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PUBLIC DOCUMENT

Mr. David Spooner
Assistant Secretary for Important Administration
U.S. Department of Commerce
Central Records Unit, Room 1870
Pennsylvania Avenue at 14th Street, N.W.
Washington, D.C. 20230

Attention: Weighted Average Dumping Margin

Re: *Rebuttal Comments on Calculation of the Weighted Average Dumping Margin During an Antidumping Duty Investigation*

Dear Mr. Spooner:

On behalf of the Japan Iron & Steel Federation ("JISF"), we hereby submit the attached Rebuttal Comments in response to the Department of Commerce's ("Department") request for comments regarding the calculation of the weighted average dumping margin in an antidumping duty investigation. 71 Fed. Reg. 11,189 (March 6, 2006).

As requested in the Department's Federal Register notice, a signed original and six copies of these comments are being filed today, accompanied by an electronic version to facilitate posting on the Department's website.

If there are any questions concerning this submission, please contact the undersigned.

Respectfully submitted,

William H. Barringer
Daniel L. Porter
Valerie Ellis

Counsel to JISF

Before the United States Department of Commerce
International Trade Administration

Rebuttal Comments on behalf of Japan Iron & Steel Federation on the Department's Proposal to Terminate Its Zeroing Practice When Calculating Antidumping Margins

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I. Introduction and Summary

On behalf of the Japan Iron and Steel Federation ("JISF"), we hereby submit these rebuttal comments in connection with the Department of Commerce's (the Department) March 6, 2006 request for comments regarding the calculation of individual respondents' weighted average dumping margins in antidumping investigations. Specifically, these rebuttal comments address the following arguments and suggestions raised by various domestic interested parties:

- That the U.S. law and the AD Agreement[1] require the Department to zero, such that a legislative act is required before the Department can abandon the practice;
- That the Department should replace its preference for average-to-average comparisons with transaction-to-transaction comparisons;
- That the Department is permitted to continue zeroing in average-to-average comparisons where normal value is based on constructed value in market economy cases or surrogate values in non-market economy cases;
- That the Department should continue to zero in reviews; and
- That the Department should delay implementation of the panel's decision in *US-Zeroing* until the completion of the Doha round of WTO negotiations.

What is notable about all of these comments and suggestions is that they seek to perpetuate the practice of zeroing in forms contrary to both U.S. law and U.S. WTO obligations. In fact, most of these suggestions would invite further WTO and U.S. court litigation rather than provide a resolution to the underlying WTO inconsistency that the Department is proposing to address.

JISF submits that each of the above-listed arguments should not be considered by the Department because they are lacking in legal foundation and are otherwise without

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

merit. As discussed below, there is no legal or practical impediment to fully implementing the WTO panel report on zeroing and doing so immediately.[2] Moreover, in light of the Appellate Body's decision in *US-Zeroing*, any uncertainty as to the scope of the applicability of the AD Agreement's prohibition on zeroing in any context has been resolved.[3] Therefore, the Department should take all necessary steps to end the practice in all types of proceedings and for all types of comparisons. JISF appreciates the opportunity to present these rebuttal comments to the Department.

II. No Legislative Act is Required in order for the Department to Stop Zeroing in Antidumping Investigations

Several commenters filing on behalf of domestic interested parties have made the extraordinary claim that the statute requires the Department to calculate dumping margins "without applying offsets for non-dumped sales". Domestic interested parties are clearly misguided in their statutory interpretation. Nothing in the U.S. statute prohibits the Department from including the full value of all sales of subject merchandise when calculating dumping margins. Although an interpretation of the statute that *prohibits* zeroing would be the *best* interpretation of the statute, as it would not be inconsistent with U.S. international obligations, the Courts have recognized that the statute and Congressional intent are silent on whether the Department can or cannot use zeroing. While the courts have determined that the Department's practice of zeroing is permissible under the statute, the Court of International Trade ("CIT") and the Court of Appeals for the Federal Circuit ("CAFC") have held that "the statute *neither requires nor prohibits*

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

[3] Report of the Appellate Body, *United States - Laws, Regulations and Methodology for Calculating Dumping Margins ("US-Zeroing")*, WT/DS294/AB/R, circulated April 18, 2006.

Commerce from considering nondumped sales."[4] In Corus Staal BV, both the CIT and the CAFC found that the statute and Congressional intent were both silent on this particular issue and gave deference to the Department's interpretation of the statute.[5] For the reasons articulated by the courts, a statutory amendment is not required in order for Commerce to make this long-overdue change to its antidumping duty margin calculation practice.

One commenter attempts to draw an inference in favor of zeroing by comparing the statutory provision that allows for average-to-average comparisons with the provision that allows for average-to-transaction comparisons (i.e., the targeted dumping provision) to support its contention that zeroing is required by the statute.[6] First, the practice of zeroing at issue in the Department's request for comments involves the average-to-average comparisons, which the WTO has already found to be inconsistent with U.S. international obligations under the AD Agreement. Like the U.S. law, Article 2.4.2 of the WTO Agreement recognizes that in certain limited situations a weighted average normal value may be compared to individual export transactions, yet this did not prompt the panel to conclude that this provision was relevant to its finding against zeroing in the average-to-average context. Similarly, the fact that Congress, consistent with Article 2.4.2, set forth two different comparison methods in the statute which might render different results is also irrelevant. Indeed, both the U.S. law and the WTO Agreement

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4 *Corus Staal BV v. Dep't of Commerce*, 259 F. Supp. 2d 1253, 1261-63 (Ct. Int'l Trade 2003) (emphasis added); *Corus Staal BV v. Dep't of Commerce*, 395 F.3d 1343, 1346 (Fed. Cir. 2005) cert. denied, __ U.S. __, 126 S. Ct. 1023, 163 L. Ed.2d 853 (2006).

5 *Id.*

6 Comments filed by Skadden, Arps, Meagher & Flom LLP on behalf of United States Steel Corporation: Weighted Average Dumping Margin (April 5, 2006).

anticipate different results from the two methodologies in that both provisions are specifically provided because the preferred methodologies -- average-to-average or transaction-to-transaction -- cannot "account appropriately" for the circumstances of targeted dumping.. To attempt to wring from these two statutory provisions to be used under different circumstances support for the proposition zeroing must be used in average-to-average investigations is nothing short of absurd.

Second, the Court of International Trade has already noted the absence of any reference to zeroing in the Statement of Administrative Action, which is the "authoritative expression of the United States concerning the interpretation and application of the Uruguay Round Agreements."[7]. Because the statute does not speak to this issue, the Department has authority to reasonably interpret 19 U.S.C. § 1677(35)(A) and (B) in the presence of ambiguity and amend its practice of zeroing.[8] Thus this claim is contrary to findings already made by the courts.

Third, nothing in the AD Agreement specifically contemplates, much less requires, that member countries engage in the practice of zeroing. Indeed, as JISF asserted in its affirmative comments to the Department, the AD Agreement in fact prohibits the practice of zeroing in all contexts, and the dispute settlement panel erred on this point in its recent WTO ruling in *Lumber - Article 21.5*.[9] The Panel in *Lumber* -

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7 *Corus Staal BV v. Dep't of Commerce*, 259 F. Supp. 2d at 1261, n. 12 (Ct. Int'l Trade 2003) (quoting 19 U.S.C. § 3512(d) (2000))

8 *The Timken Co. v. United States*, 354 F.3d 1334, 1342 (Fed. Cir. 2004) ("While the statutory definitions do not unambiguously preclude the existence of negative dumping margins, they do at a minimum allow for Commerce's construction.")

9 Panel Report, *United States – Final Dumping Determination On Softwood Lumber From Canada - Recourse To Article 21.5 of the DSU by Canada ("Lumber-21.5")*, WTO/DS264/RW, circulated April 3, 2005.

Article 21.5 was persuaded, in part, by the claim that "mathematically, the results of the [average-to-transaction and average-to-average] comparison methodologies would be identical" but for the practice of zeroing.[10] While it is possible to conjure a fantasy scenario where this statement could be true, the argument regarding mathematical equivalency advanced by domestic parties and the United States in *US - Zeroing* is alarmingly disingenuous. In fact, in order for average-to-transaction comparisons and average-to-average comparisons to be mathematically equivalent, the normal value calculated in the two scenarios must be identical, but in the United States, this is not how the calculation is performed. Rather, with respect to average-to-transaction comparisons in investigations, the Department's regulations provide that the averages used in the average-to-transaction comparison allowable under the targeted dumping provisions of the antidumping agreement and U.S. law shall be limited, "to sales incurred during the contemporaneous month.".[11] Although the Panel in *Lumber - Article 21.5* was persuaded in part by this intellectually dubious argument, the Appellate Body in US-Zeroing has made it clear that whenever "multiple comparisons {are} made at an intermediate stage, it is required {pursuant to Article 9.3} to aggregate the results of all of the multiple comparisons, including those where the export price exceeds normal value."[12] This reasoning is equally applicable to average-to-average comparisons, transaction-to-transaction comparisons, and average-to-transaction comparisons, as evidenced by the

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[10] Opening Statement of the United States at the First Meeting of the Parties in US - Zeroing, as cited in the submission to the Department by Skadden, Arps, Slate, Meagher & Flom LLP on behalf of United States Steel Corporation, "Weighted Average Dumping Margin" (April 5, 2006).

[11] 19 CFR 351.414(f).

[12] Appellate Body Report, *US-Zeroing*, para. 127.

Appellate Body's further ruling on the "as applied" challenges on the Department's practice of zeroing under its comparison methodology used in administrative reviews.

A further examination of the way in which the average-to-transaction methodology works serves to highlight the soundness of the Appellate Body's reasoning in *US-Zeroing,* which determined the practice "result{s} in amounts of assessed anti-dumping duties that exceeded the foreign producers' or exporters' margins of dumping."[13] While it is possible to have identical comparisons in the average-to-transaction methodology under the targeted dumping provision, the use of a limited averaging window can, and often does, result in exaggerated dumping margins when compared to the average-to-average methodology. For example, suppose that a U.S. widget is sold at a net price of $10 and in a quantity of 10. Further suppose that the same widget is sold in the respondent's home market during that same month at a net price of $12 and in a quantity of 10. However, that same widget is also sold in the respondent's home market in 4 other months during the period of investigation at net prices of $9 in two months and $10 in two months and all in quantities of 10. Under the limited window presumed by the targeted dumping scenarios, the comparison would result in a dumping margin of 20% (((12-10)*10)/10). However, in the standard average-to-average comparison, the higher-priced home market transactions would be evened out by the weight-averaging of the other home market sales of the same product. The weighted-average home market price would be (12*10)+(10*10)+(10*10)+(9*10)+(9*10)/50 or $10 and, thus, the dumping margin would be zero (i.e., (($10-10)*10)/10). Therefore, it is clear that the average-to-transaction and average-to-average calculation methodologies are not mathematically equivalent and that the scenario conjured up by commenting

[13] *Id.* at para. 133.

parties does not reflect either Department practice, or commercial reality. It is the effect of zeroing in the aggregate that persuaded the Appellate Body in *US-Zeroing* to overturn the panel's decision with respect to zeroing in contexts other than average-to-average comparisons. As the Appellate Body stated, "under article 9.3 of the Anti-Dumping Agreement and Article VI:2 of the GATT 1994, the amount of the assessed anti-dumping duties shall not exceed the margin of dumping as established for the product as a whole… If the investigation authority chooses to undertake multiple comparisons at an intermediate stage, it is no allowed to take into account the results of only some comparisons, while disregarding others."[14]

In addition to the "mathematical equivalency" fallacy, domestic party comments to the Department have suggested that the AD Agreement permits zeroing because it allows member countries to measure the margin of "dumping". Citing to the panel decision in *Lumber - Article 21.5*, the Committee on Pipe and Tube Imports ("CPTI") asserts that, "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… must be excluded in calculating dumping margins."[15] Although the panel in *Lumber - Article 21.5* agreed with this reasoning by limiting its focus to, "the relevant part of the first sentence of Article 2.4.2, even though it does not reflect the full results of all comparisons," JISF's believes that this admission that the zeroing practice "does not reflect the full results of all comparisons" will be fatal to the panel's reasoning when it is

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[14] *Id.* (internal citations omitted).

[15] Comments filed by Schagrin Associates on behalf of the Committee on Pipe and Tube Imports, "Weighted Average Dumping Margin", page 11 (April 5, 2006).

reviewed by the Appellate Body. As the Appellate Body unambiguously stated in *US-Zeroing* when facing this same argument, "{Regarding} the United States' contention that, in duty assessment proceedings, the term "margins of dumping" can be interpreted as applying on a transaction-specific basis, {w}e disagree."[16] In light of this language, there can no longer be any doubt that "margins of dumping" is not a transaction-specific term and that the determination of dumping must be made *for the product as a whole*.[17] Because zeroing does not permit an analysis of prices in the two markets for the product as a whole, JISF maintains that such a practice violates the AD Agreement, in whatever context it is applied.

Finally, notwithstanding the Appellate Body's decision not to fully reach the "fair comparison" arguments raised in US-Zeroing because the issue was mooted out by the Appellate Body's finding regarding Article 9.3, JISF continues to believe that the practice of zeroing is inconsistent with United States WTO obligations under Articles 2.1, 2.4 and 2.4.2 of the AD Agreement. As expressed in our affirmative brief to the Department, the practice of zeroing fails to make a fair comparison between export price and normal value, as required by Article 2.4 and by Article 2.4.2 of the AD Agreement. Moreover, consistent with Article 2.1 of the AD Agreement, margins of dumping can be found to exist only after considering all relevant export prices for the "*product* under investigation as a whole."[18] JISF reiterates its request that the Department put an end to the zeroing

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[16] Appellate Body Report, US-Zeroing, para. 128.

[17] *Id.*

[18] Appellate Body Report, *European Communities - Antidumping Duties on Imports of Cotton-Type Bed Linen from India ("EC-Bed Linens")*, WT/DS141/RW, (March 12, 2001), para 53.

practice in all antidumping duty proceedings, including investigations and all types of reviews.

III. The Department Cannot Unilaterally Amend its Antidumping Practice to Calculate Margins Using Transaction-to-Transaction Comparisons

In its published notice for comments on its proposal to abandon the practice of zeroing, the Department also included a request that parties comment on, "appropriate methodologies to be used in future antidumping investigations." While the Department is free to review these comments along with the public, the Department is unequivocally not free to amend its preference for average-to-average comparisons in antidumping investigations absent a statutory amendment.

As explained in the affirmative brief filed by JISF in response to the Department's request for comments, there is a clear statutory preference for the use of average-to-average comparisons in antidumping investigations. The SAA makes it clear that the transaction-to-transaction methodology is an option to be used only in extremely limited circumstances. Because Congress has spoken definitively on this issue, the Department is not free to interpret the law in a way that is contrary to Congressional intent. Although the Department is afforded deference under *Chevron* when interpreting an ambiguous statutory provision, no such deference is appropriate when Congress has unambiguously addressed the issue at hand.[19] Under *Chevron*, the first question is "whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, *as well as the agency*, must give effect to the

[19] *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc ("Chevron").*, 467 U.S. 837, 81 L. Ed. 2d 694, 104 S. Ct. 2778 (1984).

unambiguously expressed intent of Congress."[20] Because Congress has spoken directly to the issue of when a transaction-to-transaction comparison may be used in lieu of an average-to-average comparison, the Department is not free to interpret the statute differently. As JISF pointed out in its April 5th comments, the Department itself has officially recognized that the SAA expresses a preference for average-to-average comparisons when it stated in the preamble to the Department's regulations that, "in our view, the SAA makes clear that Congress did not contemplate broad application of the transaction-to-transaction method."[21] Given the clear guidance on the preferred comparison methodology provided by statute, the Department would be foolhardy to attempt to revise its practice absent a direct grant of Congressional authority to do so.

Even if the Department were permitted to amend its preference for average-to-average comparisons in original investigations, as requested by several commenters on behalf of domestic interested parties, the agency would still be required to follow a formalized process in order to revise its regulations to allow for such a change. The preference for average-to-average comparisons is codified in the Department's regulations at 351.414 (c)(1), which state that, "in an investigation, the Secretary normally will use the average-to-average method."[22] Thus, even if a statutory amendment were not required, at the very least, the regulations would have to be revised before the Department could amend its practice.

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20 *Zenith Elecs. Corp. v. United States,* 77 F.3d 426, 429-30 (Fed. Cir. 1996) (emphasis added).

21 Preamble to the Final Rule, 62 Fed. Reg. 27,296, 27,373-74 (Dep't Commerce May 19, 1997).

22 19 CFR 351.414 (c)(1)("Preferences").

Because a change in the average-to-average methodological preference would require a substantive revision to the Department's regulations, it would constitute "rulemaking" that would be subject to the notice and comment requirements of the Administrative Procedure Act ("APA").[23] The comment forum provided in the Department's March 6, 2006 is in no way adequate under the APA to allow for an amendment to the agency's substantive regulations.[24] Rather, in order for such a change to occur, the Department would be required to include the actual proposed revision to the regulations in its request for comments, just as it included a proposal to "no longer make average-to-average comparisons without {including the total value of} non-dumped comparisons" in its March 6th comment request pertaining to the panel decision in *US - Zeroing*.

In accordance with the APA, agencies amending their rules, "must provide notice sufficient to fairly apprise interested persons of the subjects and issues before the agency".[25] "The salient question is...whether interested parties reasonably could have anticipated the final rulemaking".[26] Given that the Department's federal register notice only contains one affirmative proposal, to make a policy change to end the practice of zeroing, the notice cannot be considered adequate to apprise parties that the very essence of the antidumping duty calculation in investigations, the average-to-average comparison, may be replaced by a new, extra-statutory preference for transaction-to-transaction comparisons. Moreover, the limited number of comments received by the Department

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23 5 U.S.C. §§ 551 et seq.

24 *Natural Resources Defense Council v. EPA*, 279 F.3d 1180 (9th Cir. 2002).

25 *Natural Resources Defense Council v. EPA*, 863 F.2d 1420, 1429 (9th Cir. 1988).

26 *Am. Water Works Ass'n v. EPA*, 309 U.S. App. D.C. 235, 40 F.3d 1266, 1274 (D.C. Cir. 1994).

advocating such a change -- five, including two submitted by law firms on behalf of themselves -- is hardly sufficient to compel the Department to pursue this approach further.

The Department must also reject the assertion that the use of a transaction-to-transaction methodology for the purposes of dumping comparisons is somehow more accurate than the average-to-average methodology currently employed by the Department. In fact, unless the Department were dealing with a very small number of identical sales, the use of a transaction-to-transaction methodology is much more likely to lead to inaccurate results. For example, in its remand determination in Lumber, the Department limited home market matching to a two week period (i.e., one week before and one week after the U.S. transaction). It is easy to imagine a scenario where the home market and U.S. market use different dates of sale and while the home market may be viable, because of the different dates of sale and the limited matching window, you could potentially have no matching home market transactions for U.S. sales. This would then lead to the use of CV and the inflation of dumping margins. On the other hand, were the Department not to use a window period for matching purposes, one could envision a home market transaction matching to a U.S. transaction which is 12 months apart. Because of the volatility of exchange rates, there could be a dumping margin reflecting the exchange rate fluctuation rather than the ex-factory pricing in both markets.

Regardless of the methodology used, transaction-to-transaction comparisons would still lead to a greater complexity in matching. In order to accurately match home market transactions with U.S. transactions it would be necessary to add additional criteria to ensure the most identical or similar sale is matched. Under its normal practice for

matching sales, the DOC matches by manufacturer, prime, level of trade, CONNUM, matching type, difference in product characteristics, relative difference in cost, and difference in level of trade. However, in Lumber, the DOC used all of its standard criteria and included these additional criteria: sales quantity, customer category, channel of distribution, movement expenses, commissions, and credit. DOC chose these additional criteria without first seeking comment from parties. By including these additional criteria the DOC introduced an inordinate level of complexity into its antidumping practice, which if embraced on a broader scale would lead to a complete lack of predictability and fairness in the execution of what is supposed to be a remedial statute.

IV. The Department is Required to End Zeroing in All Investigations, Including Those Where Average Normal Value is Calculated Using Constructed Value or Surrogate Values

On commenter claims that "no WTO panel or Appellate Body decision has found U.S. methodology in constructed value or NME situations to violate U.S. rights under the antidumping agreement," and that therefore, the Department is not required to change its zeroing practice in these cases.[27] This claim fails on several points. First, the provisions of the AD Agreement upon which the panel relied to rule that zeroing is impermissible in AD investigations refers to the comparison of "a weighted average normal value with a weighted average price of all comparable export transactions."[28] In accordance with the statute, under U.S. law, normal value is determined by one of three methods: home market sales, third-country sales, or constructed value. If neither home market sales nor

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[27] Comments filed by Stewart and Stewart: Weighted Average Dumping Margin, pages 19-20 (April 5, 2006).

[28] Article 2.4.2.

third-country sales form an adequate basis for comparison, then normal value is the constructed value of the imported merchandise. While the law establishes a preference for home market sales or third-country sales prior to resorting to constructed value as the basis for normal value, it nonetheless recognizes that constructed value can be a basis for determining normal value.

Moreover, the Department's investigation methodology calculates an overall average normal value, whether that normal value is based on home market sales, third country sales, or constructed value. As noted in 19 CFR 351.405(a), constructed value is based on the cost of manufacture, selling general and administrative expenses, and profit. In practice, the Department calculates a model-specific, weighted-average cost of manufacture based on the period of investigation or review. Thus, even when normal value is based on constructed value, the Department still calculates an *average normal value*. The panel found in *US - Zeroing* that, "the United States has acted in breach of Article 2.4.2 of the AD Agreement when... USDOC did not include in the numerator used to calculate weighted average dumping margins any amount by which average export prices in individual averaging groups exceeded the *average normal value* for such groups. " (emphasis added) Thus, constructed value, when it forms the basis of normal value in model-specific comparisons to export prices or constructed export prices, is clearly contemplated by and included in the Panel's decision. Furthermore, the issue of zeroing is fundamentally a question of the treatment of export prices in the margin calculation when the average export price exceeds average normal value no matter which basis is used for determining average normal value. The WTO's decision rests on the Department's failure to examine all comparable export transactions. If the Department

were to continue to zero in cases where NV was based on CV, the WTO-inconsistent practice of failing to examine all relevant export transactions would continue, in direct violation of the Department's compliance obligations under section 132(g) of the URAA. Consequently, JISF maintains that zeroing when comparing constructed values to individual export prices would not conform the Department's practice to the Panel's decision and therefore must be rejected.

V. The Department Should Not Continue to Zero in Reviews

As asserted in JISF's April 6th comments, in addition to eliminating the practice of zeroing in original antidumping investigations, the Department should cease to apply zeroing in antidumping duty administrative reviews, new shipper reviews, changed circumstance reviews and sunset reviews. The Appellate Body's decision in *US-Zeroing* makes it clear that zeroing in all types of investigations and reviews is prohibited by the AD Agreement. Because the Appellate Body reversed the panel's decision with respect to the as applied challenges in the administrative reviews at issue in *US-Zeroing*, and held that, "{zeroing} in the administrative reviews at issue results in amounts of assessed anti-dumping duties that exceed the foreign producers' or exporters' margins of dumping," which is prohibited by Article 9.3 of the AD Agreement and Article VI:2 of the GATT 1994, the Department should abandon its attempt to limit its WTO compliance to prohibiting zeroing in investigations. Such an interpretation is unnecessarily narrow and in JISF's view, continues to violate Article 9.3 of the AD Agreement and Article VI:2 of the GATT, as well as the fairness provisions of the AD Agreement.

VI. The Department Cannot Delay Implementation of the Decision in *US-Zeroing*

In an attempt to cling to the distortive and WTO-inconsistent practice of zeroing for as long as possible, several commenters have argued that the Department should delay implementation of the panel decision in *US-Zeroing* until the completion of the Doha round of WTO negotiations. The implementation provisions of section 123(g) of the URAA should not be interpreted to give the Department an open-ended opportunity to delay implementation of a ruling by the dispute settlement body of the WTO. While the provisions of 123(g) do not provide for specific deadlines regarding implementation of a WTO decision, they clearly contemplate that implementation be completed within a reasonable time frame.[29] Furthermore, pursuant to article 21.1 of the Dispute Settlement Understanding, the United States has committed to ensuring, "prompt compliance with recommendations or rulings of the DSB ...in order to ensure effective resolution of disputes to the benefit of all Members." The suggestion that the Department delay implementation of the decision in US-Zeroing is antithetical to the commitment to prompt compliance embodied in the DSU, and should be disregarded by the Department.

[29] *See e.g.*, 19 U.S.C. 3533(g)(2) establishing a 60 day waiting period for implementation of a final rule or other modification, "unless the President determines that an *earlier* effective date is in the national interest" (emphasis added).

VII. Conclusion

JISF appreciates the opportunity to provide this response to the comments filed by domestic parties regarding the Department's proposed modification to its zeroing practice in original investigations. If you have any questions about these comments, please contact one of the undersigned.

Respectfully Submitted,

William H. Barringer
Daniel L. Porter
Valerie Ellis