

***UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN SHRIMP AND
DIAMOND SAWBLADES FROM CHINA***

(WT/DS422)

**RESPONSE OF THE UNITED STATES
TO QUESTIONS FROM THE PANEL**

March 13, 2012

Q2: The Panel notes that the United States “acknowledges the accuracy of China’s description of the Separate Rate calculation in the investigation on warmwater shrimp” (United States First Written Submission, para. 3). The Panel further notes that the United States acknowledges that the reasoning of the Appellate Body in *US - Softwood Lumber V* “is equally applicable with respect to China’s claims regarding the dumping margins specifically challenged in this dispute” (*Idem*, para. 8). Please clarify whether this second acknowledgment, in para. 8 of the United States First Written Submission, extends to China’s claim and request for finding under Article 2.4.2 with respect to the separate rate. In so doing, please refer, if relevant and as applicable, to paragraph 7.42 of the Panel Report in *US - Shrimp (Ecuador)*.

1. The United States recognizes that China has challenged the separate rate calculated in the context of the investigation of Certain Frozen Warmwater Shrimp From the People’s Republic of China.¹ As the United States noted in its submission, the reasoning of the Appellate Body in *US – Softwood Lumber V* is equally applicable with respect to China’s claims regarding the dumping margins specifically challenged in this dispute.² Provided the Panel makes an adverse finding with regard to the margins that were individually calculated in the investigation in Certain Frozen Warmwater Shrimp From the People’s Republic of China, the United States would acknowledge that the rationale presented in paragraph 7.42 of the Panel Report in *US – Shrimp (Ecuador)* may be extended to the separate rate challenged in this case, because the separate rate was based on the individually calculated dumping margins.

Q3: Please confirm that the USDOC has not calculated a new separate rate as a result of the remand determinations, i.e. that the separate rate that currently applies in the original investigation phase of the Shrimp proceeding is the same that was calculated in the amended final determination of 1 February 2005.

2. The United States confirms that the U.S. Department of Commerce has not calculated a new separate rate as a result of any remand determinations related to the investigation in Certain Frozen Warmwater Shrimp From the People’s Republic of China. The separate rate calculated in the amended final determination of February 1, 2005 remains applicable to exporters of merchandise subject to the antidumping duty order on Certain Frozen Warmwater Shrimp From the People’s Republic of China that received a separate rate in the original investigation, and have not been subsequently reviewed.

Q5: In its First Written Submission (paragraph 2), the United States acknowledges the accuracy of China’s description of the USDOC’s use of “zeroing” in calculating the dumping margins specifically challenged by

¹ See WT/DS422/4, p. 3.

² U.S. First Written Submission, para. 8.

China in this dispute. Furthermore, the United States does not contest that certain of the documentation submitted by China, including the computer programmes used to calculate the dumping margins, were generated by the USDOC during its conduct of the investigations at issue (*Idem*, paragraph 4 and footnote 5). The Panel notes, however, that among those documents, the United States does not list the documents provided by China in Exhibits CHN-18-VO-4, VO-11 and VO-12.

- (a) Please clarify whether the documents submitted by China as part of Exhibits CHN-18-VO-4, VO-11 and VO-12 were in fact generated by the USDOC in the context of the Shrimp investigation.**
- (b) In addition, please indicate whether CHN-VO-12 contains the results of the calculation of the dumping margin for Allied in the final determination.**

3. The United States confirms that Exhibits CHN-18-VO-4, VO-11, and VO-12 were generated by the U.S. Department of Commerce during the conduct of its investigation. The United States further confirms that Exhibit CHN-18-VO-12 represents the dumping margin calculated for Allied during the final determination. We understand the label “Preliminary Determination” on Exhibit CHN-18-VO-12 to be an administrative error.