

PROHIBITION OF ZEROING¹

Communication from Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Israel;
Japan; Korea; Mexico; Norway; Singapore; Switzerland; Separate Customs
Territory of Taiwan, Penghu, Kinmen and Matsu; and Thailand

The following communication, dated 24 May 2004, is being circulated at the request of the Delegations of Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Israel; Japan; Korea; Mexico; Norway; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; and Thailand.

The submitting delegations have requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(04)/57), also be circulated as a formal document.

I. BASIC PRINCIPLE

- An AD investigation shall determine whether imports from an exporter or producer of a product as a whole have been dumped in the importing market, NOT whether there are individual sales of that product or models of that product, which have been sold below normal value.
- A “fair comparison” should be done between export prices of all comparable transactions and normal value.
- Thus, “Zeroing” must be prohibited in all methods of comparison and in all AD proceedings, and a single dumping margin should be calculated for the entire period of investigation.

II. PROBLEM OF THE CURRENT AD AGREEMENT

- Although the above-mentioned basic principle is embodied in the current AD Agreement, there exist disagreements among Members over the scope and extent of the prohibition of “zeroing”.

III. AMENDMENT

1. Prohibit the Practice of “Zeroing” in the Calculation of Dumping Margins in All AD Proceedings

Proposal:

Amend Article 2.4.2 to explicitly provide that regardless of the basis of the comparison of export prices to normal value (i.e. weighted average-to-weighted average or transaction-to-transaction,

¹ This issue has been referred to by Members in documents TN/RL/W/6, 20, 22, 25, 26, 28, 45, 66, 72, 113, 119 and 141.

or weighted average-to-transaction), all positive margins of dumping and negative margins of dumping found on imports from an exporter or producer of the product subject to investigation or review must be added up.

Further amend the first sentence of Article 2.4.2 to clarify that the Article applies to initial investigations and all subsequent reviews under Articles 9 and 11.²

Explanation:

These proposals are intended to clarify that regardless of the basis of the comparison methodology used by particular authorities, positive margins of dumping and negative margins of dumping must be added up in the determination of the margin of dumping for the imports of the product as a whole in both the initial investigations and subsequent reviews.

2. Clarify That A Single Margin of Dumping Must Be Calculated for the Entire Period of Investigation or Review.

Proposal:

Add a provision to Article 2.4 clarifying that, regardless of the comparison methodology, if margins of dumping are determined separately for imports during multiple portions of the entire period of an investigation or review, the margin of dumping to be determined in the investigation or review must be a single margin of dumping for all imports during the entire period of investigation or review.

Explanation:

It is possible to effect “zeroing” by subdividing the period of investigation or review and calculating separate margins for each such period (e.g. month, quarter, semi-annual). Calculating margins for subdivided periods separately and not offsetting the positive margins with negative margins for the entire period of investigation or review can have the same effect as zeroing. The fact that an exporter is dumping in some portion of the period of investigation or review, but has no margin of dumping on exports as a whole during the full period of investigation or review, does not justify finding margins of dumping.

² This proposal is also related to our previous proposal on reviews, WT/RL/W/83 (25 April 2003).