

# WINSTON & STRAWN LLP

SUITE 718, CHINA WORLD OFFICE 1  
1 JIANGUOMENWAI AVENUE  
BEIJING 100004, CHINA

214 NORTH TRYON STREET  
CHARLOTTE, NORTH CAROLINA 28202-1078

35 WEST WACKER DRIVE  
CHICAGO, ILLINOIS 60601-9703

43 RUE DU RHÔNE  
1204 GENEVA, SWITZERLAND

GLOUCESTER TOWER  
11TH FLOOR  
THE LANDMARK  
15 QUEEN'S ROAD CENTRAL  
HONG KONG, CHINA

99 GRESHAM STREET  
LONDON, EC2V 7NG, UK

1700 K STREET, N.W.  
WASHINGTON, D.C. 20006-3817

+1 (202) 282-5000

FACSIMILE +1 (202) 282-5100

[www.winston.com](http://www.winston.com)

333 SOUTH GRAND AVENUE  
LOS ANGELES, CALIFORNIA 90071-1543

SUITE A350, 4 STASOVY STREET  
MOSCOW, 119071, RUSSIAN FEDERATION

200 PARK AVENUE  
NEW YORK, NEW YORK 10166-4193

ONE RIVERFRONT PLAZA, SUITE 730  
NEWARK, NEW JERSEY 07102-5401

25 AVENUE MARCEAU, CS 31621  
75773 PARIS CEDEX 16, FRANCE

101 CALIFORNIA STREET  
SAN FRANCISCO, CALIFORNIA 94111-5802

UNIT 806, SHANGHAI KERRY CENTRE  
1515 NANJING ROAD WEST  
JINGAN, SHANGHAI 200040, CHINA

April 20, 2010

Ronald K. Lorentzen  
Deputy Assistant Secretary for Import Administration  
Room 1870  
U.S. Department of Commerce  
14<sup>th</sup> and Constitution Ave., N.W.  
Washington D.C. 20230

Re: Retrospective versus Prospective System of Collection of Antidumping and  
Countervailing Duties

Dear Mr. Lorentzen:

Pursuant to the Federal Register Notice of March 31, 2010, (75 FR 61, 16079) the following comments are submitted on behalf of the Bureau of Fair Trade for Imports and Exports of the Ministry of Commerce of the People's Republic of China, on possible changes in the collection of antidumping and countervailing duties by the U.S. from its current retrospective system to a prospective system. These comments reflect concerns of the Government of China which should be taken into account regardless of whether the U.S. decides to change its system of collection of duties to a prospective system or retain its current retrospective system.

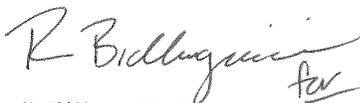
First, in our view, the issue of nonpayment of antidumping or countervailing duties is not a question of whether a system is prospective or retrospective. Rather, it is an issue of timing of the nonpayment of duties when dumping or subsidies continue. In a retrospective system, this

becomes evident upon the first review if the company owing the duties cannot and does not pay duties found to be due retroactively. In a prospective system, this becomes evident after a review which lowers or eliminates the duties followed by pricing which does not reflect either the dumping or subsidies being received by the exporter. Thus, the nonpayment of antidumping or countervailing duties exists regardless of the system adopted; it just may take different forms.

Second, any measures taken to increase the likelihood that the duties owed are collected should not be inconsistent with WTO rules, and any change should be done in a way that is fair, justified, and transparent. Moreover, any measures or changes should not impose an extra burden on the importers and exporters concerned.

Lastly, we believe that any changes in U.S. antidumping and countervailing duty law should aim to correct those illegitimate policies or practices and incorporate reports by the Appellate Body or U.S. courts not yet implemented by the U.S. In particular, first we reference the numerous Appellate Body reports finding "zeroing" in administrative reviews to be contrary to the WTO Antidumping Agreement. Second is the U.S. Court of International Trade's determination that the simultaneous application of countervailing and antidumping duties is unlawful in cases in which antidumping duties are based on the Department's non-market economy methodology.

Respectfully submitted,



William H. Barringer  
Winston & Strawn LLP