No. 06-1632

IN THE

Supreme Court of the United States

JTEKT CORPORATION (f/k/a/ KOYO SEIKO COMPANY, LTD.), KOYO CORPORATION OF U.S.A., NTN CORPORATION, NTN BEARING CORPORATION OF AMERICA, AMERICAN NTN BEARING MANUFACTURING CORPORATION, NTN DRIVESHAFT, INC., AND NTN-BOWER CORPORATION,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

THE GOVERNMENT OF JAPAN'S MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF AND *AMICUS CURIAE* BRIEF IN SUPPORT OF PETITIONERS

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v.

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On Petition for Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

MOTION OF GOVERNMENT OF JAPAN FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF

Pursuant to Supreme Court Rule 37.2(b) and in accordance with Supreme Court Rules 21.2(b) and 33.1, the Government of Japan hereby moves this Court for permission to file an *Amicus Curiae* Brief in support of the Petition for a Writ of Certiorari filed by petitioners JTEKT Corporation, (f/k/a/Koyo

Seiko Company, Ltd.), Koyo Corporation of U.S.A., NTN Corporation, NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation, NTN Driveshaft, Inc., and NTN-Bower Corporation in the above-captioned case. The Government of Japan's proposed Amicus Brief is attached. As demonstrated below, leave should be granted because the Amicus Brief provides relevant information to the Court not provided by the Parties, and the Government of Japan has a strong interest in this appeal. The arguments in favor of granting this Motion are provided in further detail below.

Counsel for Petitioners and Respondent United States consented to the Government of Japan's submission of an amicus curiae brief. The only party withholding consent is Respondent Timken U.S. Corporation. Letters representing written consent and opposition have been filed with the Clerk of this Court in accordance with Supreme Court Rule 37.2(a).

Among the issues examined in this case is the U.S. Department of Commerce's (the "Commerce Department") "zeroing" practice. As discussed in further detail in the attached Amicus Brief, the World Trade Organization ("WTO") recently ruled that application of zeroing in Commerce Department administrative reviews is inconsistent, both facially and as applied to the specific review at issue in this appeal, with the United States' obligations under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "WTO Anti-dumping Agreement"). *United States – Measures Relating to Zeroing and Sunset Reviews*, Report of the Appellate Body, WT/DS322/AB/R, at para. 190(c) (Jan. 9, 2007). The United States has announced its intent to fully comply with that ruling. U.S. Statements at the WTO Dispute Settlement Body Meeting, Delivered by David P. Shark, Deputy Chief of Mission, U.S. Mission to the WTO, at 3 (Feb. 20, 2007), *available at* http://www.usmission.ch/Press2007/0220DSB.

html. However, the United States has been unable to comply with the ruling as it relates to the specific review at issue in this case because the U.S. Court of Appeals for the Federal Circuit (the "Federal Circuit") refused to remand the review back to the Commerce Department.

The refusal of the Federal Circuit to remand the review back to the Commerce Department precludes the United States from complying with its international obligations under the WTO Antidumping Agreement. Also, the Federal Circuit's refusal effectively forces the United States to ignore the specific commitment it made to Japan and other WTO Members to comply with the WTO ruling, having potentially adverse consequences on the United States' relationship with other WTO Members, particularly Japan, and on the legitimacy of the WTO dispute settlement system. No less significant, the number of Japanese exporters aggrieved, and the level of harm they incurred, as a result of zeroing in the review at issue, reinforces the Government of Japan's stake in the outcome of this appeal.

With significant legal, economic and diplomatic considerations implicated in this case, the Government of Japan is able to provide relevant information that other Parties are unable to adequately convey. Moreover, as a WTO Member and the complaining party in the dispute giving rise to the WTO's ruling, the Government of Japan has a strong interest in this appeal. Therefore, the Government of Japan wishes to present its views, through the attached Amicus Brief, regarding the considerations bearing on this Court's decision to review the Federal Circuit's decision, as well as the importance of such review.

Based on the foregoing, the Government of Japan respectfully asks this Court for leave to file the attached *Amicus* Brief.

Respectfully submitted,

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BRIEF OF GOVERNMENT OF JAPAN AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

INTERESTS OF *AMICUS CURIAE*

Amicus curiae submitting this brief is the Government of Japan, in its own capacity and on behalf of Japan.[1] The Gov-

[1] Counsel for Petitioners and Respondent United States consented to the Government of Japan's submission of an *amicus curiae* brief. The only party withholding consent is Respondent Timken U.S. Corporation. Letters representing written consent and opposition have been filed with the Clerk of this Court in accordance with Supreme Court Rule 37.2(a). No counsel for any party has authored this brief, in whole or in part, and

ernment of Japan does so in support of the Petition for a Writ of Certiorari filed by JTEKT Corporation, (f/k/a/Koyo Seiko Company, Ltd.), Koyo Corporation of U.S.A., NTN Corporation, NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation, NTN Driveshaft, Inc., and NTN-Bower Corporation. The Government of Japan has a strong interest in the outcome of this case and, thus, urges that the Petition be granted.

Japan is a member of the World Trade Organization ("WTO") and was the complaining party in the WTO dispute central to this case and giving rise to the WTO Appellate Body's ruling that the U.S. Department of Commerce's (the "Commerce Department") use of zeroing is inconsistent with the United States' obligations under the WTO agreements. The decision of the U.S. Court of Appeals for the Federal Circuit (the "Federal Circuit"), however, severely limits the United States' ability to comply with those obligations. More specifically, it interferes with the United States' ability to honor its commitment to WTO Members, including Japan, to implement the decision of the WTO Appellate Body addressing the underlying agency determination at issue in this case, effectively endorsing the United States' continued violation of its international obligations. Therefore, through this brief, the Government of Japan wishes to convey the importance of this Court's review of the Federal Circuit's decision.

SUMMARY OF ARGUMENTS

The decision by the Federal Circuit in this case has imposed an unavoidable barrier to the United States honoring its commitment to Japan and other WTO Members to comply fully with the WTO decision at issue in this case. The Com-

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no person or entity other than amicus curiae, its members, or its counsel, has made a monetary contribution to the preparation or submission of this brief.

merce Department has no ability to reconsider and address the underlying issue in this case unless the case is first remanded to the agency to allow it to address the WTO decisions at issue as they relate to this specific proceeding. Yet, the Federal Circuit has refused to do so, allowing the Commerce Department to assess final antidumping duties in accordance with U.S. law and thereby rendering the entire case moot. The United States' commitment to Japan to comply fully with the WTO decision in this case will be breached.

There is no reason for the judiciary to hold this case hostage, and refuse to send it back to the Executive Branch for an agency decision. This Court has explained that international obligations should be considered when interpreting U.S. statutes, that intervening policy changes should be considered when agencies interpret their statutes, and that deference to an agency decision depends on the agency considering the specific international obligations and the specific intervening developments. The solution is simple. This case should be remanded to the Commerce Department to allow it to reconsider its decision based on the recent, significant developments that affect this case.

REASONS FOR GRANTING THE PETITION

I. THE FEDERAL CIRCUIT'S DECISION PREVENTS THE UNITED STATES FROM FULFILLING ITS TREATY OBLIGATIONS TO JAPAN, CONTRARY TO THE EXECUTIVE BRANCH'S EXPRESS AND UNAMBIGUOUS INTENT.

The Federal Circuit's refusal to remand this case to the Commerce Department effectively forces the United States Government to breach its WTO obligations. We detail below the WTO obligations at issue in this case, and the reasons that a remand by the Federal Circuit is required to allow the United States to honor those obligations.

The United States has accepted international obligations under the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement") that established the WTO during the Uruguay Round of multilateral trade negotiations.[2] Article II of the WTO Agreement specifies the individual trade agreements that apply to WTO Members. In addition, "Article II provides that by accepting membership in the WTO, each government will automatically become a party to 18 agreements and legal instruments, referred to as '[M]ultilateral [T]rade [A]greements' (MTAs)."[3] These agreements and legal instruments are "integral parts of the [WTO] Agreement, binding all Members."[4] Section 101 of the Uruguay Round Agreements Act sets forth Congressional approval for those agreements and, thus, the United States' acceptance of its WTO obligations.[5]

The two WTO agreements at issue here are (a) the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "WTO DSU")[6], and (b) the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "WTO Antidumping Agreement").[7]

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[2] *See* Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, art. XVI(4), *reprinted in* THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS: THE LEGAL TEXTS 6, 17 (1994), 33 I.L.M. 1144, 1152 (1994) [hereinafter WTO Agreement].

[3] Uruguay Round Agreements Act, Statement of Administrative Action, H.R. DOC. NO. 103-316, at 660 (1994) [hereinafter SAA].

[4] *Id.*

[5] Pub. L. No. 103-465, 108 Stat. 4814-15 (1994), *codified at* 19 U.S.C. § 3511 (2007).

[6] Understanding on Rules and Procedures Governing the Settlement of Disputes, Apr. 15, 1994, WTO Agreement at Annex 2.

[7] Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, WTO Agreement at Annex 1A.

The WTO DSU governs disputes arising under each of the various WTO agreements. The WTO DSU reflects the successful accomplishment of one of the United States' principal negotiating objectives in the Uruguay Round.[8] Among the most important changes (from the prior GATT dispute settlement mechanism) effected by the WTO DSU were:

- imposition of stringent time limits for each stage of the dispute settlement process;
- creation of an Appellate Body to review panel interpretations of WTO agreements and legal issues; and
- automatic adoption of panel or Appellate Body reports.

See SAA at 339. In particular, we note that Article 21.1 of the WTO DSU provides that "[p]rompt compliance with recommendations or rulings of the DSB is essential in order to ensure effective resolution of disputes to the benefit of all Members."

The WTO Antidumping Agreement sets forth rules governing the determination of dumping and the imposition of offsetting antidumping duties. (In the United States, those tasks are administered primarily by the Commerce Department.) By becoming a WTO member and, thus, bound by the WTO Antidumping Agreement, the United States specifically agreed to conform its antidumping practices to the terms of that treaty. WTO Antidumping Agreement at art. 1; WTO Agreement at art. II:2.

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[8] *See* SAA at 339. *See also* GAO Report: International Trade: Implementation Issues Concerning the World Trade Organization, GAO/T-NSIAD-96-122 (March 13, 1996) ("The United States negotiated for a strengthened dispute settlement regime during the Uruguay Round. In particular, the United States sought time limits for each step in the dispute settlement process and elimination of the ability to block the adoption of dispute settlement panel reports.").

Ensuring that the United States honors its obligations under these two WTO agreements is the centerpiece of the Government of Japan's position. In January 2007, in response to a dispute initiated by Japan against the United States under the WTO's dispute settlement procedures, the WTO Appellate Body issued a finding that the Commerce Department's practice of "zeroing" in antidumping duty calculations is inconsistent with various provisions of the WTO Antidumping Agreement.[9] *United States—Measures Relating to Zeroing and Sunset Reviews*, Report of the Appellate Body, WT/DS322/AB/R, at para. 190 (Jan. 9, 2007) [hereinafter *U.S.—Zeroing*]. Importantly, that decision, which covered the very agency determination at issue in this case, held that the Commerce Department's zeroing practice, *inter alia*, does not ensure a "fair comparison," as required by Article 2.4, and otherwise does not comply with obligations under the WTO Antidumping Agreement. *Id.* at paras. 146-147, 167-169, 176-177. The WTO Appellate Body's ruling is final and unequivocal: *zeroing in reviews violates the United States' obligations under the WTO Anti-dumping Agreement.* Moreover, as noted above, *that ruling specifically addressed the very agency determination at issue in this case.*

The United States understands these obligations, as it unambiguously expressed its intent to comply with the WTO Appellate Body's ruling, including the obligation to comply with the ruling as it applies to the specific review at issue. U.S. Statements at the WTO Dispute Settlement Body Meet-

[9] The WTO Appellate Body also found the Commerce Department's zeroing practice inconsistent with Article VI:2 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), another agreement which is part of the WTO Agreement binding the United States. For ease of reference, in this brief the Government of Japan simply references inconsistencies with the WTO Antidumping Agreement. However, it is the Government of Japan's intention that such references also incorporate inconsistencies with GATT 1994.

ing, Delivered by David P. Shark, Deputy Chief of Mission, U.S. Mission to the WTO, at 3 (Feb. 20, 2007), available at http://www.usmission.ch/Press200/0220DSB.html. As stated by the United States Trade Representative, "the United States . . . intends to comply in this dispute with its WTO obligations and will be considering carefully how to do so." *Id.*[10] This expressed intent—which resulted in part from Japan's request to the United States that the latter fully implement the Appellate Body's decision—is unqualified and is mandated under the WTO Agreements. Therefore, the United States has committed to Japan, and all other WTO Members, that it will fully implement the Appellate Body's decision by December 24, 2007. And recalculation of the dumping margins without zeroing is necessary for the United States to fully implement that decision.

The United States, however, will not be able to fulfill its international obligations unless the case is remanded to the Commerce Department to allow the agency to decide how to implement the WTO's decision. The reason is very simple: Unless the case is remanded to the Commerce Department for further consideration, the challenged import entries will be liquidated by operation of U.S. law (because there will be a final resolution of litigation surrounding the agency determination). Once the import entries are liquidated the Commerce Department has no legal authority to modify the underlying antidumping determination to comply with the WTO Appellate Body decision.[11] In short, a remand is re-

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[10] *See also United States—Measures Relating to Zeroing and Sunset Reviews,* Agreement on Reasonable Period of Time, WT/DS322/20 (May 8, 2007) (the United States committing to Japan it will "bring its measures, . . . found to be inconsistent with the *Anti-dumping Agreement*, into conformity under those Agreements"), *available at* Petition for a Writ of Certiorari of JTEKT Corp., *et al.*, at Appendix G (59a-60a), *JTEKT Corp. v. United States*, No. 06-1632 (June 6, 2007).

[11] *See Zenith Radio Corp. v. United States*, 710 F.2d 806, 810 (Fed. Cir. 1983) ("The statutory scheme has no provision permitting reliquida-

quired to allow the Judiciary Branch to appropriately return the determination to the Executive Branch to decide how it will comply with the WTO Appellate Body decision in light of the United States' announced intent to comply with that decision. A remand is thus an essential step in allowing the United States to implement fully the required changes, thereby permitting the United States to comply fully with its international obligations.

When addressing this issue in other cases, the Commerce Department has advanced the position that it possesses no legal authority to change its underlying antidumping administrative review determination because re-determinations made pursuant to Section 129 of the Uruguay Round Agreements

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tion in this case or imposition of higher dumping duties after liquidation if [plaintiff] is successful on the merits. Once liquidation occurs, a subsequent decision by the trial court on the merits of [a] challenge can have no effect on the dumping duties assessed on entries. . . ."). *See also Frontier Ins. Co. v. United States*, 276 F. Supp. 2d 1334, 1342 (Ct. Int'l Trade 2003) ("Customs liquidation of duties is essentially an irrevocable act. Hence, [once liquidated,] all the retroactive relief that the [Commerce Department] could grant [is] with respect to...unliquidated entries.") (citations omitted); *Daewoo Elec. Co., Ltd. v. United States*, 760 F. Supp. 200, 208 (Ct. Int'l Trade 1991) (citing *Zenith*, the Commerce Department taking the position that, except for the "errors not pointed out in [a court's] remand decision," it is "prohibited from making changes in the final result without the express authorization of the [courts]."); *Leather from Argentina, Wool from Argentina, Oil Country Tubular Goods from Argentina, and Carbon Steel Cold-Rolled Flat Products from Argentina*, 62 Fed. Reg. 41361 (Dep't Commerce Aug. 1, 1997) (final results of changed circumstances countervailing duty review) (accompanying decision and issues memorandum at comment 4) (citing *Zenith*, the Commerce Department limiting its post-determination antidumping duty adjustments to *unliquidated* entries because the agency" no longer has jurisdiction over liquidated entries and cannot amend its liquidation instructions").

Indeed, this is why the Court of International Trade issued an injunction, in this very case, to prevent liquidation of these import entries pending final resolution of the court litigation. By its express terms, however, the injunction against liquidation ends after conclusion of court litigation.

Act (a statutory mechanism that allows the Commerce Department to comply with a WTO Appellate Body decision, *see* 19 U.S.C. § 3538(c)(1) (2007)) affect only entries made after a USTR determination to comply with the WTO Appellate Body decision. This position misunderstands Petitioners' arguments. Petitioners do not seek a Commerce Department Section 129 determination. Rather, they seek a "re-determination pursuant to court remand." There is no question that the Commerce Department possesses the authority to amend its underlying antidumping determination if the Court orders a re-determination.

Importantly, once the review is remanded, the Commerce Department may rely on various legal mechanisms to reverse its zeroing practice in the review at issue to comply with its WTO obligations. In other words, the Commerce Department's legal basis for implementation is not limited to Section 129 of the Uruguay Round Agreements Act. As acknowledged by the United States itself, other legal bases exist for the Commerce Department to comply with WTO Appellate Body decisions, including those allowing implementation to cover the unliquidated entries at issue in this case. *See United States—Section 129(c)(1) of the Uruguay Round Agreements Act*, Report of the Panel, WT/DS221/R, at paras. 3.78-3.79 (July 15, 2002). For instance, the United States has stated that implementation may be based on the Commerce Department's authority to alter the interpretation of statutes that the agency is entrusted to administer. *Id.* at para. 3.79 n.31. Likewise, according to the United States, the *Charming Betsy*[12] doctrine "might [also] be relied upon by the Department of Commerce as a reasonable explanation for a change in its methodology." *Id.* at para. 3.79 n.32. Thus, upon remand, the Commerce Department is fully able to modify its review determination.

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[12] The *Charming Betsy* doctrine is discussed in Section II, *infra.*

The United States cannot honor its commitment to Japan and simultaneously persist in its policy of not revising the underlying antidumping determination at issue. This case should be remanded so the Executive Branch can consider this conflict, and make a decision in this particular case.

II. THE FEDERAL CIRCUIT SHOULD HAVE REMANDED THIS CASE TO ALLOW THE EXECUTIVE BRANCH TO CONSIDER AND EXPRESSLY ADDRESS IMPORTANT U.S. INTERNATIONAL LEGAL OBLIGATIONS.

As discussed above, the United States made specific representations that it would bring U.S. antidumping practice into compliance with U.S. international legal obligations. Yet, the Federal Circuit's decision in this case, which refuses to grant a remand without any explanation at all, threatens to ignore those representations. This refusal means that the Judicial Branch has essentially stripped the Executive Branch of its ability and obligation to address this issue in the first instance. This approach runs afoul of several important principles.

First, U.S. international obligations should not be lightly dismissed. The importance of those obligations is reflected in the time-honored doctrine established by this Court in *Murray v. Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64 (1804), where Chief Justice Marshall stated:

> [T]hat an act of Congress ought never to be construed to violate the law of nations, if any other possible construction remains, and consequently can never be construed to violate neutral rights, *or to affect neutral commerce*, further than is warranted by the law of nations as understood in this country.

See also F. Hoffman-La Roche Ltd. v. Empagran S.A., 542 U.S. 155, 164 (2004) ("[T]his Court ordinarily construes ambiguous statutes to avoid unreasonable interference with the sovereign authority of other nations. . . . This rule of

construction reflects principles of customary international law—law that (we must assume) Congress ordinarily seeks to follow."). This interpretative principle reflects the sound policy that agencies and courts should not create breaches of U.S. international obligations where avoidable. Contrary to this sound policy, the Federal Circuit gave short thrift to U.S. international legal obligations without giving any rationale for doing so.

Second, when underlying U.S. international obligations have changed or been clarified, it is important to allow these changes to be fully considered. In an analogous situation, this Court stated that "a court reviewing an agency decision following an intervening change of policy by the agency should remand to permit the agency to decide in the first instance" how to apply the change. *NLRB v. Food Store Employees Union*, 417 U.S. 1, 10 n.10 (1974). This approach is logical, given that the courts should not try to anticipate what the agency will say. Rather, they should remand to allow the agency to address the specific facts and changes at issue. In this particular case, several important Appellate Body rulings have clarified and confirmed exactly what the United States' international legal obligations require.[13] Some

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[13] *See United States—Anti-Dumping Measure on Shrimp from Ecuador,* Report of the Panel, WT/DS335/R, at paras. 7.43, 8.1 (Jan. 30, 2007) (finding the Commerce Department's zeroing practice inconsistent with the WTO Antidumping Agreement as applied to the investigation at issue; ruling issued after *U.S.—Zeroing,* thereby confirming the line of decisions holding zeroing inconsistent with the WTO Antidumping Agreement); *U.S.—Zeroing*, WT/DS322/AB/R, at para. 190 (Jan. 9, 2007) (finding the Commerce Department's zeroing practice facially inconsistent when used in administrative reviews and in investigations); *United States—Laws, Regulations, and Methodology for Calculating Dumping Margins ("Zeroing"),* Report of the Appellate Body, WT/ DS294/AB/R, at paras. 133, 263(a)(i) (April 18, 2006) (finding the Commerce Department's zeroing practice inconsistent as applied to the reviews at issue); *United States—Final Dumping Determination on Softwood Lumber from Canada*, Report of the Appellate Body, WT/ DS264/AB/R, at para. 183(a) (Aug. 11, 2004)

of these rulings took place *after* prior Federal Circuit decisions on this issue, *see Corus Staal BV v. Dep't of Commerce,* 395 F.3d 1343, 1349 (Fed. Cir. 2005), *cert. denied,* 546 U.S. 1089 (2006); *The Timken Co. v. United States,* 354 F.3d 1334, 1344-45 (Fed. Cir. 2004), *cert. denied,* 543 U.S. 976 (2004), and some are subject to ongoing efforts by the Executive Branch to bring U.S. law and practice into compliance. Rather than pause and remand the case to allow these important changing circumstances to be addressed, the Federal Circuit simply ignored these changes without any explanation.

Third, although agency interpretations are entitled to deference, those interpretations must reflect a reasonable and permissible construction of the statute. As this Court explained in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.,* 467 U.S. 837 (1984), when Congress has not spoken to an issue:

> [T]he court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.

To be permissible, reasonable, and worthy of deference under *Chevron*, the agency interpretation or decision must reflect the sound policy of *Charming Betsy*, and have taken into account the most recent developments relating to U.S. international legal obligations.

In this case, these various principles do not conflict but rather all point consistently to a single conclusion: this case should have been remanded back to the agency. Indeed, in the commentary that addresses this very factual situation, the

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(finding that Commerce's zeroing practice is facially inconsistent in investigations).

Chief Judge of the Court of International Trade distilled these principles into a clear and sensible approach: "If an intervening WTO decision has occurred that conflicts with the agency decision, the reviewing court probably should consider remand of the case to the agency for consideration of the WTO decision, which may moot the potential conflict." Jane A. Restani & Ira Bloom, *Essay: Interpreting Int'l Trade Statutes: Is the* Charming Betsy *Sinking?*, 24 Fordham Int'l L.J. 1533, 1545 (June 2001).

This case reflects issues of great importance to the Government of Japan and other U.S. trading partners, who care deeply about whether the U.S. antidumping law will be administered in ways consistent with U.S. international obligations and whether the United States will respect and give full effect to decisions rendered pursuant to the WTO dispute settlement mechanism. Judicial inaction should not be allowed to trump the announced intentions of the Executive Branch to administer the antidumping law consistent with U.S. international obligations, and to respect the WTO dispute settlement mechanism.

For these reasons, we support Petitioners in this case and urge this Court to grant a writ of certiorari to allow the Executive Branch to fully consider these issues.

CONCLUSION

Based on the foregoing, amicus curiae Government of Japan respectfully requests that this Court grant the Petition for a Writ of Certiorari.

Respectfully submitted,

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