

VIII. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

(a) Claims regarding USDOC's sunset review

8.1 With regard to claims regarding the alleged inconsistency of the US statute, 19 U.S.C. § 1675a(c)(1)), the Statement of Administrative Action (SAA) (pages 889-890) and the Sunset Policy Bulletin (SPB) (section II.A.3), with Article 11.3 of the AD Agreement, we conclude the SPB, in section II.A.3, establishes an irrebuttable presumption that termination of the anti-dumping duty would be likely to lead to continuation or recurrence of dumping, and therefore is, in this respect, inconsistent, as such, with the obligation set forth in Article 11.3 of the AD Agreement to determine likelihood of continuation or recurrence of dumping.

8.2 With regard to the determination of USDOC in the sunset review at issue in this dispute, we conclude that USDOC acted inconsistently with Article 11.3 of the AD Agreement in that its determination that dumping is likely to continue or recur is not supported by reasoned and adequate conclusions based on the facts before it.

8.3 We make no findings concerning Mexico's claims under Articles 2 and 6 of the AD Agreement in the context of the USDOC sunset review at issue in this dispute.

8.4 We conclude that claims regarding alleged inconsistency of USDOC "practice" in sunset reviews are not within the Panel's terms of reference.

(b) Claims regarding USITC's sunset review

8.5 We conclude that the standard applied by USITC in determining whether termination of the anti-dumping duty would be likely to lead to continuation or recurrence of injury, is not inconsistent with Article 11.3 of the AD Agreement as such, or as applied in the sunset review at issue in this dispute.

8.6 We conclude that the relevant provisions of US law, 19 U.S.C. §§ 1675a(a)(1) and (5) regarding the temporal aspect of USITC determinations of likelihood of continuation or recurrence of injury are not, as such, or as applied in the sunset review before us in this dispute, inconsistent with Articles 3.1, 3.2, 3.4, 3.5, 3.7, 3.8, 11.1, and 11.3 of the AD Agreement. in making its determination of likelihood of continuation or recurrence of injury in the sunset review at issue in this dispute.

8.8 We conclude that the USITC's determination in the sunset review at issue in this dispute is inconsistent with Articles 3.3 and 11.3 of the Agreement.

8.9 We make no findings regarding the remaining aspects of the sunset review at issue in this dispute, under Articles 3.2, 3.3, 3.4, 3.5, 3.7 and 3.8 of the AD Agreement.

(c) Claims regarding USDOC's fourth administrative review

8.10 We conclude that USDOC did not act inconsistently with Article 11.3 of the AD Agreement in determining not to revoke the anti-dumping duty in the sunset review at issue in this dispute.

8.11 We further conclude that it is not necessary for us to address claims under Articles 11.2, 2.4, and 2.4.2 of the AD Agreement with respect to the calculation of dumping margins in the fourth administrative review.

8.12 Articles 11.2, 2.4, and 2.4.2 of the AD Agreement, and Article 16.2 of the GATT 1994, do not require the United States to conduct a fourth administrative review of the anti-dumping duty rate for the subject merchandise. The United States' failure to do so does not constitute a violation of Article 16.2 of the GATT 1994, Article 11.2, 2.4, and 2.4.2 of the AD Agreement, or Article 17.4 of the AD Agreement.