

PROPOSAL ON OFFSETS FOR NON-DUMPED COMPARISONS

Proposal from the United States

The following communication, dated 27 June 2007, is being circulated at the request of the Delegation of the United States.

Following up on our recent submission to the Negotiating Group on Rules on the issue of Offsets for Non-Dumped Comparisons¹, often referred to as the "zeroing" issue, the United States now submits proposed legal text on this issue, to provide explicitly in the Antidumping Agreement that authorities shall not be required to provide such offsets, either in antidumping investigations or in assessment proceedings.

Proposed Text – Antidumping Agreement

- 2.4 A fair comparison shall be made between the export price and the normal value as follows. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability.² In the cases referred to in paragraph 3, allowances for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made. If in these cases price comparability has been affected, the authorities shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or shall make due allowance as warranted under this paragraph. The authorities shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties.

- 2.4.3 When aggregating the results of comparisons of normal value and export price to determine any margin of dumping, whether in an investigation pursuant to paragraph 4.2 or for any other purpose (including determinations pursuant to Articles 9 or 11), authorities are not required to offset the results of any comparison

¹ TN/RL/W/208 (5 June 2007).

² [Existing Footnote 7 to Antidumping Agreement:] It is understood that some of the above factors may overlap, and authorities shall ensure that they do not duplicate adjustments that have been already made under this provision.

in which the export price is greater than the normal value against the results of any comparison in which the normal value is greater than the export price.

- 9.3 The amount of the anti-dumping duty shall not exceed the margin of dumping as established under Article 2. For purposes of this provision, in determining whether the amount of the anti-dumping duty exceeds the margin of dumping, the authorities may calculate the margin of dumping on the basis of an individual export transaction or multiple export transactions. The authorities are not required to offset the results of a comparison for any transaction for which the export price is greater than the normal value against the results of a comparison for any transaction for which the export price is less than the normal value.
