

For the Nuclear Regulatory Commission.
Carl F. Lyon,
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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS382/1]

WTO Dispute Settlement Proceeding Regarding United States—Anti- Dumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice From Brazil

AGENCY: Office of the United States
 Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on November 27, 2008, Brazil requested consultations with the United States under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”) concerning the antidumping duty administrative review on certain orange juice from Brazil (Department of Commerce Case No. A-351-840) and various U.S. laws, regulations, administrative procedures, practices, and methodologies. That request may be found at www.wto.org contained in a document designated as WT/DS382/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before January 26 to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to www.regulations.gov, docket number USTR-2008-44. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT:
 Leigh Bacon, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-5859.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by Brazil

On November 27, 2008, Brazil requested consultations regarding the antidumping duty administrative review on certain orange juice from Brazil, referring in particular to the use of “zeroing” in that review. Brazil challenges (1) the determination by the Department of Commerce in *Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Administrative Review* (A-351-840), 73 FR 46584 (Aug. 11, 2008), covering the period of August 24, 2005, through February 28, 2007, and assessment instructions and cash deposit requirements issued pursuant thereto; (2) the determinations of the Department of Commerce in any ongoing or future antidumping duty administrative reviews in that case, the final results thereof, and assessment instructions and cash deposit requirements issued pursuant thereto; and (3) any actions taken by Customs and Border Protection to collect definitive anti-dumping duties at assessment rates established in the administrative reviews in that case, including the issuance of liquidation instructions and notices. Brazil also challenges various U.S. laws, regulations, administrative procedures, practices, and methodologies: (1) The Tariff Act of 1930, as amended, in particular sections 736, 751, 771(35)(A) and (B), and 777A(c) and (d) (19 U.S.C. 1673e, 1675, 1677(35)(A) and (B), and 1677f(c) and (d)); (2) the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 (1994), *reprinted in* 1994 U.S.C.C.A.N. 4040; (3) Department of Commerce regulations set forth in part 351 of Title 19 of the Code of Federal Regulations, in particular sections 351.212(b) and 351.414(c) and (e); (4) the Import Administration Antidumping Manual (1997 ed.), including the computer programs referenced therein; and (5) the use of “zeroing” procedures and methodologies in antidumping administrative reviews.

Brazil alleges that these laws, regulations, administrative procedures, practices, and methodologies are, as such and as applied in the Department of Commerce determinations and actions by Customs and Border Protection in the orange juice administrative review, inconsistent with Articles II, VI:1, and VI:2 of the *General Agreement on Tariffs and Trade 1994*, Articles 1, 2.1, 2.4, 2.4.2, 9.1, 9.3, 11.2, and 18.4 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (the Anti-Dumping Agreement); and Article XVI:4 of the WTO Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to www.regulations.gov docket number USTR-2008-44. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via www.regulations.gov, enter docket number USTR-2008-44 on the home page and click “go.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Send a Comment or Submission.” (For further information on using the www.regulations.gov Web site, please consult the resources provided on the Web site by clicking on “How to Use This Site” on the left side of the home page.)

The www.regulations.gov site provides the option of providing comments by filling in a “General Comments” field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “General Comments” field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL”

at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the www.regulations.gov Web site.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS383]

WTO Dispute Settlement Proceeding Regarding United States— Antidumping Measures on Polyethylene Retail Carrier Bags From Thailand

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice that on November 26, 2008, Thailand requested consultations with the United States under the *Marrakesh Agreement Establishing the World Trade Organization* ("WTO Agreement") concerning certain issues relating to the imposition of antidumping measures on polyethylene retail carrier bags from Thailand. That request may be found at <http://www.wto.org> contained in a document designated as WT/DS383/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before January 30, 2009 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically to www.regulations.gov, docket number USTR-2008-0043. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Elissa Alben, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3150.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and

recommendations within nine months after it is established.

Major Issues Raised by Thailand

On November 26, 2008, Thailand requested consultations regarding antidumping measures on polyethylene retail carrier bags from Thailand. Thailand challenges the use of what it describes as "the practice of 'zeroing' negative anti-dumping margins in calculating overall weighted-average margins of dumping" in the Department of Commerce's final and amended final determinations and antidumping duty order with respect to polyethylene retail carrier bags from Thailand.¹ Thailand states that it considers this action to be inconsistent with the obligations of the United States under Article VI of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and, in particular, under Article 2.4.2 of the *Agreement on Implementation of Article VI of the GATT 1994*.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to www.regulations.gov docket number USTR-2008-0043. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via www.regulations.gov, enter docket number USTR-2008-0043 on the home page and click "go". The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" on the left side of the search-results page, and click on the link entitled "Send a Comment or Submission." (For further information on using the www.regulations.gov Web site, please consult the resources provided on the Web site by clicking on "How to Use This Site" on the left side of the home page.) The www.regulations.gov site provides the option of providing comments by filling in a "General Comments" field, or by attaching a document. It is expected that most comments will be provided in an

¹ See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand, 69 FR 34122 (June 18, 2004), Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand, 69 FR 42419 (July 15, 2004), Antidumping Duty Order: Polyethylene Retail Carrier Bags from Thailand, 69 FR 48204, 9 August 2004.