

**UNITED STATES – ANTI-DUMPING MEASURE ON SHRIMP FROM ECUADOR**

**WT/DS335**

**FIRST WRITTEN SUBMISSION OF  
THE UNITED STATES OF AMERICA**

**October 23, 2006**

1. The United States notes that the parties to this dispute have reached an Agreement on Procedures to permit expeditious resolution of this dispute.<sup>1</sup> In its request for a panel in this dispute (WT/DS335), Ecuador claims that the United States has breached its obligations under Article 2.4.2, first sentence, of the *Agreement on Implementation of Article VI of the GATT 1994*. The basis of Ecuador's claim is the Department of Commerce's use of "zeroing" in calculating the dumping margins in the investigation *Certain Warmwater Shrimp from Ecuador*.<sup>2</sup>

2. Ecuador describes, both in its request for a panel, and in its First Written Submission, that zeroing means the following: (1) different "models," i.e., types, of products are identified using "control numbers" that specify the most relevant product characteristics; (2) weighted average prices in the U.S. and weighted average normal values in the comparison market are calculated on a model-specific basis for the entire period of investigation; (3) the weighted average normal value of each model is compared to the weighted average U.S. price for that same model; (4) to calculate the dumping margin for an exporter, the amount of dumping for each model is summed and then divided by the aggregated U.S. price for all models; (5) before summing the total amount of dumping for all models, all negative margins on individual models are set to zero.<sup>3</sup>

3. Ecuador further states that its claim is limited to the use of "zeroing" in calculating the margins for Promarisco S.A., Exporklore S.A., and the "all others" rate.<sup>4</sup>

4. Ecuador describes the Department of Commerce's calculation of the dumping margins in the investigation, states that the calculation is the same as the calculation described in *Softwood Lumber*, and states that Ecuador considers the calculation to be inconsistent with Article 2.4.2 on the grounds set forth in paragraphs 62-117 of the *Softwood Lumber* AB report.<sup>5</sup>

5. The United States acknowledges the accuracy of Ecuador's description of Commerce's use of "zeroing" in calculating the dumping margins for Promarisco S.A., Exporklore S.A., and the "all others" rate in this investigation. The United States also recognizes that a measure using a similar calculation was the subject of the *Softwood Lumber* report, and that the DSB ruled that the measure was inconsistent with Article 2.4.2, first sentence because of that calculation.<sup>6</sup>

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<sup>1</sup> See Exhibit ECU-1.

<sup>2</sup> WT/DS335/6 (9 June 2006), Section C.

<sup>3</sup> See Panel Request, Section B; *First Written Submission of Ecuador*, 19 October 2006, para. 2 (hereinafter "Ecuador First Submission.")

<sup>4</sup> Ecuador First Submission, para. 6.

<sup>5</sup> Ecuador First Submission, para. 20.

<sup>6</sup> See Appellate Body Report, *Final Dumping Determination on Softwood Lumber from Canada*, WT/DS264/AB/R, adopted 31 August 2004, paras. 62-117.