imposed only by the amount that the NV is greater than the EP. IPSCO further maintains that Congress, as the Federal Circuit stated in Timken, did not intend for the Department to pay the importer the amount of the result of comparisons for which the NV is less than the EP, and therefore did not intend for the Department to include the result of comparisons for which the NV is less than the EP in the dumping margin or in the antidumping duty assessment. Therefore, IPSCO asserts that the objectives of the statute, as well as its plain text, preclude an interpretation which considers the result of comparisons where the NV is less than the EP as a dumping margin.

Department's Position:

With respect to IPSCO's arguments that providing offsets would be inconsistent with § 751(a) of the Act as it concerns the assessment of antidumping duties, this Section 129 proceeding addresses only the antidumping investigation that was subject to the WTO Panel Report. As we stated in the EC Final Results Memo, where this same issue was raised, the results of this Section 129 proceeding do not address the actual assessment of antidumping duties. Moreover, as we found in the EC Final Results Memo, the Department's final modification was expressly limited to the use of average-to-average comparisons in investigations and was done for the stated purpose of bringing the investigations into conformity with the panel report in *United States- Laws, Regulations and Methodology for Calculating Dumping Margins ("Zeroing")*, WT/DS294/R (October 31, 2005) ("*US-Zeroing (EC)*"). See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification, 71 FR 77722 (December 27, 2006) ("Final Modification"). Similarly, the Department's determination in this proceeding is being made to bring the relevant antidumping investigation into conformity with the Panel Report. Consistent with the basis and purpose of its change in methodology, the Department has not foreclosed any methodological options except for the continued use of zeroing with average-to-average comparisons in investigations. In addition, no new situation or circumstance has been presented in this proceeding to warrant any change in the Department's position, as expressed above and in the EC Final Results Memo, for purposes of this final determination. Accordingly, the Department disagrees that this Section 129 proceeding is inconsistent with § 751(a) of the Act.

Issue 4: Whether the Department's Interpretation of the Term 'Dumping Margin' is Inconsistently Applied to Antidumping Investigations and Administrative Reviews

IPSCO states that the Department's determination in the EC Final Results Memo failed to address arguments raised by domestic parties regarding the correspondence of the antidumping duty assessment to the dumping margin because that proceeding involved investigations rather than reviews. IPSCO notes that the instant proceeding also involves an antidumping investigation rather than a review. However, IPSCO asserts that there is only one statutory definition of the dumping margin, which applies to both reviews and investigations. Citing Corus Staal BV v. Department of Commerce, 395 F. 3d 1343, 1347 (Fed. Cir. 2005), IPSCO argues that the Federal Circuit specifically rejected any distinction in the meaning of the dumping margin under § 771(35)(A) of the Act between investigations and reviews. Therefore, IPSCO asserts that the Federal Circuit has rejected the distinction between reviews and investigations as to the meaning of the term "dumping margin." Further, IPSCO contends that the correspondence of the antidumping duty assessment to the dumping margin, which requires the results of comparisons where the NV is less than the EP to be excluded from the dumping margin in reviews, also requires these results to be excluded in investigations because the statutory meaning of the dumping margin is the same in both reviews and investigations. For both reviews and investigations, IPSCO states that the result of the comparison where the NV exceeds the EP

establishes a dumping margin, whereas the result of the comparison where the NV does not exceed the EP does not establish a dumping margin.

Finally, citing Stainless Steel Bar from the United Kingdom: Final Results of Antidumping Duty Administrative Review, 72 FR 43598 (August 6, 2007) (Stainless Steel Bar) IPSCO argues that the Department's most recent interpretation of the term dumping margin is inconsistent with the Department's findings in the EC Final Results Memo. Specifically, in Stainless Steel Bar, IPSCO states that the Department stated:

Section 771(35)(A) of the Act defined 'dumping margin' as the 'amount by which the normal value exceeds the export price and constructed export price of the subject merchandise.' The Department interprets this statutory definition to mean that a dumping margin exists only when normal value is greater than export price or constructed export price. As no dumping margins exist with respect to sales where normal value is equal to or less than export price or constructed export price, the Department will not permit these non-dumped sales to offset the amount of dumping found with respect to other sales. Id.

However, in the EC Final Results Memo, IPSCO states that the Department did not provide an interpretation of the language of § 771(35)(A) of the Act where "the 'dumping margin' means the amount by which the normal value exceeds the export price." Instead, IPSCO contends that the Department simply asserted that because the Federal Circuit found that the single word "exceeds" in the dumping margin definition was ambiguous, the Department had the discretion to subtract results where the NV is less than the EP from comparisons where the NV is greater than the EP. However, IPSCO argues that the Department's interpretation in Stainless Steel Bar is true for investigations as well as reviews.

Department's Position:

We disagree with IPSCO's assertion that the Department's interpretation of § 771(35)(A) of the Act in the context of investigations must be identical to the Department's interpretation of the same provision in the context of administrative reviews such that, if offsets for negative margins are denied in administrative reviews, offsets must also be denied in investigations. An administering agency's authority to give an ambiguous statutory provision different meanings in different contexts is well established. See Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) (EPA may adopt two different interpretations of the same statutory definition of the term "source" in two different contexts).

The calculation of a dumping margin in an LTFV investigation and in an antidumping duty administrative review are different contexts in which the ambiguous language of § 771(35)(A) applies. In investigations, the statute specifies particular types of comparisons that may be used to calculate the dumping margin and the conditions under which those types of comparisons may be used. See § 777A(d)(1) of the Act. The statute also sets conditions for the type of comparison used in administrative reviews. See § 777A(d)(2) of the Act. The

Department has further clarified the types of comparison that will be used and under what conditions. See 19 CFR 351.414. In investigations, the Department generally uses average-to-average comparisons, whereas in administrative reviews the Department generally uses average-to-transaction comparisons. Id. at (c). The purpose of the dumping margin calculation varies significantly between investigations and administrative reviews. In investigations, the primary function of the dumping margin is to determine whether an antidumping duty order will be imposed on the subject imports. See § 735(a), (c) and § 736(a) of the Act. In administrative reviews, in contrast, the dumping margin is the basis for the assessment of antidumping duties on entries of merchandise subject to the antidumping duty order. See § 751(a) of the Act. These differences support an interpretation of § 771(35)(A) of the Act that varies according to the context in which this provision is being applied. In Timken, the Federal Circuit found that § 771(35)(A) permitted but did not require zeroing in the context of administrative reviews. Timken, 354 F.3d at 1342. In Corus the Federal Circuit agreed that “a distinction exists between administrative investigations and reviews,” but found that the ambiguity in § 771(35)(A) was no less present in the context of investigations, such that the Department was permitted, but not required to zero in investigations. Corus, 395 F.3d at 1347.

The Final Modification sets forth an interpretation of § 771(35)(A) of the Act that applies only in the context of investigations using average-to-average comparisons and determines that offsets will be granted in this context. The Department’s interpretation of § 771(35)(A) of the Act as it pertains to investigations using average-to-average comparisons was promulgated in the Final Modification pursuant to § 123 of the URAA in order to comply with the findings of the panel in US - Zeroing (EC). Consistent with the terms of § 123 of the URAA, the Final Modification applies only prospectively to new and continuing investigations using average-to-average comparisons. Thus, pursuant to the explicit terms of the Final Modification, this interpretation of § 771(35)(A) of the Act does not apply to administrative reviews. As the Federal Circuit recognized in Corus, Congress has authorized the executive branch to determine “whether or not to implement WTO reports and determinations and, if so implemented, the extent of implementation.” Corus, 395 F.3d. at 1349 (citing 19 U.S.C. § § 3533(f), 3538, 3533(g)). In enacting the URAA, Congress contemplated that such implementation of an adverse WTO report could create different, but permissible, interpretations of the statute that may lawfully coexist. See Statement of Administrative Action (SAA) accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session (1994) at 1027.

Final Antidumping Margins

The recalculated margins, unchanged from the Preliminary Results Memorandum, are as follows:

<u>Manufacturer/Exporter</u>	<u>Weighted-Average Margin</u>
Kawasaki Steel Corporation (Kawasaki)	9.46%

Accordingly, as a result of the changes to the calculations, the “All Others” rate is also 9.46%.

Recommendation

In light of the Panel’s findings, we recommend adopting the above-referenced recalculated weighted-average dumping margin, which, if implemented, would render our determination not inconsistent with the recommendations and rulings of the Dispute Settlement Body by applying the methodology in the Final Modification.

Agree _____ Disagree _____

David M. Spooner
Assistant Secretary
for Import Administration

(Date)