

WTO UPENDS PANEL RULING ON US POLICY OF DUTY 'ZEROING'

BY PHIL BURGERT

■ **CHICAGO** — The highest appeals court of the World Trade Organisation has ruled that a key method used by the USA to calculate dumping margins violates global trade rules.

The WTO's appellate body said in a 113-page ruling issued in Geneva that a previous decision on "zeroing" by a WTO panel, which had largely supported Washington in a dispute with the European Union, should be overturned.

Zeroing involves not counting cases where no dumping was determined in calculating the impact of dumping actions, a spokesman for a steel industry trade group explained.

The EU had challenged anti-dumping rulings involving steel and other products in which the USA had used the zeroing formula to determine whether imported goods were being sold below their cost of production.

Previous rulings involving H-beams, oil country tubular goods, carbon steel flat products, corrosion-resistant steel and hot rolled steel were among cases cited by the appellate body in the ruling. The court ruled that the use of zeroing in calculating the anti-dumping duty assessments was not consistent with requirements that dumping margins be calculated for a "product as a whole".

David Phelps, president of the American Institute for International Steel, said the ruling was in line with the position that his group has long maintained.

"If a dumping margin is to be applied to a company who shipped the products under investigation, it ought to be based on the actual calculation of dumping margins for all of its trade, not simply the trade that is below some mythical or mystical calculation," Phelps said.

"It should always be the totality of the trade that determines what the dumping margin is. Otherwise you've got a rigged game. I think the US government has been rigging the game by using zeroing. Yet another nail has been pounded into the end of the zeroing coffin," he added.

A spokeswoman for the American Iron & Steel Institute, said the US steel industry is still examining how to respond to the ruling. "Our reaction is we think it is another example of the WTO overreaching in their decision making and basically making up the rules as they go along," she said.

Zeroing had previously been seen as acceptable within the spirit and character of an original agreement forged during the Uruguay Round of global trade negotiations, she said. "This methodology is very relevant in getting the orders we pursue when we see that dumping is occurring," the spokeswoman said.

Following the ruling, the Washington-based Consuming Industries Trade Action Coalition (Citac) called on the Department of Commerce to end the practice of zeroing.