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Attention: Weighted Average Dumping Margin

On behalf of the Committee on Pipe and Tube Imports ("CPTI") we respond to the request of the U.S. Department of Commerce ("Department" or "Commerce") for comments regarding its announced revision to its current method of calculating dumping margins in antidumping investigations, in light of the WTO Panel report in *US - Zeroing*. CPTI, hereinafter referred to as "domestic parties," is a committee of U.S. domestic producers of pipe and tube products which has been involved in antidumping investigations and reviews for more than 20 years.

A signed original and six copies of these comments are submitted. A separate submission of this document is provided in electronic form on CD-ROM in WordPerfect format as requested.

I. COMMERCE SHOULD ABANDON ITS AVERAGE-TO-AVERAGE METHOD OF CALCULATING DUMPING MARGINS IN INVESTIGATIONS IN FAVOR OF A TRANSACTION-TO-TRANSACTION METHOD

A. The Department Has Announced That it Will Abandon its Current Weighted-Average-to-Weighted-Average Method of Calculating Dumping Margins in Antidumping Investigations Without Offsets

The Department identified the following as its proposed modification to existing practice[1] in light of the WTO Panel report in *US - Zeroing*.[2]

> Currently, the Department usually makes comparisons between average export prices and average normal values and does not offset any dumping that is found with the results of comparisons for which the average export price exceeds the average normal value. A recent WTO dispute settlement report has found that the United States application of this methodology was inconsistent with our WTO obligations. In response to this report, the Department will abandon the use of the average-to-average comparison without such offset. [3]

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[1] The Department's notice of opportunity to comment on proposed change in practice stated:

> Pursuant to section 123(g)(1) of the Uruguay Round Agreements Act ("the URAA"), "{i}n any case in which a dispute settlement panel or the Appellate Body finds in its report that a regulation or practice of a department or agency of the United States is inconsistent with any of the Uruguay Round Agreements," certain requirements must be met before "that regulation or practice" may be "amended, rescinded, or otherwise modified . . . ." Section 123(g)(1)(C) of the URAA requires that the Department provide opportunity for public comment by publishing "the proposed modifications and the explanation of the modification" in the Federal Register. The WTO panel in US - Zeroing has found the denial of offsets in certain antidumping duty investigations, when using the average-to-average comparison methodology, to be inconsistent with Article 2.4.2 of the Antidumping Agreement. Accordingly, the Department proposes that it will no longer make average-to-average comparisons without providing offsets for non-dumped comparisons.

Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin During an Antidumping Duty Investigation, 71 Fed. Reg. 11189 (March 9, 2006).

[2] WTO Panel Report, United States - Laws, Regulations and Methodology for Calculating Dumping Margins ("*US - Zeroing*") DS294/R (October 31, 2005).

[3] Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin During an Antidumping Duty Investigation, 71 Fed. Reg. 11189 (March 9, 2006).

Domestic parties assert that the Department should abandon the average-to-average method for calculating margins altogether, and instead calculate margins on a transaction-to-transaction basis. The transaction-to-transaction method has recently been upheld by a WTO Panel in *Lumber - Article 21.5*.[4]

B. U.S. Law and the AD Agreement Permit Dumping Margins to Be Calculated Using Either the Average-to-Average Method or the Transaction-to-Transaction Method

The Tariff Act[5] and the AD Agreement[6] permit dumping margins to be calculated by either the weighted-average-to-weighed-average method or the transaction-to-transaction method. The Department's regulations state that the Department will normally use the average-to-average comparison methodology in an investigation. 19 C.F.R. 351.414(c)(1). Domestic parties propose an expansion of the transaction-to-transaction method of deriving margins in an investigation, given that the WTO has found that zeroing under the Department's current weighted-average-to-weighted-average method is inconsistent with Article 2.4.2 of the AD Agreement. ___

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[4] WTO Panel Report, United States - Final Determination on Softwood Lumber from Canada - Recourse to Article 21.5 of the DSU by Canada ("*Lumber - Article 21.5*") WT/DS264/RW (April 3, 2006).

[5] Section 777A(d)(1)(A) of the Tariff Act of 1930 (19 U.S.C. § 1677f-1(d)(1)(A)). Citations to the Tariff Act will hereinafter be made to only the U.S. Code.

[6] World Trade Organization ("WTO") Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("AD Agreement"). Article 2.4.2. of the AD Agreement states:

> {T}he existence of margins of dumping the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions or by a comparison of normal value and export prices on a transaction-to-transaction basis.

The averaging and transaction methods of calculating antidumping margins are distinguished based on the level at which the export price ("EP") and the normal value ("NV") are used in calculating dumping margins. The EP and NV are obtained at the transaction level (*i.e.* sale-specific level) because they are based on sale-specific invoices of the producer of merchandise imported into the United States. The EP or NV can, however, be "averaged up" by summing and dividing export prices within the U.S. market before comparing the EP to the NV, or by summing and dividing normal values within the producer's home market before making the EP-NV price comparison. When margins are calculated by the transaction-to-transaction method the EPs and NVs used in calculating dumping margins are expressed at the sale-specific level. In contrast, when margins are calculated by the weighted-average-to-weighted-average method the EP used in the determining the dumping margin is an average of sale-specific EPs of sales within the U.S. market, and the NV is an average of sale-specific NVs of sales within the producer's home market. Thus, prices (*i.e.* the EP or NV) are initially grouped within market under the averaging method but are initially compared across market for the transaction method. The transaction-to-transaction method proposed by domestic parties makes the price comparison between the EP and NV as soon as the EP and NV are derived at the sale-specific level, before any summation or averaging of the sale-specific EP or sale-specific NV occurs.

U.S. law provides that in administrative reviews dumping margins shall be determined based on a comparison of an individual EP transaction to a weighed-average price of sales in the producer's home market. 19 U.S.C. § 1677f-1(d)(2). The initial transaction for the transaction-to-transaction method described herein is intended to be the same as the initial transaction in the transaction-to-weighted-average method the Department currently employs in calculating margins for administrative reviews. In each case the initial transaction value is a sale-specific EP. The level at which the NV is expressed for the transaction-to-transaction method described herein however differs from that for the transaction-to-weighted-average method the Department employs in reviews. When the transaction-to-transaction method is used the NV is, in each case, a sale-specific value. In contrast, the NV for the transaction-to-weighted-average method is, in each case, a weighted-average of sales in the home market.

The U.S. government did not appeal to the Appellate Body of the WTO the decision of the WTO Panel in *EU-Zeroing* that Commerce's method of calculating dumping margins in the investigation phase of the antidumping proceeding, using the weighted-average-to-weighted-average method, was inconsistent with Article 2.4.2 of the AD Agreement. The *EU-Zeroing* decision accordingly imposes an obligation upon the United States to comply with the findings of the Panel.

C. **Findings of the Panel in *US - Zeroing***

The *EU - Zeroing* Panel found that the Department's practice of "zeroing out"[7] the results of price comparisons in which the weighed-averaged export price is above the weighted-average normal value is inconsistent with Article 2.4.2 of the AD Agreement. In particular, the Panel states:

> 7.27 We recall that in EC - Bed Linen and US - Softwood Lumber V, which both involved original investigations, the panels and the Appellate Body found that, if an authority divides a product into different models, compares the weighted average prices

[7] The WTO Appellate Body in *Lumber V* stated that "Zeroing means, in effect, that at least in the case of some export transactions, the export prices are treated as if they were less than what they actually are." Paragraph 101. United States - Final Determination Softwood Lumber from Canada AB-2004-2 (August 11, 2004) WT/DS264/AB/R. Zeroing is also commonly referred to as the practice of excluding non-dumped sales from the dumping margin.

of all comparable export transactions and weighted average normal value for each of those models and aggregated the results of those model-by-model comparisons to arrive at a margin of dumping for the product as a whole, it is inconsistent with Article 2.4.2 not to include in the numerator the results of comparisons where the weighted average price of all comparable export transactions is above the weighted average normal value.

7.28 The information before us shows that in the anti-dumping investigations at issue in this dispute USDOC calculated aggregate margins of dumping in a manner that, with respect to the treatment of weighted-average export prices which were above normal value, was identical in relevant respects to the zeroing methodology considered by the panels and Appellate Body in EC - Bed Linen and US - Softwood Lumber V.

7.31 Therefore, we do not believe that it would be appropriate for us to depart from the Appellate Body's conclusion that when a margin of dumping is calculated on the basis of multiple averaging by model type, the margin of dumping for the product in question must reflect the results of all such comparisons, including weighted average export prices that are above the normal value for individual models.

7.32 In light of the foregoing considerations, the Panel finds that the United States has acted in breach of Article 2.4.2 of the AD Agreement when in the anti-dumping investigations at issue USDOC did not include in the numerator used to calculate weighted average margins any amounts by which average export prices in individual averaging groups exceeded the average normal value of such groups.

7.104 We thus consider that the evidence before us indicates that the zeroing methodology manifested in the "Standard Zeroing Procedures" represents a well-established and well-defined norm followed by the USDOC and that it is possible based on this evidence to identify with precision the specific content of that norm and the future conduct it will entail.

7.105 We recall our finding of model zeroing in the anti-dumping investigations at issue in this dispute is inconsistent with Article 2.4.2 of the AD Agreement. Therefore, in light of the consideration in the preceding paragraphs, we find that the USDOC maintains a norm that will necessarily produce WTO-inconsistent actions.

8.1(a) The United States acted inconsistently with Article 2.4.2 of the AD Agreement when in the anti-dumping investigations listed in Exhibits EC-1 to EC-15 the USDOC did not include in the numerator used to calculate weighted average dumping margins any amounts by which average export prices in individual averaging groups exceeded the average normal value for such groups.

The Panel's findings in *EU - Zeroing* pertain to zeroing and to the Department's weighted-average-to-weighed-average method of calculating margins in investigations. They do not address the transaction-to-transaction method[8] proposed by domestic parties, which does not involve zeroing[9] or averaging.

D. Commerce Practice Found in Violation of International Agreement

In investigations the Department begins its margin calculation by averaging prices within the U.S. market before comparing prices across market. The investigation methodology is accordingly interpreted under the WTO rules for applying the weighted-average-to-weighed-average method. The WTO Appellate Body has ruled that when the weighted-average-to-weighted-average method is used it is necessary to average the EP and NV at the level of the product as whole.[10] In particular, the WTO Panel in *US - Zeroing* stated that it follows the meaning of the terms "dumping" and "margin of dumping" specified by the Appellate Body in

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[8] Indeed in a recent decision, *Lumber - Article 21.5*, a WTO Panel in referring to the Appellate Body's decision in *Lumber V* states: " 5.20 ... The Appellate Body's *ratio decindendi* were necessarily limited to the legal issues before it, and those issues concerned the application of the W-W comparison methodology. The Appellate Body did not make findings regarding the T-T comparison methodology."

[9] Zeroing here is used as defined by the WTO, as setting values of certain EP-NV price comparisons to zero instead of their actual value. The proposed transaction-to-transaction method does however exclude price comparisons from dumping margins when the EP is not less than the NV.

[10] The product as a whole refers to the broadest class of the product subject to investigation. The lowest level of product specificity occurs at the transaction-specific (*i.e.* sale-specific) level at which the EP and NV are derived from source documents. In addition, antidumping calculations require the grouping of each product at its lowest level of specificity into price comparison groups. The Department refers to these price comparison groups as controls numbers, or CONNUMs.

US - Softwood Lumber V.[11] In *US - Softwood Lumber V* the Appellate Body stated:

> 91 As we noted above, the United States' position rests on the proposition that "margins" can be established, and "dumping" can be found, at the sub-group level. ...
> 92 ...Article VI:1 defines "dumping" as occurring where products of one country are introduced into the commerce of another country at less than the normal value of the products. This definition is reiterated in Article 2.1 of the Anti-Dumping Agreement ...
> 93 It is clear from the text of these provisions that dumping is defined in relation to a product as whole as defined by the investigating authority. ... "Dumping" within the meaning of the Anti-Dumping Agreement can therefore be found to exist only for the product under investigation as a whole, and cannot be found to exist for only a type, model, or category of that product.[12]

The Department's weighted-average-to-weighted average method of calculating margins, which the WTO Panel found inconsistent with paragraph 2.4.2 of the AD Agreement, can be summarized as follows:

> Commerce first averages sales within market and within CONNUMs to obtain a CONNUM-specific weighted-average export price (EP) and a CONNUM-specific weighted-average normal value (NV). Then the CONNUM-specific weighted-average

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[11] Specifically the panel in *EU -Zeroing* states that

7.29 We note that the issues raised by the United States regarding the meaning of the term "margin of dumping" and the relevance of the historical background of Article 2.4.2 of the AD Agreement were addressed by the Appellate Body in US - Lumber V.

7.30 Although previous Appellate Body decisions are not strictly binding on panels, there clearly is an expectation that the panel will follow such decisions in subsequent cases raising issues that the Appellate Body has expressly addressed.

[12] The WTO interpretation that dumping must be determined at the level of the product as whole notably applies only when the average-to-average method is used to calculate margins. In reviews, which begin with the transaction method, by directly comparing the EP of an individual transaction with the NV, the existence of dumping (*i.e.* whether the EP < NV), is made at the transaction level, which is a level of product specificity less than the level of the product as a whole. Thus, in reviews dumping is determined at a level of product specificity less than the product as a whole. The WTO found that the method for calculating margins in reviews consistent with the WTO interpretation of the language of the AD Agreement. *See*, *EU-Zeroing* paragraphs 8.1(d) and 8.1(e). Likewise in *Lumber - Article 21.5* a WTO Panel found that the determination of the existence of dumping at the transaction level when the transaction-to-transaction method is used to calculate margins complies with the language of the AD Agreement. *See*, paragraph 5.22.

> EP is compared with the CONNUM-specific weighted average NV to determine if dumping occurs. If so, all of the sales within the non-dumped CONNUMs are thereafter excluded from the dumping margin calculation, by assigning to these sales a margin of zero. The remaining sales within the dumped CONNUMs are included in the dumping margin.

Because the CONNUM reflects a level of product specificity less than the product as a whole the Department's investigation method compares an average EP to an average NV at a level of product specificity less than the product as a whole. The Commerce practice in investigations is thus inconsistent with the WTO interpretation of the rules regarding the application of the average-to-average method, which requires the price comparison to be made at the level of the product as a whole.

Domestic parties accordingly propose that Commerce make its margin calculation consistent with international obligations by eliminating the averaging of sales within market before making the cross market comparison between EP and NV.

D. Averaging Fails to Measure the Price Difference at the Transaction Level

The Department's investigation method of calculating margins first averages prices within markets by CONNUM before comparing prices across markets. Commerce began averaging prices at the CONNUM level following revisions to the AD Agreement resulting from the Uruguay Round (UR) of multilateral trade negotiations. Before then in investigations Commerce calculated margins as it now does in reviews. The UR round negotiations identified averaging as a means to resolve the iterative bias that occurs when the transaction method is used. This bias occurs when a single U.S. sale is compared seriatim to home market sales. Because of iteration dumping margins occur even when home market sales are identical to US sales with respect to price (*i.e.* EP and NV), quantity, and product type. Averaging eliminates the iterative bias, but goes too far because it also disregards the transaction-specific EP-NV price difference.[13] This price comparison is the essence of dumping. While averaging prices before making the EP-NV price comparison is inherently flawed because it fails to measure the market price difference at the transaction level, the AD Agreement explicitly permits the average-to-average method to be used to calculate margins.

In adopting the transaction method as domestic parties advocate, Commerce will preserve the true market price difference at the transaction level by calculating whether dumping occurs, and if it does the margin of dumping, on a transaction-to-transaction basis.[14]

II. THE LANGUAGE OF THE AD AGREEMENT AND U.S. LAW REQUIRES THAT NON-DUMPED SALES ARE EXCLUDED FROM THE DUMPING MARGIN

Article 2.1 of the AD Agreement specifies that dumping occurs when the EP is less than the NV.[15] U.S. law similarly states that "the term 'dumping margin' means the amount by which

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[13] It is computationally impossible to both eliminate the iterative bias and preserve the transaction-specific EP-NV price difference. More specifically, the dumping margin calculation begins with the price of a single sale. Commerce starts with a U.S. sale rather than a HM sale because import duties are levied on customs entries into the United States. A U.S. sale EP is thus the starting point for the margin calculation. There are two options for the second price. The EP of the first sale can either be grouped with the EPs of other sales within the U.S. market (*i.e.* as part of the averaging method) or the EP of the first sale can be compared across market with a NV from the home market to determine the existence of dumping (*i.e.* whether EP<NV) as part of the transaction method. When averaging occurs before the price comparison the transaction-specific price comparison is disregarded. The dichotomy between initially grouping prices within market (*i.e.* summing and dividing, or averaging, prices) before the price comparison, and initially directly comparing prices across market (*i.e.* transacting prices) distinguishes the average and transaction methods.

[14] Domestic parties have appended at Attachment 1 an example of a calculation on this basis.

[15] Article 2.1 of the AD Agreement states as follows:

2.1 For purpose of this Agreement, a product is to be considered as being dumped, i.e.

the normal value exceeds the export price." 19 U.S.C. § 1677(35)(A). The dumping margin is the price difference between the EP and NV when the EP is less than the NV.[16] The term "dumping margin" cannot be considered in isolation from the term "dumping" because the existence of dumping and the margin of dumping, if any, are established at the same time – when the EP is compared to the NV. Thus, the existence of dumping is determined based on an inequality, *i.e.* whether or not the EP is less than the NV, and the dumping margin is the difference between EP and NV when the EP is less than NV. This dictates that non-dumped sales, where the export price exceeds the normal value, must be excluded in calculating dumping margins.

The WTO in *Lumber - Article 21.5* recently stated that the exclusion of non-dumped sales from dumping margins, *i.e.* zeroing, is consistent with the WTO interpretation of the terms dumping and margin of dumping when the transaction-to-transaction method is used.

> 5.27 ... In other words, there is dumping when the export "price" is <u>less</u> than the normal value. Given this definition of dumping, and the express linkage between this definition and the phrase "price difference" it would be permissible for a Member to interpret the "price difference" referred to in Article VI:2 as the amount by which export price is <u>less</u> than normal value, and to refer to that "price difference" as the "margin of dumping."
> 5.28 ... we see no reason why a Member may not, when applying the transaction-to-transaction comparison methodology, establish the "margin of dumping" on the basis of the total amount by which transaction-specific export prices are less than the transaction-

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> introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

[16] The Panel's report in *US - Zeroing* describes the term "margin of dumping" as follows: 7.59 . . . Thus, the concept of "<u>margin of dumping</u>" in GATT Article VI is defined in terms of a <u>price difference</u> in a situation in which a product is introduced into the commerce of another country at less than its normal value, *i.e.* <u>when the export price of the product is less than the normal value of the product</u>. (emphasis added)

> specific normal values. In such cases, the margin of dumping clearly would reflect the price difference for dumped, rather than non-dumped, exports of the product by a particular exporter. In our view, this would be a permissible interpretation of the relevant part of the first sentence of Article 2.4.2, even though it does not reflect the full results of all comparisons. In other words, when establishing the amount of dumping for the purpose of calculating a margin of dumping under the T-T comparison methodology, an investigation authority need not include in its calculation the results of comparisons where export price exceeds normal value.

The decision of the WTO Panel in *Lumber - Article 21.5* accordingly upholds the practice of zeroing when the transaction-to-transaction method of calculating margins is used in the investigative phase of antidumping proceedings. ___

III. STEPS PROPOSED FOR CALCULATING MARGINS IN ANTIDUMPING INVESTIGATIONS ON A TRANSACTION-TO-TRANSACTION BASIS

As an alternative to the Department's current average-to-average method, domestic parties propose that the Department implement the following methodology for deriving dumping margins on a transaction-to-transaction basis in future antidumping investigations.

A. Step 1

Step 1. Segregate US and HM sales into groups of comparable merchandise, *i.e.* control numbers ("CONNUMs"), and level of trade.

This does not represent a change from the Department's current average-to-average practice. Products must be segregated into price comparison groups, or CONNUMs, because certain products within the product as a whole differ to such a degree from other products within the product as a whole that the price comparison between such products is not meaningful. However, it is not necessary to find a single home market sale that is most comparable with the individual U.S. sale, as was done in the Lumber Section 129 case.[17] Frequently multiple home

[17] The WTO has cited with approval the grouping of sales together in determining price comparison groups. In *Lumber V* the Appellate Body stated.

market sales are identical or equally similar in all relevant respects to the U.S. comparison sale. The use of tie-breakers, such as freight, which do not affect price comparability to derive a single home market sale for comparison with the U.S. sale improperly removes comparable home market sales from the margin analysis.

B. Step 2

Step 2. Calculate the EP and NV of each U.S. sale and each home market sale.[18]

This also does not differ from the Department's current practice in investigations.

C. Step 3

Domestic parties do propose a change from the Department's current investigation methodology for the next step. The Department's current average-to average method next calculates a weighted-average and CONNUM-specific EP using all U.S. sales within the CONNUM and a weighted-average and CONNUM-specific NV using all home market sales within the CONNUM. Then the Department zeros out CONNUM-specific and weighted-average EPs that are greater than comparable CONNUM-specific and weighted-average NVs.

Step 3. Domestic parties propose that the Department compare each U.S. sale to each HM sale to compute sale-specific dumping margins.

Domestic parties propose that Commerce compare each U.S. sale of CONNUM 1 to each HM

> 71. {To} ensure price comparability between transactions . . . many investigating authorities - and respondents exporters - prefer to limit to the extent possible the need for such adjustments by performing the comparisons on the basis of groups of transaction sharing common characteristics.

[18] While the term "home market sales" will be used for ease of explanation, it is understood that in certain circumstances third country (TC) sales or the constructed value (CV) will be the appropriate basis for the normal value, in which case TC or CV should be substituted for HM.

sale of CONNUM 1, each U.S. sale of CONNUM 2 to each HM sale of CONNUM 2, and then do the same for the remaining CONNUMs.

D. Step 4

Step 4. Domestic parties propose that the Department delete each comparison when the EP is greater than NV.

The purpose of the transaction-to-transaction comparison is to determine "the existence of margins of dumping." *See* Article 2.4.2. This is done here by ascertaining whether the EP is less than the NV on a sale-specific basis. The price comparison between EP and NV should be done immediately after the EP and NV are established, before any summation or averaging of the transaction-specific EP or transaction-specific NV is done. The "results" of the test of whether dumping occurs (*i.e.* whether the EP<NV) should then immediately be applied to exclude non-dumped sales from the dumping margin. Comparisons where the EP is greater than NV do not reflect dumping, and accordingly are not appropriate for the dumping margin.

E. Step 5

Step 5. For the remaining home market sales (*i.e.* those involving comparisons to U.S. sales that are dumped) domestic parties propose that the Department identify whether multiple home market sales are identical or equally similar in all relevant respects to the U.S. comparison sale. If so, the margins for the U.S. sale should be apportioned to each matching HM sale based on the ratio of the quantity of that particular HM sale to the quantity of all remaining HM sales matching the individual US sale.[19]

When more than one identical or equally similar home market sale during the proper period

[19] Domestic parties again note that the only HM sales that should be considered for apportionment are those for which the EP-NV comparison shows dumping. If the weights were apportioned based on all HM sales the resulting margins would equal those obtained by comparing on a transaction-to-weighted average basis, as employed by the Department in reviews.

exists, it is necessary to apportion the weight for each margin involving such sales based on sales quantity.[20]

F. Step 6

Step 6 Determine the total margin of dumping for each U.S. sale by multiplying the dumping margin, *i.e.*(NV-EP) for each particular remaining U.S. sale (*i.e.* the dumped sales) times sales quantity of the particular dumped U.S. sale and the home market comparison sale apportion ratio. Sum the total margins of dumping over all dumped U.S. sales to obtain the total margin of dumping for the class of subject merchandise as a whole.

G. Step 7

Step 7 Calculate the margin percentage for the class of subject merchandise, by dividing the sum of margins over all dumped U.S. sales calculated in Step 6, by total export price of all U.S. sales (both dumped and not dumped).

If the margin of dumping obtained by dividing this sum by export price is less than two percent, determine that the margin of dumping is *de minimis*, under article 5.8 of the AD Agreement. If it is greater than two percent determine that it is not *de minimis*. If the margin is not *de minimis* use this margin as the cash deposit rate.

CONCLUSION

For the foregoing reasons, the transaction-to-transaction method provides a fair and accurate means of calculating dumping margins in investigations in a manner consistent with the WTO Panel decision in *EU - Zeroing*.

Respectfully submitted,

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[20] The sum of the apportionment ratios for home market sales identical or equally similar to the U.S. sale must equal 1.00 since the multiple home market sales are compared to just one U.S. sale.

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ATTACHMENT 1

Example Of Proposed Calculation

Step 1 - Separate Sales into Averaging Groups

US Sale No.	CONNUM	HM Sale No.	CONNUM
1	1	1	1
2	1	2	1
3	1		
4	2	3	2
5	2	4	2
		5	2
6	3	6	3
7	3	7	3
8	3	8	3

Step 2 and Step 3 - Calculate Sale-specific Margins & Existence of Dumping

Sale No.	CONNUM	EP	Sale No.	CONNUM	NV	NV - EP	Dumping
1	1	10	1	1	8	-2	NO
1	1	10	2	1	6	-4	NO
2	1	7	1	1	8	1	YES
2	1	7	2	1	6	-1	NO
3	1	5	1	1	8	3	YES
3	1	5	2	1	6	1	YES
4	2	15	3	2	17	2	YES
4	2	15	4	2	15	0	NO
4	2	15	5	2	20	5	YES
5	2	18	3	2	17	-1	NO
5	2	18	4	2	15	-3	NO
5	2	18	5	2	20	2	YES
6	3	30	6	3	25	-5	NO
6	3	30	7	3	20	-10	NO
6	3	30	8	3	15	-15	NO
7	3	20	6	3	25	5	YES
7	3	20	7	3	20	0	NO
7	3	20	8	3	15	-5	NO
8	3	10	6	3	25	15	YES
8	3	10	7	3	20	10	YES
8	3	10	8	3	15	5	YES

Step 4 - Delete Non-dumped Sales

Sale No.	CONNUM	EP	Sale No.	CONNUM	NV	NV - EP	Dumping
2	1	7	1	1	8	1	YES
3	1	5	1	1	8	3	YES
3	1	5	2	1	6	1	YES
4	2	15	3	2	17	2	YES
4	2	15	5	2	20	5	YES
5	2	18	5	2	20	2	YES
7	3	20	6	3	25	5	YES
8	3	10	6	3	25	15	YES
8	3	10	7	3	20	10	YES
8	3	10	8	3	15	5	YES

Step 5 - Apportion Margin Among Multiple Matching HM Sales

Sale No.	CONNUM	EP	Sale No.	CONNUM	NV	QTY	NV - EP	Dumping	Apportion Ratio
2	1	7	1	1	8	25	1	YES	0.250000
3	1	5	1	1	8	25	3	YES	0.250000
3	1	5	2	1	6	50	1	YES	0.500000
4	2	15	3	2	17	5	2	YES	0.2631579
4	2	15	5	2	20	7	5	YES	0.3684211
5	2	18	5	2	20	7	2	YES	0.3684211
7	3	20	6	3	25	10	5	YES	0.1818182
8	3	10	6	3	25	10	15	YES	0.1818182
8	3	10	7	3	20	15	10	YES	0.2727273
8	3	10	8	3	15	20	5	YES	0.3636364

Step 6 - Calculate total dumping margin

Sale No.	CONNUM	EP	QTY	Sale No.	CONNUM	NV	QTY	NV - EP	Dumping	Apportion Ratio	Dumping Margin	*
2	1	7	4	1	1	8	25	1	YES	0.25	1.000000	
3	1	5	5	1	1	8	25	3	YES	0.25	3.750000	
3	1	5	5	2	1	6	50	1	YES	0.5	2.500000	
4	2	15	3	3	2	17	5	2	YES	0.2631579	1.5789474	
4	2	15	3	5	2	20	7	5	YES	0.3684211	5.5263158	
5	2	18	2	5	2	20	7	2	YES	0.3684211	1.4736842	
7	3	20	5	6	3	25	10	5	YES	0.1818182	4.5454545	
8	3	10	6	6	3	25	10	15	YES	0.1818182	16.363636	
8	3	10	6	7	3	20	15	10	YES	0.2727273	16.363636	
8	3	10	6	8	3	15	20	5	YES	0.3636364	10.909091	
											64.010766	**

* MARGIN = (US QTY) * (NV-EP) * (APPORTION RATIO)

** SUM OF MARGINS FOR MARGIN % CALCULATION IN STEP 7

**Step 7 -
Calculate total dumping margin as % of export price**

Sale No.	CONNUM	EP	QTY	Export Price
1	1	10	3	30
2	1	7	4	28
3	1	5	5	25
4	2	15	3	45
5	2	18	2	36
6	3	30	4	120
7	3	20	5	100
8	3	10	6	60
				444

sum of sale-specific dumping margins	64.010766	**
total export price	444	
total dumping margin as % of export price	14.42%	