International Advisory Services Group, Ltd.

May 4, 2006

David Spooner
Assistant Secretary for Import Administration
U.S. Department of Commerce,
Central Records Unit, Room 1870
Pennsylvania Avenue and 14th Street, NW
Washington, DC 20230

Re: Rebuttal Comments in Response to Federal Register Notice of March 6, 2006 Regarding Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin During an Antidumping Duty Investigation.

Dear Sir:

On behalf of the European Confederation of Iron and Steel Industries (Eurofer), and its member companies and national associations (see attached list), I am pleased to submit the following comments in further response to the invitation published in the Federal Register of March 6, 2006 (71 Fed. Reg. 11,190). In addition to this original, we are enclosing the requested six (6) copies and a compact disk with the file in Word Perfect.

In our original submission, we took the simple and clear position that, as a matter of law and principle, the United States is obliged to end the use of "zeroing" in all phases of all antidumping proceedings. This applies whether the comparisons are being made average to average, transaction to transaction, or transaction to average. The sole exception permitted under WTO rules is in the case of "targeted dumping."

Nothing in the comments of other parties effectively rebuts that position. Moreover, the recent decision of the WTO Appellate Body (AB)[1] supports each element of our position, some explicitly and others as a matter of principle and logic. The AB ruled that the "zeroing" methodology is "inconsistent, as such, with Article 2.4.2 of the Anti-Dumping Agreement."[2] By the same rationale, there is no place for zeroing in antidumping comparisions, regardless of the method by which dumping margins are calculated.[3]

With regard to administrative reviews, the AB was equally definitive. Zeroing is not permissible in such reviews because it produces antidumping duty assessments that "exceed the foreign producers' or exporters' margins of dumping," in violation of Article 9.3 of the Anti-Dumping

Agreement. Consequently, the Department should end zeroing in all administrative reviews

[1]Appellate Body Report, *United States - Laws, Regulations and Methodology for Calculating Dumping Margins ("Zeroing"),* WT/DS294/AB/R (Circulated April 18, 2006).

[2]*Zeroing Appellate Body Report, para. 263(b).*

[3]The sole exception, as we noted in our original comments, is the special case of "targeted dumping."

666 11th Street,, N.W. Suite 810 Washington,, D.C. 20001
Telephone: 202.393.8600 Facsimile: 202.393.7900 Email: iasg@erols.com

immediately[4] and, where necessary to comply with Article 9.3, should refund cash deposits in excess of the non-zeroed dumping margin. In all cases in which, absent zeroing, there would have been no positive dumping margin in the original investigation, the Department should promptly rescind the order and all results reached to date, including *inter alia*, termination of any on-going administrative review and assessment proceedings and refund of all cash deposits.

These changes are required to bring US proceedings into line with WTO norms. Contrary to the opinion of some commenting parties, US law does not require zeroing. That was made clear by the United States Courts of Appeals in *Timken v. United States* when it ruled that the text of the antidumping statute "does not unambiguously require that dumping margins be positive numbers."[5] In the proceedings before the WTO panel and AB, the United States itself argued that US law did not require zeroing. On the basis of this clear legal point, the Department should flatly reject all comments to the effect that zeroing is required by national law.

One party has argued that the United States should delay implementation of the zeroing changes while the Doha multilateral trade negotiations are underway.[6] There seems to be no basis for this in law or negotiating logic. Such a position taken by the United States would encourage other parties to protect their WTO-inconsistent measures by tabling proposals in on-going WTO negotiations. Then, any WTO member could violate the rules on say, national treatment or export subsidies, merely by placing on the negotiating agenda a proposal to eliminate or revise the provision it found to be inconvenient. Such a position would protect scofflaws, complicate the negotiating process, and undermine the rule of law. The Department should reject this argument, which is pure nonsense.

Regarding the proposed change to transaction-to-transaction comparisons, we continue to believe that such a change is unnecessary and unwise. Transaction-to-transaction comparisons are a specialized tool intended to be used in limited circumstances, not as a general practice. Under US law, as we noted in our first comment, the preferred method of comparison is weighted average-to-average. In any event, were the US to abandon its use of average-to-average comparisons, it would not escape its obligations under the WTO Antidumping Agreement to make a fair comparison without zeroing. Zeroing is the issue. Zeroing has been found to be in violation of the WTO. Zeroing should be eliminated, immediately and completely.

Eurofer appreciates this opportunity to comment once again on the proposed policy changes. Please feel free to contact me if you would like to discuss Eurofer's views in further detail.

Respectfully, submitted,

Charles H. Blum

Charles H. Blum
U.S. Representative

---

[4]The same should apply for changed circumstances, new shipper and sunset reviews.
[5]*Timken v. United States,* 354 U.S. 1334, 1342(Fed. Cir. 2004). A subsequent Federal Circuit case, *Corus Staal v. United States* (395 F.ed 1343, 1346-7) upheld the *Timken's* view of zeroing as not required by the antidumping statute.
[6]Stewart & Stewart Comments, p.7.

666 11th Street,, N.W. Suite 810 Washington,, D.C. 20001
Telephone: 202.393.8600 Facsimile: 202.393.7900 Email: iasg@erols.com

NATIONAL ASSOCIATIONS MEMBERS OF THE EUROPEAN CONFEDERATION OF IRON AND STEEL INDUSTRIES (EUROFER)

AUSTRIA	Fachverband der Bergwerke und Eisen erzeugenden Industrie
BELGIUM	Groupement de la Sidérurgie - GSV
CZECH REPUBLIC	Hutnictvi Zeleza
FINLAND	Metallinjalostajat
FRANCE	Fédération Francaise de l'Acier
GERMANY	Wirtschaftsvereinigung Stahl
	Edelstahl - Vereinigung
GREECE	ENXE
HUNGARY	Magyar Vas- és Acélipari Egyesülés
ITALY	Federacciai
POLAND	Metallurgical Chamber of Industry and Commerce
SPAIN	Unión de Empresas Siderurgicas – UNESID
SWEDEN	Jernkontoret
UNITED KINGDOM	UK Steel

Members

Companies

ALPHASTEEL LTD

Corporation Road
Newport - South Wales
UK - NP 19 4XE
Tel +44 (1633) 290288
Fax +44 (1633) 290240

arcelor

19, avenue de la Liberté
L - 2930 Luxembourg
Luxembourg
Tel +352 47 921
Fax +352 47 92 26 75
http://www.arcelor.com/

Acciaieria Arvedi

Via Acquaviva - Zona Porto Canale
26100 Cremona
Italia
Tel +39 (0372) 478 1
Fax +39 (0372) 478 283
http://www.arvedi.it/

BSW Badische Stahlwerke GmbH

Graudenzer Str. 45
D - 77694 Kehl/Rhein
Germany
Tel +49 (7851) 830
Fax +49 (7851) 83 496
http://www.bsw-kehl.de/

BÖHLER UDDEHOLM

Modecenterstrasse 14/A/3
A - 1030 Wien
Austria
Tel +43 (1) 79 86 901
Fax +43 (1) 79 86 962
http://www.bohler-uddeholm.com/

GRUPO CELSA

Poligono Industrial San Vicente s/n
E-08755 Castellbisbal (Barcelona)
Spain
Tel +34 (93) 773 04 00
Fax +34 (93) 772 02 76
http://www.gcelsa.com/

corus

30 Millbank
UK- London SW 1P 4WY
United Kingdom
Tel +44 (20) 77 17 44 44
Fax +44 (20) 77 17 44 55
http://www.corusgroup.com/

DanSteel A/S

Havnevej 33
DK 3300 Frederiksværk
Denmark
Tel +45 47 77 03 33
Fax +45 47 72 40 03
http://www.dansteel.dk/

DILLINGER HÜTTE

Postfach 1580
D - 66748 Dillingen
Germany
Tel +49 (6831) 470
Fax +49 (6831) 47 32 18
http://www.dillinger.de/

Duferco

Via Bagutti 9
6900 Lugano
Switzerland
Tel : +41 (91) 911 56 00
Fax: +41 (91) 911 57 00
http://www.duferco.com/

Dunaferr

Vasmutér 1-3 PO Box 110
H-2401 Dunaújváros Dunai Vasmu Co.
Hungary
Tel +36 (25) 41 15 22
Fax +36 (25) 36 25 401
http://www.dunaferr.hu

SÜDWESTFALEN
Edelstahlwerke Südwestfalen GmbH

Postfach 10 12 20, 57012 Siegen
Obere Kaisertraße, 57078 Siegen
Germany
Tel +49 271 808 03
Fax +49 271 808 3000
http://www.ews-stahl.de/

Georgsmarienhütte
GmbH · seit 1856 · Edelstahl

Neue Hüttenstraße 1
D-49124 Georgsmarienhütte
Germany
Tel +49 (54 01) 39 0
Fax +49 (54 01) 39 44 25
http://www.gmh.de/

HALYVOURGIA
THESSALIAS

86A Othonos & Kokkota STR.
P.O. BOX 51 020
GR - 145 61 Kifissia
Greece
Tel +30 (210) 628 34 00
Fax +30 (210) 801 56 14
http://www.halyvourgia.gr/

HALYVOURGIKI INC.

8 Dragatsaniou str.
GR - 10559 Athens
Greece
Tel +30 (210) 32 37 811
Fax +30 (210) 33 01 967
http://www.halyvourgiki.com/

HELLINIKI
HALYVOURGIA

86A Othonos & Kokkota STR.
P.O. BOX 51 020
GR - 145 61 Kifissia
Greece
Tel +30 (210) 628 34 00
Fax +30 (210) 628 34 90

MITTAL

Mittal Steel Europe s.a.

Hofplein 20
NL - 3032 AC Rotterdam
Netherlands
Tel. +31 10 217 8800
Fax +31 10 217 8850
http://www.ispat.com/

Mittal Steel Ostrava a.s.

Vratimovská 689
707 02 Ostrava-Kuncice
Czech Republic
Tel +420 (69) 28 42 15
Fax +420 (69) 28 55 87
http://www.novahut.cz/

Mittal Steel Poland s.a.

Chorzowska 50
40-121 Katowice
Poland
Tel +48 (32) 731 55 58
Fax +48 (32) 731 55 53
http://www.ipssa.pl/

JSC Liepâjas Metalurgs

1b, Muitas Str.
LV-1010 Riga
Latvia
Tel + 371 (7) 32 51 90
Fax + 371 (7) 32 46 92
http://www.metalurgs.lv/

LSW
LECH-STAHLWERKE

Industriestrasse 1
D-86405 Meitingen
Telefon: ++49 (8271) 82 0
Telefax: ++49 (8271) 82 377
http://www.lech-stahlwerke.de/

MARIENHÜTTE
Stahl- und Walzwerk

Südbahnstraße 11,
A-8020 Graz,
Austria
Tel +43 (316) 59 75-0
Fax +43 (316) 58 11 82
http://www.marienhuette.at/

NEDSTAAL STAAL BV

Postbus 210
NL - 2950 AE Alblasserdam
The Netherlands
Tel +31 (78) 692 37 00
Fax +31 (78) 692 37 12
http://www.nedstaal.nl/

IVA

Viale Certosa, 249
I-20151 Milan
Italy
Tel +39 (02) 30 700
Fax +39 (02) 38 00 03 4§
http://www.rivagroup.com/

SAARSTAHL AG

Bismarckstrasse 57-59
D - 66333 Völklingen
Germany
Tel +49 (6898) 10 0
Fax +49 (6898) 10 40 01
http://www.saarstahl.de/

SALZGITTERAG
Stahl und Technologie

Eisenhüttenstrasse, 99
D - 38239 Salzgitter
Germany
Tel +49 (5341) 21 01
Fax +49 (5341) 21 27 27
http://www.salzgitter-ag.de/

SIDENOR

16, Himaras str.
GR-151 25 Maroussi
Greece

Tel +30 (210) 6861 111
Fax +30 (210) 6861 422
http://www.sidenor.gr/

SIDERURGIA NACIONAL
EMPRESA DE PRODUTOS LONGOS, S.A.

2840-996 Aldeia de Paio Pires
Seixal
Portugal
Tel +351 (21) 227 85 00
Fax +351 (21) 227 85 05

slovenian steel

Gerbiceva 98
SI - 1000 Ljubljana
Slovenia
Tel +386 (1) 242 98 00
Fax +386 (1) 242 98 55
http://www.sij.si/

ThyssenKrupp

Kaiser Wilhelm Strasse 100
D - 47166 Duisburg
Germany
Tel +49 (203) 521
Fax +49 (203) 522 51 02
http://www.thyssen-krupp-steel.com/

Trinecké železárny

CZ-73970 Trinec
The Czech Republic
Tel +420 (659) 43 20 02
Fax +420 (659) 21 831
http://www.trz.cz

U.S. Steel Kosice

Vstupny areal U.S.Steel
SK - 044 54 Kosice
Slovakia
Tel +421 (55) 673 48 21
Fax +421 (55) 673 15 39
http://www.usske.sk/

VÍTKOVICE STEEL

CZ-70602 Ostrava 6
The Czech Republic
Tel +420 (69) 52 597
Fax +420 (69) 52 066
http://www.vitkovice.cz

voestalpine

Voest Alpine Strasse, 1 - Postfach 2
A - 4031 Linz
Austria
Tel +43 (732) 65 850
Fax +43 (732) 69 80
http://www.voestalpine.com/

ŽDB a.s.

Bezrucova 300
735 93 Bohumín
The Czech Republic
Tel +420 596 081 111
Fax +420 596 082 801
http://www.zdb.cz/