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Office of Commercial Affairs
Royal Thai Embassy
1024 Wisconsin Avenue, NW
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No. 56009/420

June 9, 2008

The Honorable Carlos M. Gutierrez
Secretary of Commerce
Attn: Import Administration
APO/Dockets Unit
Room 1870
US Department of Commerce
14th Street and Constitution Ave., NW
Washington, DC 20230

Subject: Antidumping Methodologies for Proceedings that Involve Significant Cost Changes Throughout the Period of Investigation (POI)/Period of Review (POR) that May Require Using Shorter Cost Averaging Periods; Request for Comment

Dear The Honorable Carlos M. Gutierrez,

Pursuant to the US Department of Commerce's ("the Department") request for public comment on its development of a predictable methodology for determining when the use of shorter cost averaging periods is more appropriate than the established practice of using annual cost averages due to the occurrence of significant cost changes throughout the POR/POR published in the Federal Register Notice Vol. 73, No. 91 on Friday, May 9, 2008, the Office of Commercial Affairs hereby submits, in response to the Department's request, the attached comments as prepared by the Department of Foreign Trade, Ministry of Commerce of Thailand for your consideration.

As per the submission requirements stated in the Federal Register Notice, we have enclosed here a signed original and six copies of each set of comments and have also submitted a copy of the comment in electronic form via e-mail to webmaster-support@ita.doc.gov to accompany the required paper copies.

The Office of Commercial Affairs avails itself of this opportunity to renew to the United States Department of Commerce the assurances of its highest consideration.

Sincerely,

Kessiri Siripakorn
Minister (Commercial)

Public Document

MOST URGENT

No. 0310/ 1611

Department of Foreign Trade
Ministry of Commerce
44/100 Nonthaburi 1 Rd.
Nonthaburi 11000, Thailand
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9 June 2008

Dear Mr. Spooner,

Re: Use of Shorter Cost Averaging Periods in Antidumping Proceedings – Requests for Comments

Pursuant to the notice published in the Federal Register on 9 May 2008, the Royal Thai Government [RTG] has the following observations with respect to the US Department of Commerce's request for comments and suggestions for developing a methodology for the use of shorter cost averaging periods.

First, as regards other factors relevant for the consideration of whether and when to rely on shorter cost averaging periods, RTG believes that significant exchange rate fluctuations should also be an acceptable factor for an exporter to claim the use of shorter cost averaging periods.

Second, RTG considers such shorter cost averaging periods should be semesterly, quarterly or monthly, depending on the particular situation and depending on the request of the exporter. RTG does not believe the use of shorter cost averaging periods should be limited to particular industries, especially as RTG is of the opinion that significant exchange rate fluctuations can also justify the use of shorter cost averaging periods.

Third, with respect to ensuring a linkage between the prices and the shorter cost averaging period, it is RTG's opinion that it should be ensured that the shortened cost averaging period does not exceed the inventory turnover period. For example, if the inventory turnover is two to three months, monthly cost averaging periods may not be appropriate whereas quarterly cost averaging periods may be. Alternatively, prices of the next cost averaging period can be compared with the cost of production of the previous cost averaging period. To avoid distortions in the comparison, RTG does not think a comparison between prices in one period should be made with costs of a period other than the same period or the immediately prior period.

Fourth, whether costs are consistently trending up or trending down (or trending up and down) throughout the investigation period should not matter. There is no reason to automatically disregard one of the three possibilities mentioned by the US Department of Commerce. Either of the three situations could give rise to a justification for the use of a POI that is broken down in shorter pieces.

Fifth, RTG believes that when shorter cost averaging periods are used, the recovery of costs tests should not be modified. In effect, this means that sales that are below the shorter cost averaging period would still be considered to allow for the recovery of costs within a reasonable period of time if they are above the annual (or semesterly) average cost. This would be consistent with the WTO Anti-Dumping Agreement which specifies that the reasonable period of time to determine whether costs are recovered should normally be one year and cannot be shorter than six months. Conversely, if prices are below the yearly average but above those cost in the shorter period, they should be counted as profitable. This method would ensure that the exporter does not get punished for a particular pricing strategy, depending on the duration of regular cost recovery calculation. It also reflects the preference of the WTO Antidumping Agreement for the use of selling prices as the basis for normal value.

Sixth, the costs from the periods of reviews should not affect the overall analysis whether shorter cost averaging periods should be used.

Seventh, RTG does not believe much additional information needs to be submitted/requested for shorter cost averaging periods. The same information as is currently requested in questionnaires should suffice but provided on a monthly, quarterly or semesterly basis rather than a yearly basis. To that effect, it could be advisable to include a section providing the possibility for an exporter to request shorter cost averaging periods together with tables to provide this cost information on such a shorter period (whether semesterly, quarterly or monthly).

Eighth, shortening the cost averaging period should not affect price comparisons. Comparison across cost averaging periods should only be used if a direct comparison is not possible, for example because of longer inventory turnover periods. Of course, comparison across cost averaging periods should be used for the determination of the overall dumping margin whereby there is a full offset between cost averaging periods.

Finally, RTG is of the opinion that shorter cost averaging periods should preferably only be used when there is an explicit request by the exporter to do so. If there is no such specific request, the current practice of using annual cost averages should preferably be applied, unless Commerce has good reasons to deviate from this practice in light of the particular circumstances of the case.

Moreover, the US Department of Commerce should ensure that no part of the investigation period is unmeasured (*i.e.* not selecting only two quarters of the investigation period) and there should be a full offset between the various cost averaging periods. In this respect, RTG respectfully refers to the finding of the Panel in *US – Stainless Steel Plate in Coils and Stainless Steel Sheet and Strip from Korea.*

We hope that these above suggestions may help in the preparation of a sound strategy to be developed.

Yours sincerely,

U-Withaya

(Mrs. Unchana Withayathamthat)
Deputy Director-General
For Director-General

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