

# WORLD TRADE ORGANIZATION

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Committee on Anti-Dumping Practices  
Working Group on Implementation

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## THAILAND'S PROPOSED AMENDMENT TO ARTICLE 5.8

### Paper by Thailand

The following communication, dated 3 October 2002, has been received from the Permanent Mission of Thailand.

During the last informal meeting on 18 June 2002, Thailand has proposed to amend the draft recommendation concerning the time-period to be considered in making a determination of negligible import volumes for the purposes of Article 5.8 of the AD Agreement with a view to ensuring that this Article gives clear guidelines for Members to implement the provisions of such Article effectively in the future.

We recall the second sentence of the AD Agreement under Article 5.8 which states "There shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or the injury, is negligible". Thailand is of the view that the bolded wording "actual or potential" leaves room to manoeuvre. Even if negligibility does, in fact, exist during any proposed period under (a), (b) and (c) of the proposed draft recommendation, however, the investigating authority may refuse to take such fact into account and insist that there is "potential" that the import volume will exceed the negligible threshold in the near future.

We therefore believe that the wording "actual or imminent" instead of "actual or potential" should be used in the second sentence of Article 5.8 as a determination of negligible import volumes should be based on facts and not merely allegation, conjecture or remote possibility. Footnote 10 of the AD Agreement gives an example of the situation of imminent that there is convincing reason to believe that there will be, in the near future, substantially increased importation of the product at dumped prices.

In the past paragraph of the proposed draft, Thailand also has the view that it is more appropriate to use the word "shall" rather than "should" to ensure clarity and transparency, according to the preamble of the draft.