



# WASHINGTON MONITOR

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*A Weekly Review of U.S. Trade Policy Developments Affecting Japan*

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## Contents

### Trade Briefs

- Japan, EU To Request Arbitration Over Retaliation For U.S. Zeroing

### Dumping Watch

- Amended CVD Order Issued Against Chinese OCTG

### The Week Ahead

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## Trade Briefs

### Japan, EU To Request Arbitration Over Retaliation For U.S. Zeroing

Japan, alongside the European Union (EU), is expected to initiate arbitration at the World Trade Organization (WTO) over its expected retaliation against the U.S. practice of “zeroing” in the near future. Since the WTO’s found last year that the U.S. had failed to comply with a WTO ruling against this practice, Japan and the EU are reportedly seeking to move ahead with retaliatory remedies as allowed under the WTO.

The U.S. was found to be using zeroing, a practice that is inconsistent with the U.S.’s obligations under the WTO. Zeroing is a technique for measuring dumping duties that often results in higher duties on imported products. The U.S. is the only WTO member that backs zeroing.

In August 2009, the WTO rejected the U.S. appeal in the case regarding the U.S. policy of “zeroing” in administrative reviews of antidumping (AD) duty orders. This complaint was originally made by Japan because of what it alleged was WTO-inconsistent duties levied on ball bearings exported from Japan and entering the U.S. The U.S. argued that it continued to use zeroing in cases initiated before the deadline for compliance. The U.S. argued that it had ended the use of zeroing in newly initiated actions and should therefore be found in compliance with the WTO ruling. A ruling otherwise, the U.S. said, would effectively give the ruling a “retroactive effect,” and this would be wrong. The WTO’s Appellate Body disagreed, saying that any use of zeroing-affected duties after the deadline for compliance would constitute noncompliance. They also said that the logic of the U.S. argument could create a dangerous precedent for other areas, as noncompliant policies could linger. In addition, the WTO agreed with Japan on the issue of scope of issues before the compliance panel and disagreed with the U.S. argument that the panel’s investigation was too broad as it included an administrative review that had yet to be concluded. The Appellate Body said that this administrative review may have a bearing on the case and was therefore worth inclusion.

That decision by the WTO Appellate Body ultimately gave Japan the power under WTO rules to impose retaliatory trade sanctions on the U.S. Japan had requested the right to issue trade sanctions for as much as \$248.5 million a year on the U.S. This amount would be levied through increased duties on U.S. products entering Japan.

Now, there are indications that Japan and the EU (which has a parallel case against the U.S. for its use of zeroing) are set to enter arbitration with the U.S. over the size of their retaliation. The methodology for calculating the roughly \$250 million requested by Japan is still unknown. Furthermore, the WTO methodology for evaluating a retaliation request for zeroing is also unknown, as the WTO has never reached arbitration over such a dispute.

This case, while not particularly large when compared with the greater Japan-U.S. trade relationship in terms of volume (\$250 million is less than one fifth of one percent of trade between the two countries in 2008), it could have an outsized effect politically. There is still a substantial trade deficit between the two countries, and powerful political forces in the U.S. feel that Japan is not engaged in fair trade with America. Retaliatory action against

the U.S. for zeroing by Japan could conceivably trigger action against Japan by the U.S., perhaps in areas like autos or steel. Concurrent retaliation alongside the EU (and potentially other countries) is unlikely to offer much solace to political forces who have long criticized Japanese trade practices.

## Dumping Watch

### Amended CVD Order Issued Against Chinese OCTG

On January 20, the Department of Commerce (DOC) gave notice that it was amending the final affirmative determination in the countervailing duty (CVD) investigation regarding oil country tubular goods (OCTG) from China. The DOC also gave notice that it was instituting this CVD order against Chinese OCTG. On December 7, 2009, the DOC reached its final results in the CVD investigation into OCTG from China. On January 13, the International Trade Commission (ITC) gave notice that it had determined that an industry in the U.S. was threatened with material injury by Chinese imports of OCTG. At the prompting of petitioners, the DOC found that it had committed ministerial errors. These errors resulted in adjustments to the subsidy margins. Therefore, the DOC issued an amended CVD order.

The amended subsidy margins are as follows: Jiangsu Changbao Steel Tube Co. and Jiangsu Changbao Precision Steel Tube Co., Ltd. at 12.46% (initially 11.98%); Tianjin Pipe (Group) Co., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd. at 10.49% (initially 10.36%); Wuxi Seamless Pipe Co., Ltd., Jiangsu Fanli Steel Pipe Co., Ltd., Tuoketuo County Mengfeng Special Steel Co., Ltd. at 14.95% (initially 14.61%); Zhejaing Jianli Enterprise Co., Ltd., Zhejiang Jianli Steel Steel Tube Co., Ltd., Zhuji Jiansheng Machinery Co., Ltd., and Zhejiang Jianli Industry Group Co., Ltd. at 15.78%; and all others at 13.41% (initially 13.20%).

### Federal Register Notices

#### *International Trade Administration*

**[A-405-803] Purified Carboxymethylcellulose From Finland:** Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review *75 FR 3444*, January 21, 2010.

**[A-428-801] Ball Bearings and Parts Thereof From Germany:** Initiation of Antidumping Duty Changed-Circumstances Review *75 FR 3444-3445*, January 21, 2010.

**[A-552-802] Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam:** Preliminary Intent To Rescind New Shipper Review *75 FR 3446-3448*, January 21, 2010.

**[A-570-888] Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China:** Final Results of Antidumping Duty Administrative Review *75 FR 3201-3203*, January 20, 2010.

**[C-570-944] Certain Oil Country Tubular Goods From the People's Republic of China:** Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order *75 FR 3203-3205*, January 20, 2010.

**Mission Statement; Middle East Public Health Mission, June 5-10, 2010** *75 FR 3206-3209*, January 20, 2010.

**Mission Statement: U.S. Aerospace Business Development Mission to Canada, April 14-15, 2010** *75 FR 3209-3210*, January 20, 2010.

#### *International Trade Commission*

**[Investigation Nos. 731-TA-776-779 (Second Review)] Preserved Mushrooms from Chile, China, India, and Indonesia** 75 *FR* 3756-3757, January 22, 2010.

**[Investigation Nos. TA-131-034 and TA 2104-026] U.S.-Trans-Pacific Partnership Free Trade Agreement:** Advice on Probable Economic Effect of Providing Duty-Free Treatment for Imports 75 *FR* 3489-3490, January 21, 2010.

**[Investigation No. 332-512] Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of a Competitive Need Limit Waiver** 75 *FR* 3247-3248, January 20, 2010.

**[Investigation No. 701-TA-463 (Final)] Certain Oil Country Tubular Goods From China** 75 *FR* 3248-3249, January 20, 2010.

### **The Week Ahead**

- The ITC has no scheduled meetings or votes for the next week.