BEFORE THE WORLD TRADE ORGANIZATION

US – Anti-dumping Measures on Certain Shrimp from Viet Nam

(WT/DS404)

Executive and Public Summary of the First Written Submission of the Socialist Republic of Viet Nam

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I. INTRODUCTION

1. Viet Nam's First Written Submission in *US – Anti-Dumping Measures on Certain Shrimp from Vietnam* provides the factual context and legal arguments challenging certain practices used by the United States Department of Commerce ("USDOC") in the ongoing antidumping proceedings involving certain shrimp products from Viet Nam. Each of these practices limits the ability of Vietnamese exporters and producers to prove the absence of dumping, resulting in the continuation of an antidumping order for companies that have in fact gone to great lengths to alter their conduct to eliminate dumping.

2. Specifically, the four claims set forth in the First Written Submission challenges practices that, as applied, are inconsistent with United States obligations under Article VI of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") and the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("*Agreement*"): (1) the use of zeroing to calculate antidumping margins, (2) the application of a country-wide rate to certain respondents not individually investigated or reviewed, (3) the all-others rate calculated and applied to certain other uninvestigated or unreviewed respondents, and (4) the repeated refusal by the USDOC to review individual respondents requesting such a review and thus determining margins for only a limited selection of respondents. The USDOC has relied on, and continues to rely on, the above-listed practices for each stage of the antidumping proceeding.

II. THE MEASURES AT ISSUE

3. The three measures at issue in this dispute relate to the imposition by the United States of antidumping duties under the USDOC's antidumping duty order involving certain frozen and canned warmwater shrimp from Viet Nam (case number A-552-802). The USDOC issued its final determination of sales at less than fair value for the original investigation on December 8, 2004, and subsequently published an amended determination and antidumping duty order on February 1, 2005. Since imposition of the antidumping duty order, USDOC has completed four periodic reviews, issued a preliminary determination in the fifth periodic review, and issued a preliminary determination in a Five-Year ("Sunset") review.

4. Viet Nam's date of accession to the World Trade Organization is January 11, 2007. Two of the above-referenced determinations in the shrimp proceedings have been initiated and completed subsequent to Viet Nam's accession and prior to the request for consultations in this dispute. Thus, the measures at issue are the second and third administrative reviews made pursuant to the antidumping duty order, and the continued use of the challenged practices in successive antidumping proceedings under this order. The second administrative review of antidumping duties covered entries during the period from February 1, 2006 through January 31, 2007, and the final results were published on September 9, 2008. The third administrative review covered entries from February 1, 2007 to January 31, 2008, and the final results were published on September 15, 2009.

5. The third measure is the continued use of the practices challenged in the above-referenced claims in successive segments of the proceeding under the shrimp antidumping order. This includes the fourth administrative review, the fifth administrative review, and the

five-year (sunset) review. Consistent with the Appellate Body's interpretation of the *Agreement* and the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, the USDOC's actions in connection with these practices constitute "ongoing conduct" that is subject to consideration by the reviewing panel. Judicial economy and fundamental fairness require inclusion of this measure because the USDOC has given no indication that it intends to alter these practices in any future segment of this proceeding.

6. The particular factual situation of this dispute also makes relevant the USDOC's determination in the original investigation and the final results of the first administrative review. Although not measures, these determinations are important for the Panel to review and understand because of their impact on the measures that are at issue in this dispute.

III. FACTS

7. The claims raised for the three measures at issue involve four practices adopted and used by the USDOC at each stage of the proceeding: (1) the use of zeroing; (2) application of a country-wide rate; (3) the chosen calculation method for the all-others rate; and (4) the limited selection of respondents subject to individual review.

A. The USDOC's Zeroing Methodology

8. The USDOC calculates the margin of dumping based on a comparison of normal value and United States export price or constructed export price. Normal value in proceedings involving a nonmarket economy country is based on the producer's factors of production, which include individual inputs for raw materials, labor, and energy based on the actual production experience of the individual respondent. The USDOC relies on surrogate values to determine the price at which the factors of production would be acquired in a market setting, relying on a specific surrogate country for this exercise. In the case of Viet Nam, this surrogate country has been Bangladesh. The USDOC then applies ratios for overhead, selling, general and administrative expenses, and profit to the calculation. The resulting normal value is compared to the export price or constructed export, which is the price at which the product is first sold to an unaffiliated purchaser.

9. The comparison of normal value and price is made between products of similar characteristics. That is, within the broad category of subject merchandise – certain frozen and canned warmwater shrimp – are many sub-categories with differing key characteristics, as determined by the USDOC. Each of these sub-categories, or "models" under USDOC terminology, is assigned a control number ("CONNUM") by the USDOC.

10. In original investigations, the USDOC utilizes "model zeroing," where each sales transaction is weight-averaged by CONNUM, and each weighted-average model is compared to the normal value for that CONNUM; the results of these intermediate calculations for each CONNUM are then aggregated to determine the overall margin of dumping. Positive dumping in the intermediate calculation occurs when the normal value exceeds the average export price of an individual CONNUM; negative dumping occurs when the average export price exceeds normal value. Zeroing arises in instances of negative dumping, where the USDOC eliminates the results of that specific CONNUM before calculating the overall

weighted dumping margin for the exporter: any instances of negative dumping are set to zero, as opposed to allowing the negative dumping to offset the positive dumping.

11. The overall margin is calculated using only the CONNUMs that produce a positive dumping margin. The USDOC creates a fraction to calculate the overall dumping margin, using as the numerator the total amount of dumping by model, based only on margins that were positive at the intermediate, model-specific stage of comparison. For models with negative dumping, the USDOC ignores the results, thereby inflating the numerator by an amount equal to the excluded negative comparison results. The denominator of the fraction is the total value of all export transactions for all models under investigation. Expressing this fraction as a percentage results in the "weighted average dumping margin" for the investigation, which for companies selected for individual investigation serves as the cash deposit rate for entries made after publication of the antidumping order. For companies not individually investigated that satisfy the USDOC's separate rate criteria (further discussion below), the USDOC will generally take the weight-average of the weighted-average margins of the firms individually investigated, excluding margins that are zero, *de minimis*, or based on adverse facts available. Thus, the model zeroing methodology similarly impacts the antidumping margin for these companies.

12. It cannot be reasonably argued that the USDOC did not use model zeroing in the investigation at issue in this dispute. Viet Nam provides substantial documentation demonstrating that the USDOC used a methodology identical to the methodology previously considered by the Appellate Body in *US – Softwood Lumber V*. The USDOC's Issues and Decision Memorandum, which accompanies publication of the final determination, states in explicit terms that intermediate model comparisons that produced negative dumping margins were not permitted to offset model comparisons that produced positive dumping margins, effectively ignoring these sales made by the respondents, regardless of the amount of volume involved. Further, Viet Nam provides the actual computer program outputs and logs for two of the mandatory respondents in the investigation, pinpointing the exact lines in the programming that execute the zeroing methodology.

13. In administrative reviews, the USDOC engages in simple zeroing, which differs with the above method for calculating antidumping margins only in the comparison that is made at the intermediate step. In administrative reviews, individual export transactions are compared with a contemporaneous weighted-average normal value; the amount by which normal value exceeds the export price is the dumping margin for that export transaction. As with model zeroing, these intermediate comparisons may produce either positive or negative dumping margins; once again, comparisons that produce a negative dumping margin are ignored for purposes of calculating the overall dumping margin. Instead of zeroing by model, as with model zeroing, the USDOC here zeroes by individual export transaction. The result is similar, in that the total amount of dumping reflected in the numerator is inflated by an amount equal to the excluded negative differences.

14. As stated above, it cannot reasonably be disputed that the USDOC engaged in simple zeroing in the administrative reviews considered in this dispute. In each completed administrative review, the USDOC has confirmed in its Issues and Decision Memorandum that it did not permit the intermediate negative dumping margins to offset the intermediate positive

dumping margins when calculating the overall antidumping margin. The computer program logs and outputs provided by Viet Nam, which are in fact the logs and outputs released by the USDOC following completion of the administrative reviews, further substantiate this fact.

B. The USDOC's Country-Wide Rate Practice

15. The USDOC practice for determining antidumping margins for Vietnamese companies not individually reviewed differs substantially from the practice for market economy countries. In the shrimp proceedings, the USDOC creates two categories of companies not individually reviewed: those assigned an "all-others" rate (in USDOC terminology this is called a "separate rate"), consistent with the *Agreement*; and those assigned what is called a "Vietnam-wide" rate.

16. Companies wanting to receive the all-others rate must satisfy the USDOC's separate rate criteria. This requires that companies not individually reviewed submit to the USDOC a "separate rate application" or a "separate rate certification", to establish the absence of government control, both in law and in fact, with respect to exports. Companies must present evidence to satisfy the criteria established by the USDOC to prove the absence of government control. Companies that satisfy the criteria will typically receive a rate based on the weighted average of the rates individually calculated for the mandatory respondents, excluding rates that are zero, *de minimis*, or based on facts available. Companies that do not satisfy the USDOC's criteria receive the Vietnam-wide rate, a punitive rate based on adverse facts available. The result of this practice is grossly inflated margins for companies that are unable to satisfy the unjustified criteria established by the USDOC.

17. In these antidumping proceedings, companies that do not satisfy the separate rate criteria have been assigned a Vietnam-wide rate of 25.76 percent for the first, second, third, and fourth administrative reviews. In contrast, the rate for companies that satisfied the separate rate criteria was 4.57 percent for the first, second, and third administrative review, and 4.27 percent for the fourth administrative review.

C. USDOC's Limited Selection of Mandatory Respondents and Application of the "All-Others" Rate to Respondents Not Individually Reviewed

18. The United States antidumping law sets forth the general requirement that all exporters seeking individual investigation or review have the opportunity to do so. The law provides a limited exception to this general rule where doing so would be impracticable because of the large number of exporters or producers requesting investigation or review.

19. At each segment of this antidumping proceeding, the USDOC has severely limited the number of companies that it individually reviews. Following initiation of the investigation and administrative reviews, the USDOC issues a respondent selection memorandum in which two determinations are made: whether it would be practicable to individually examine all companies and, if not, the number and specific identity of those companies for which examination will take place. The USDOC has individually examined between two and four companies at each phase of this antidumping proceeding, despite requests for review that consistently exceed 30 companies. In each memorandum, the USDOC

provides the identical rationale for limiting the number of companies examined: that the office conducting the review has a significant workload, that the office does not anticipate receiving additional resources to conduct the review, and therefore, it would be impracticable to review more than the stated number of companies.

20. The non-selection of a company for individual review can have significant ramifications for that company. In the second and third administrative reviews, all companies selected for individual examination received rates that there were either zero or *de minimis*. Because the USDOC typically excludes from the all-others rate calculation zero and *de minimis* rates, the USDOC in both instances relied on the results of the first administrative review, which in turn relied on calculations from the original investigation. The USDOC relied on a prior phase of the proceeding to assign a margin for companies not individually reviewed in a subsequent review. The fact that in both cases the companies selected as mandatory respondents received a zero or *de minimis* margin was ignored in determining the rate for the non-individually reviewed companies eligible to receive the all-others rate.

21. The limited selection of respondents also adversely impacts a company's ability to prove the absence of dumping and have an antidumping duty order revoked. A company not afforded the opportunity to participate in administrative reviews likewise does not have the opportunity to establish that it no longer engages in dumping. United States law, consistent with Article 11.1 of the *Agreement*, provides for revocation of an antidumping duty order where a company has been found to not dump for three consecutive years. Yet, by refusing to individually examine all companies seeking review, the USDOC severely limits the number of companies that qualify for revocation under this provision, making the law irrelevant for most companies seeking revocation.

IV. CLAIMS AND ARGUMENTS

A. Claims of Inconsistency Regarding Zeroing

22. The Appellate Body has stated repeatedly and resoundingly that the issue of zeroing in antidumping proceedings is a settled matter: the zeroing methodology is inconsistent with the *Agreement* in both investigations and administrative reviews. In the interest of judicial economy and fairness, the Panel should adhere to the guidance of the Appellate Body and find the zeroing used in this proceeding by the USDOC, identical in substance to the zeroing previously considered by the Appellate Body, to violate United States obligations under the *Agreement*.

1. The Use of Zeroing in the Original Investigation of this Proceeding Is Inconsistent with United States WTO Obligations

a. Article VI of the GATT 1994 and Article 2.1 of the *Agreement* define "dumping" and "margin of dumping" with regard to the product as a whole

23. The GATT 1994 and the *Agreement* both define the concepts of "dumping" and "margin of dumping" with regard to the product under investigation as a whole, not models or categories that are subsets of the product. First, Article VI:1 of the GATT 1994 defines

dumping as when "products of one country are introduced into the commerce of another country at less than the normal value of the products," referring to the product as a whole, not subsets.

24. Second, Article 2.1 of the *Agreement*, which based on the terms of the provision applies to the entire *Agreement*, defines "dumping" for purposes of the *Agreement* with clear reference to the "product" that is subject to the proceeding. The Appellate Body has repeatedly understood this definition to preclude a finding of dumping for any subcategory of the product under review. Additional articles of the *Agreement* and GATT 1994 provide contextual support for this interpretation: Article 9.2 discusses the imposition of an antidumping duty with respect to a "product"; Article 6.10 states that the investigating authority shall calculate an "individual margin of dumping for each exporter or producer concerned of the product under investigation"; and Article VI:2 of the GATT 1994 provides that "in order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of that product."

25. Thus, although an investigating authority may undertake multiple comparisons using averaging groups or models, the results of the multiple comparisons at the sub-level are not "margins of dumping." Rather, those results reflect only intermediate calculations made by an investigating authority in the context of establishing margins of dumping for the product under investigation.

b. Zeroing is Prohibited Under Article 2.4.2 of the *Agreement*

26. The model zeroing methodology is inconsistent with Article 2.4.2 of the *Agreement* because it fails to consider the results of all export transaction comparisons for purposes of calculating a final dumping margin. The Article requires that where the administering authority makes a weighted average to weighted average comparison for purposes of calculating the margin of dumping, as it did in the shrimp original investigation, the weighted average normal value is to be compared to "a weighted average of prices of all comparable export transactions." As shown above, the "margin of dumping" for which Article 2.4.2 provides the method of calculation refers to the margin of dumping for the *product as a whole*, not a subset of the product. The requirement of Article 2.4.2 that "all comparable export transactions" be compared necessarily means that all transactions for that product be factored into the final calculation, and is not merely a reference to the intermediate, model-based calculations.

27. By disregarding or treating as zero the intermediate comparisons for product models where the net export prices exceed normal value, the USDOC's use of zeroing in investigations necessarily fails to account for "all comparable export transactions." The zeroing methodology systematically excludes export transactions that Article 2.4.2 requires be included in the final margin calculation. The Appellate Body and numerous panels have repeatedly found this action to violate Article 2.4.2 of the *Agreement*.

2. The Use of Zeroing in Periodic Reviews is Inconsistent with United States WTO Obligations

28. As the discussion above illustrates, Article IV:1 of the GATT 1994 and Article 2.1 of the *Agreement* define "dumping" and "margin of dumping" with regard to the subject product as a whole. As recognized by the Appellate Body, this definition is applicable to the entire *Agreement*, per the opening line of Article 2.1.

29. Article 9.3 of the *Agreement* governs the assessment of final antidumping duties and thus bears on the USDOC's use of simple zeroing in administrative reviews. The Article does not mandate use of a particular methodology for calculation of final assessment, but does require that the "amount of the anti-dumping duty shall not exceed the margin of dumping as established under Article 2." Thus, the margin of dumping, calculated pursuant to Article 2, serves as a ceiling to the amount of antidumping duties that may be collected in the assessment phase. Additionally, as is clear from the reference to Article 2, the "margin of dumping" in Article 9.3 must likewise be calculated on the basis of all transactions for the product as a whole, not merely a subset of the transactions for that product.

30. The USDOC's model zeroing methodology does not take into consideration all transactions for the product, treating as zero and disregarding those intermediate comparisons where export price of an individual transaction exceeds normal value. By doing so, the calculation necessarily results in dumping margins that are higher than would be true if all export transactions were taken into account, *i.e.*, higher than the dumping margins would be for the product as a whole.

31. The GATT 1994 and the *Agreement* require that where the administering authority makes multiple comparisons at an intermediate stage, *all* intermediate comparisons must be aggregated, including comparisons that produce both negative and positive dumping margins. As has been repeatedly construed by the Appellate Body and prior panels, this action violates Article VI:2 of the GATT 1994 and Article 9.3 of the *Agreement*.

B. Claims of Inconsistency Regarding the Country-Wide Rate

32. As discussed above, the USDOC's practice for calculating the antidumping margins for companies not individually investigated or reviewed differentiates between companies that satisfy the USDOC's separate rate criteria and those that do not. Yet, the USDOC has no authority under the *Agreement* or Viet Nam's Accession Protocol to the WTO to assign the highly punitive Vietnam-wide rate to companies in this proceeding.

33. The *Agreement* contemplates that an administering authority may apply only three types of antidumping margins. An administering authority may not go beyond the types of margins provided for in the *Agreement*, as identification of the three types of margins in the *Agreement* necessarily limits the practices and methodologies available to an authority. To allow an authority to deviate beyond the provided methods for calculation would render meaningless the parameters set for application of those margins. Specifically, the express terms of Articles 2, 6, and 9 of the *Agreement* limit the types of margins to be applied.

34. Article 2 defines dumping and provides the framework for how an administering authority may determine the existence and extent to which an individually investigated company may be engaged in dumping.

35. Article 6.8 provides that an administering authority may calculate rates for individually examined companies on the basis of facts available. The plain language of Article 6.8, as interpreted by the Appellate Body, makes clear that a margin that is based on facts available may only be applied to companies individually examined by the administering authority. Article 6.8 provides that facts available may only be used where an "interested party" does not provide "necessary information" to the authority. The Appellate Body has explicitly clarified that non-examined companies are not "interested parties" within the context of Article 6.8, precluding application of that Article to those entities.

36. Furthermore, an administering authority does not, by definition, request "necessary information" from companies not individually examined. Necessary information is that which is necessary to calculate an antidumping margin. Although an administering authority may request information beyond this, only the failure to provide necessary information triggers the application of Article 6.8. This fact renders this provision inapplicable to companies not individually examined.

37. Article 9.4 is the final type of antidumping margin contemplated by the *Agreement* and provides for calculation of a single all-others rate for companies not individually examined. Article 9.4 sets the parameters for margins to be applied where examination has been limited pursuant to Article 6.10 of the *Agreement*. The Article is clear that an administering authority may not apply to non-examined companies an antidumping margin that exceeds the weighted average margin of dumping for companies individually reviewed, excluding margins that are zero, *de minimis* or based on facts available. Application of a margin beyond this limit violates the basic and clear terms of Article 9.4.

38. Viet Nam's Protocol of Accession ("Protocol") confirms that the USDOC has no basis for applying this discriminatory rate to Vietnamese producers and exporters. The Protocol, through reference to the Report of the Working Party on the Accession of Viet Nam, identifies the entire universe of situations in which an administering authority may deviate from the terms of the *Agreement*. While the Protocol provides certain special rules applicable to Viet Nam during a transition period, it contains no exception for the calculation of the margins of dumping for companies not individually investigated or reviewed.

39. The USDOC has no authority to deviate from the *Agreement* and apply the Vietnam-wide rate to certain Vietnamese companies. The Vietnam-wide rate does not comply with the requirements of Articles 2, 6.8, or 9.4, and is not otherwise contemplated by the *Agreement* or Viet Nam's Protocol.

C. Claims of Inconsistency Regarding the All-Others Rate

40. As discussed above, the USDOC impermissibly applied both an all-others rate and a Vietnam-wide rate to companies not individually examined. For purposes of the all-others rate, the USDOC generally calculates the all-others rate based on the weight-

average of the weighted-average margins of the firms individually examined, excluding those margins that are zero, *de minimis*, or based on facts available. Two actions taken by the USDOC with regard to calculation of the all-others rate in the second and third administrative reviews are inconsistent with United States WTO obligations.

41. First, the USDOC's use of weighted average margins for individually examined companies that were calculated using the zeroing methodology is inconsistent with Articles 2.4 and 9.4 of the *Agreement*. Article 9.4 requires that antidumping margins, calculated in a manner consistent with Article 2, serve as the basis for determining the ceiling antidumping margin for the all-others margin. As set forth above in paragraph 20 above, the all-others rate applied in the second and third administrative reviews was in fact based on the final antidumping margins of the original investigation. As discussed in paragraph 12 above, the USDOC utilized model zeroing to calculate the rates for individually investigated companies in the original investigation; as discussed in paragraphs 26 and 27 above, use of this methodology is inconsistent with Article 2.4 of the *Agreement*. Accordingly, the all-others rate applied in the second and third administrative reviews is inconsistent with Article 9.4 of the *Agreement*.

42. Furthermore, the USDOC's determination to base the all-others rate on the results of a previous proceeding is inconsistent with Article 9.4 of the *Agreement*. While Article 9.4 states that an administering authority may not use rates that are zero, *de minimis*, or based on facts available when calculating the ceiling of the all-others rate, the Appellate Body has made clear that an administering authority does not operate with complete discretion where the individually reviewed companies all receive an antidumping duty of zero, *de minimis*, or based on facts available.

43. The Appellate Body's interpretation comports with the purpose of this provision of the *Agreement*: companies not individually examined should not be prejudiced by the actions of others. Companies that have been denied the opportunity for individual examination should not be subjected to a higher rate when the ability to participate has been removed through no fault of their own. The administering authority has an obligation to adopt a reasonable practice that does not subject the non-investigated companies to unfair prejudice. Viet Nam submits that the USDOC's practice in the second and third administrative reviews is prejudicial to these companies, as it relies on results that have no basis in the relevant review.

44. Article 9.4 does not prohibit the use of zero or *de minimis* rates for purposes of calculating the all-others rate; the prohibition only extends to calculating the ceiling of the all-others rate. Consistent with this understanding, the USDOC must adopt a reasonable approach that both complies the ordinary meaning of Article 9.4 and the purpose of that provision.

D. Claims of Inconsistency Regarding Limiting the Number of Respondents Selected for Full Investigation or Review

45. Article 6.10 of the *Agreement* requires as a general rule that the administering authority shall determine an individual dumping margin for each known exporter or producer of the subject merchandise. The Article goes on to provide a limited exception to this requirement where doing so would be impracticable because of the large number of producers or exporters. The issue before the Panel is whether this exception should override other

provisions of the *Agreement* and the object and purpose of the *Agreement*. In creating a rule out of the exception, the USDOC has denied Vietnamese companies their rights available under Articles 6.10, 9.3, 11.1, and 11.3.

46. It is difficult to conceive that in entering into the *Agreement* the parties intended to include an exception to a general rule which ultimately would become the rule. Even more probative of the proper interpretation of the Article 6.10 exception is that its repeated and continued application essentially nullifies other provisions and principles in the *Agreement*. This includes: (1) the protection of exporters and producers from paying an antidumping duty in excess of their margin of dumping pursuant to Article 9.3; (2) the ability of exporters and producers to obtain revocation of an order upon a demonstration that they are no longer dumping pursuant to Article 11.1; and (3) the ability of exporters and producers to benefit from termination of an order based on a demonstration of no likelihood of recurrence or continuation of the dumping pursuant to Article 11.3.

47. Viet Nam submits that the object and purpose of the *Agreement* further supports this interpretation. Because antidumping measures are a mechanism by which the tariff benefits of WTO Members can be nullified, the application of these procedures is disciplined by detailed rules intended to avoid jeopardizing the tariff benefits without an adequate basis. Thus, the *Agreement* puts specific limits on the form (Article 18.1), duration (Articles 11.1 and 11.3) and amount (Article 9.3) of antidumping measures, and provides a mechanism to both review the need for continuation of the duties (Article 11.2) and the amount of the duties (Article 9). Read in the context of the WTO Agreement and the GATT 1994, the *Agreement* would thus appear to have two broad objects and purposes, one being the establishment of precise limits on the form, duration, and amount of any antidumping duties imposed. Indeed, the *Agreement* specifically contemplates the possibility that companies subject to the antidumping measures will cease dumping. Yet, in refusing to provide individual exporters and producers the opportunity for review, the USDOC has frustrated one of the basic objects and purposes of the *Agreement*. It cannot be that the exception to an Article can trump not only the general rule contained in the provision, but also frustrate the functions of other Articles and the overall purpose of the *Agreement*.

V. CONSEQUENTIAL VIOLATIONS OF WTO OBLIGATIONS

48. As a result of the aforementioned practices, the USDOC has committed consequential violations that strike at the very core principles of antidumping measures. Namely, that antidumping duties are company-specific and should not be levied in excess of the amount of the margin of dumping of a particular exporter or producer, and that the duties should be terminated upon demonstration that dumping is no longer occurring.

49. The claims made by Viet Nam in this dispute relate to practices that have had very significant and very real effects on the Vietnamese companies impacted by the antidumping proceeding. These companies and this industry in Vietnam serve as a model for adjusting sales practices to ensure compliance with the antidumping law in the United States. For the reasons set forth above, the USDOC's practices impermissibly foreclose the ability of these companies to benefit from these changes.