# *Chapter 5*

# ANTI-DUMPING MEASURES

## 1. OVERVIEW OF RULES

"Dumping" is defined as a situation in which the export price of a product is less than its selling price destined for consumption in the exporting country. A discount sale, in the sense of ordinary trade, is not dumping. Where it is demonstrated that the dumped imports are causing injury to the competing industry in the importing country within the meaning of the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement" or "AD Agreement"), pursuant to and by investigation under that Agreement, the importing country can impose anti-dumping (AD) measures to provide relief to domestic industries injured[1] by dumped imports.

The amount of AD duty is determined by the dumping margin—the difference between the export price of the product and the domestic selling price of the like product in the exporting country. By adding the dumping margin to the export price, the dumped price can be rendered a "fair" trade price.

When there are no or low volume of sales in the ordinary course of trade in the domestic market, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, or a "constructed normal value". A "constructed normal value" is the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits. Similarly, when the export price is found to be unreliable, the export price may be constructed as the price at which the imported products are first resold to independent buyers, or on a reasonable basis as the authorities may determine.

Because AD measures are an exception to the Most-Favoured-Nation (MFN) treatment rule, the utmost care must be taken when invoking them. However, unlike

[1] "Injury" exists where there is either: (1) material injury to a domestic industry; (2) threat of material injury to a domestic industry; or (3) material retardation of the establishment of such an industry.

safeguard measures, which are also instruments for the protection of domestic industries, the imposition of AD measures does not require the government to provide offsetting concessions as compensation or otherwise consent to countermeasures taken by the trading partner. This has increasingly led to the abuse of AD mechanisms. For example, AD investigations are often initiated based on insufficient evidence and AD duties may be continued long after the underlying cause has disappeared.

In light of this situation, one of the focal points of the Uruguay Round negotiations was to establish disciplines to rein in the abuse of AD measures as tools for protectionism and import restriction. Although considerable progress was achieved during the negotiations, many countries still express concern over abusive practices.

# 2. LEGAL FRAMEWORK

## *International Rules*

The international AD rules are provided under: (1) GATT Article VI and (2) the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") under the WTO. Under the Uruguay Round negotiations, the Tokyo Round Anti-Dumping Code was revised to become the new Anti-Dumping Agreement. The impetus for many countries seeking to amend the Code lay in the extremely technical and complex procedures for calculating dumping margins and making determinations of injury with respect to a domestic industry. The Tokyo Round Anti-Dumping Code also lacked sufficient detail to deal with the complexities of current international transactions. The Code's lack of detail resulted in a dearth of ineffective disciplines and exacerbated the tendency to abuse the AD provisions. The following section summarizes the rules governing AD.

### (A) GATT Regulations

The General Agreement on Tariff and Trade (GATT) 1947, Article VI (Anti-dumping and Countervailing Duties) defines AD as follows:

Article VI

1. The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another

(*a*) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,

(*b*) in the absence of such domestic price, is less than either

(i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.

**(B) AD Agreements**

Initially established during the Kennedy Round, the AD Agreement has undergone several revisions, including during the Tokyo Round and the Uruguay Round. The latter revisions included: revising the domestic industry injury determination criteria clarifying procedures on investigating prices and costs for calculating dumping margins; and adding the Sunset Clause, which were not stipulated in the AD Agreements concluded during the Tokyo Round. The Uruguay Round resulted in the "Agreement on Implementation of Article VI of GATT 1994".

Negotiations have been held during the Doha Round to clarify and strengthen the disciplines in the Uruguay Round AD Agreement. On November 30, 2007, the Chairman of the Rules Negotiating Group, Ambassador Guillermo Valles, released "Draft Consolidated Chair Texts" that included draft revised text for the AD Agreement. While Japan appreciates inclusion of automatic termination in the sunset clause, this proposal must be carefully watched so that it will be strictly implemented. Acceptance of zeroing, though, makes the text highly unbalanced and is a matter of great concern. The Chairman's revised text, issued in December 2008, included no reference to either zeroing or the sunset clause, including instead only the points of view of individual countries and a list of categories. There are still many serious issues outstanding, including clarification of the prohibition on zeroing and the strengthening of provisions for the automatic expiration of measures relating to the sunset clause, etc. We should continue efforts to negotiate a proper Rules agreement that will lead to advancement of the multilateral trading system.

The current AD Agreement covers the full spectrum of AD investigations, from the initiation of an investigation to the application of measures. The following summarizes

some of the key elements of an AD investigation:

**Application for AD investigation**

- An application must be submitted on behalf of a representative portion of the domestic industry (the production of domestic producers in agreement with the application shall represent 25 percent or more of total domestic production, and at the same time exceed the production amount of domestic producers opposing the application.)
- An application must include evidence supporting an allegation that imports are dumped and injuring the domestic producers

**Determinations in AD investigation**

- Determination of dumping (compare net prices between "export prices" and "normal values" (domestic prices, third country prices or constructed normal values)
- Determination of injury (consider the imported volume of dumped products, price changes, effects on domestic prices, injury to domestic industries, causal relationship between injury and dumped import, and injury caused by other factors than the dumped imports)

**Provisional Measures**

Provisional measures may be applied only if there is:

- Proper initiation and public notice of investigation (providing adequate opportunities for interested parties to submit information and make comments).
- Preliminary affirmative determination on dumping and injury to a domestic industry.
- Determination that provisional measures are necessary.
- Application no sooner than 60 days from the date of initiation.
- Generally no application in excess of four months (six months if requested by exporters or six - nine months when authorities, in the course of investigation, examine whether a duty lower than the margin of dumping would be sufficient to remove injury.)

**Price Undertaking**

- After provisional determinations are published, price undertaking can be accepted from exporters, thereby suspending or terminating the investigation.

**Final Determination**

- Authorities shall publish a determination on imposing AD duties and detail the amount of the duties.
- Authorities must provide reasons and facts supporting a determination of dumping and injury
- Authorities must provide responses to comments submitted by interested parties

## *WTO / The Anti-Dumping Committee*

The WTO holds two meetings of the Anti-Dumping Committee (AD Committee) each year to provide a forum for discussing anti-dumping measures. The AD Committee reviews: (i) AD implementing laws of WTO Members to determine conformity with the Agreement; and (ii) reports by Members on AD measures.

The AD Committee has also organized two *ad hoc* forums for discussing specific points of contention. The first is the meeting of the Informal Group on Anti-Circumvention. Circumvention was an issue that was referred to the AD Committee for further study because no conclusions could be reached during the Uruguay Round negotiations. (*See* "Anti-Circumvention Issues" below.) The second is the Working Group on Implementation, which discusses ways to harmonize national discretion in the agreement where the interpretation is or could be vague. Japan must use these kinds of forums to ensure that the domestic laws of other Members are written and applied in conformity with the AD Agreement. Should legislation or discretion contravene the Agreement, Japan should report it immediately to the AD Committee and other GATT/WTO forums to seek appropriate remedies.

Therefore, if an anti-dumping measure is suspected of violating GATT and/or the AD Agreement, Japan should seek resolution through the WTO in dealing with the increased abuse of AD measures by certain countries; if resolution cannot be reached through bilateral consultations, the abuses should be referred to WTO panels.

In the past, there were two viewpoints regarding the dispute settlement system: first, that panels should have broad discretion in reviewing claims by Members; and, second, that certain standards of review (both objective and impartial) should be set for panel deliberations. The reasoning for the latter view was as follows. Since many cases for resolving disputes were expected to arise due to the newly introduced automaticity in the WTO dispute settlement system, it was considered necessary to specify standards of review for AD measures. As a result of the Uruguay Round negotiations, the AD Agreement also introduced new standards of review for factual determinations and legal interpretations by the panel. How the standards of review are applied to procedures for resolving disputes depends on the level of discretion employed by the reviewing panel and on the panelists themselves. So far, Panels have made comparatively broad original decisions regardless of the decisions made by the investigating authorities. The issue was scheduled to be re-examined following the application of these standards over the

first three years pursuant to a Ministerial decision adopted at Marrakesh,[2] but no examination has yet been done.

## *Anti-Circumvention Issues*

"Circumvention" generally refers to an attempt by parties subject to anti-dumping measures to avoid paying the duties by "formally" moving outside the range of the anti-dumping duty order while "substantially" engaging in the same commercial activities as before. However, this has not yet been confirmed by any official decision of the General Agreement on Tariffs and Trade (GATT) or the WTO.

In the Uruguay Round negotiations, "circumvention" was classified into three types: (1) importing country circumvention, (2) third country circumvention and (3) "country-hopping"; and disciplines on measures to prevent these practices were discussed. However, conflicting opinions between Members prevented any final conclusion from being reached. The Marrakesh Ministerial Declaration merely states the desirability of the applicability of uniform rules in this area as soon as possible and refers the issue to the AD Committee. In light of the large amounts of time already spent negotiating the issue without success in reaching an agreement, the AD Committee began discussions by looking at approaches that could be used to seek a resolution. This has resulted for the first time in an agreement on the framework for future considerations (procedures and agenda). The three items on the agenda were: (1) "what constitutes circumvention"; (2) "what is being done by Members confronted with what they consider to be circumvention"; and (3) "to what extent can circumvention be dealt with under the relevant WTO rules."

Informal discussions began (in October 1998) during meetings of the Informal Group on Anti-Circumvention of the AD Committee (held twice a year), on "what constitutes circumvention", which was the first topic on the agenda. However, no agreement has been reached. Discussion began in May 2000 on "what is being done by Members confronted with what they consider to be circumvention," and in October 2001 discussions began on "to what extent can circumvention be dealt with under the relevant WTO rules," but there have been no conclusion so far.[3] Simultaneously, in the Negotiating Group on Rules, proposals on anti-circumvention have been submitted by the US, EU, Egypt and Brazil.[4]

---

[2] "The standard of review in paragraph 6 of Article 17 of the Agreement on Implementation of Article of GATT 1994 shall be reviewed after a period of three years with a view to considering the question of whether it is capable of general application."

[3] Informal Group on Anti-Circumvention of the AD Committee (developments):

The number of proposals submitted by Member countries to the Informal Group on Anti-Circumvention of the AD Committee was 15 in 2001, but, following the start of rules negotiations in the Doha Round, the number dwindled to 6 in 2002, 3 in 2003 and 1 in 2004. Although there was only one proposal submitted in 2005, an agreement was reached to continue discussions.

5 Discussions on establishment of a discipline on anti-circumvention during the rules negotiations (developments):

All member countries recognize that circumvention is an issue of concern. The basic conflict over anti-circumvention is between, on one side the United States, the European Union, and other Members that already have their own anti-circumvention rules and wish to legitimize them, and on the other side a large number of other Members including Japan who are wary of introducing these measures because they could restrict legitimate investment activities and potentially reduce and distort trade and investment. There are sharp differences of opinion on this issue, and no agreement is in sight.

In addition to independent anti-circumvention regulations, the US and the EU apply rules of origin and utilize anti-circumvention rules with the initial intent of expanding the product under consideration. As such, Japanese companies must take the utmost care not to infringe upon the anti-circumvention rules of various countries amidst an increase of the overseas operations of corporate production bases, including the transfer of production bases to importing countries. Many businesses report a lack of predictability as there are no clear and uniform anti-circumvention rules and the rules utilized by each country are different and ambiguous.

To formulate regulations on anti-circumvention, it is important to carry out discussions based on the reality that corporate activities are headed overseas and on the basic principles and goals of the WTO Agreements, which aim to promote trade liberalization. It is important to formulate measures that do not impair legitimate trade and investment, while still following the direction in which the regulations of the current AD Agreement will be strengthened. Should Members with domestic laws on anti-circumvention create barriers to legitimate commercial activities under the guise of anti-circumvention, or decide to impose measures that depart from GATT Article VI or the AD Agreement, they should be dealt with rigorously within the GATT/WTO context. Japan should have an awareness of relevant issues and participate in the ongoing

---

In the rules negotiations so far, the US has submitted proposals for establishing discipline on circumvention, but received criticism for the overly broad discretion of the authority and for a lack of precision and predictability. As with the discussions held during meetings of the Informal Group on Anti-Circumvention of the AD Committee, the difference of opinions among the Member countries regarding the modalities of specific rules remains great.

Anti-circumvention provisions are also included in the Chairman's Text released on November 30, 2007. According to the provisions, existing AD measures could be extensively applied to cases suspected as importing country circumvention, third country circumvention, or slightly modified product circumvention when substitution for products subject to AD is confirmed as a result of review. Further, numeric criteria (safe harbor where circumvention is not determined as long as the criteria are met) concerning the ratio of imported parts and added value in importing countries or third countries are defined to be 60% or more and 25% or less, respectively.

In subsequent rules negotiations, while several countries claimed the necessity of some provisions about circumvention since some Member countries like the EU and the United States have already implement measures to prevent circumvention based on their domestic rules, other Members stated that such provisions should not be included in the Chairman's text since there was still disagreement in the rules negotiations and several matters including the definition of circumvention were unclear. In February 2008, China, Hong Kong and Pakistan published a statement requesting deleting the provision of circumvention in the Chairman's Text. In the revised Chairman's Text circulated in December 2008, the provisions on circumvention were not included and only the title was inserted along with the opinions of Member countries (as was done for other items such as zeroing and sunset).

discussions of the Negotiating Group on Rules for the formulation of unbiased, impartial and precise uniform regulations.

# 3. RECENT DEVELOPMENTS

Traditionally, the majority of AD measures are imposed by the United States, the European Union, Canada and Australia. This, in part, reflects the fact that developed countries have been quicker to implement AD regimes. However, in recent years, India and some developing countries have also begun to apply AD measures, including Brazil, China, and South Africa. (*See* Figure 5-1, 5-2)

It is important to monitor the increased use of AD measures, as well as Members' application of AD measures to ensure that their procedures and methods comply with the AD Agreement. In addition, we should pay attention to those developing countries, while the decreasing tendency to bring AD cases before the WTO Dispute Settlement Body.

## Figure 5-1
## Number of Anti-Dumping Investigations by WTO Members

| | 95 | 96 | 97 | 98 | 99 | 00 | 01 | 02 | 03 | 04 | 05 | 06 | 07 | 08 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| USA | 14 | 22 | 15 | 36 | 47 | 47 | 75 | 35 | 37 | 26 | 12 | 8 | 28 | 16 | 418 |
| EC | 33 | 25 | 41 | 22 | 65 | 32 | 28 | 20 | 7 | 30 | 25 | 34 | 9 | 19 | 391 |
| Canada | 11 | 5 | 14 | 8 | 18 | 21 | 25 | 5 | 15 | 11 | 1 | 7 | 1 | 3 | 145 |
| Australia | 5 | 17 | 42 | 13 | 24 | 15 | 23 | 16 | 8 | 9 | 7 | 10 | 2 | 6 | 197 |
| Argentina | 27 | 22 | 14 | 8 | 23 | 43 | 27 | 14 | 1 | 12 | 12 | 11 | 8 | 19 | 241 |
| Brazil | 5 | 18 | 11 | 18 | 16 | 11 | 17 | 8 | 4 | 8 | 6 | 12 | 13 | 23 | 170 |
| Korea | 4 | 13 | 15 | 3 | 6 | 2 | 4 | 9 | 18 | 3 | 4 | 7 | 15 | 5 | 108 |
| India | 6 | 21 | 13 | 28 | 64 | 41 | 79 | 81 | 46 | 21 | 28 | 35 | 47 | 54 | 564 |
| China | 0 | 0 | 3 | 0 | 7 | 6 | 14 | 30 | 22 | 27 | 24 | 10 | 4 | 14 | 161 |
| South Africa | 16 | 33 | 23 | 41 | 16 | 21 | 6 | 4 | 8 | 6 | 23 | 3 | 5 | 1 | 206 |
| Indonesia | 0 | 11 | 5 | 8 | 8 | 3 | 4 | 4 | 12 | 5 | 0 | 5 | 1 | 7 | 73 |
| Mexico | 4 | 4 | 6 | 12 | 11 | 6 | 6 | 10 | 14 | 6 | 6 | 6 | 3 | 1 | 95 |
| Turkey | 0 | 0 | 4 | 1 | 8 | 7 | 15 | 18 | 11 | 25 | 12 | 8 | 6 | 22 | 137 |
| Japan | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 6 |
| Others | 32 | 34 | 40 | 59 | 50 | 37 | 41 | 58 | 29 | 25 | 40 | 45 | 17 | 18 | 514 |
| Total | 157 | 225 | 246 | 257 | 363 | 292 | 366 | 312 | 232 | 214 | 200 | 202 | 163 | 208 | 3437 |

**Source: WTO Semi-annual Report and Data of Fair Trade Center.**

**Figure 5-2**
**Number of Anti-Dumping Duties in force against Japanese Products**
**(As of 31 January 2010)**

| US | EU | Canada | Australia | Korea | China | Chinese Taipei | India |
|---|---|---|---|---|---|---|---|
| 20 | 0 | 0 | 2 | 5 | 23 | 1 | 9 |
| **Thailand** | **Indonesia** | **Malaysia** | **Mexico** | **Brazil** | **Venezuela** | **Argentina** | **Egypt** |
| 2 | 0 | 0 | 1 | 0 | 1 | 2 | 1 |

**Note: Figures include price undertakings.**
**Source: Data of Fair Trade Center.**

# 4. ECONOMIC ASPECTS AND SIGNIFICANCE

Anti-dumping measures are considered special measures within the GATT/WTO framework. They enable the selective imposition of duties, and therefore, have the potential of being used as discriminatory trade policies. With respect to tariff rates, multiple rounds of trade negotiations have reduced average tariff rates on industrial goods in the United States, the European Union, Canada, Japan and other leading countries to below 5 percent. One backlash from this reduction has been that some of average AD duties over 40 percent. (Anti-dumping duty rates differ depending on the case and the companies involved.) For this reason, once an anti-dumping measure is applied, the volume of imports in question drops dramatically and, in some cases, ceases altogether (trade chilling effect). The impact on defendants and the relevant industries is enormous.

## *The Influence of Initiating Investigations*

The mere initiation of an AD investigation will have a vast impact on exporters. When an AD investigation is initiated, products under consideration become far less attractive to importers already leery of having to potentially pay extra duties.

Initiation of an AD investigation also places significant burdens on the companies being investigated. They must answer numerous questions from the authorities in a short period of time and spend enormous amounts of labour, time and money to defend themselves. Such burdens obviously have the potential to impair ordinary business activities. Thus, regardless of their findings, the mere initiation of an investigation is in

itself a large threat to companies exporting products. Because of the high cost of defending against AD investigations, the authorities should examine whether there is sufficient evidence to justify initiation of an investigation and any decision to go ahead with an investigation must be made with the utmost care.

We note that there are many cases where companies simply decline or partially respond to the questionnaires from the authorities because of the enormous burdens involved. In such cases, the rule of "facts available" (Annex II of the AD Agreement called "best information available (BIA)") applies.

"Facts available" means the investigating authority may make their determinations solely on the material that the authority was able to collect in situations in which any interested party does not provide necessary information within a reasonable period, or submitted information that could not be verified. "Facts available" set in force by the provisions of Article 6.8 and Annex II of the AD Agreement may apply in cases where the company was able to respond but did not do so for its own reasons. But, as we have noted, there are cases where companies are forced to relinquish their right to respond because the questions are so detailed and probing that the burden of response is too great. The paradox is obvious. Authorities, in their excessive zeal to collect detailed information and run rigorous investigations, end up having to use "facts available" procedures instead. Such procedures, we note, are in contravention of Article 6.13 of the Anti-Dumping Agreement, which states, "The authorities shall take due account of any difficulties experienced by interested parties in supplying information requested, and shall provide any assistance practicable."

## *Effects on Technology Transfers (Unfair Expansion of the Product Scope Subject to Anti-Dumping Duties)*

Anti-dumping duties are imposed on "products" found by investigating authorities to be dumped in their domestic markets (Article VI of GATT). However, depending on how the scope of "products" is defined, there could be cases in which AD duties are imposed on products that are in fact different from the product subject to investigation without determining dumping and injury. When the definition of the range of products subject to dumping investigations is vague, we must take care with regard to products that could or will be developed in the future so that the definition cannot be expanded beyond those products "currently" causing injury (according to the parties filing the application).

In some cases, the product scope has been expanded to apply to future generation products not even existing at the time of the original investigation. Given the nature of these products and the wide differences between the original and current versions of the products, authorities should investigate whether or not the new products, in view of the differences in technology used and markets targeted, are having a detrimental impact on the domestic markets initially investigated. There are obvious problems in expanding

the application of existing AD measures without conducting such an investigation. We have strong expectations for more appropriate administration in this regard.

If the scope of an investigation is unfairly expanded by reason of a "like product" definition, it would have an adverse influence on new product development, consumer choice and, ultimately, technological advancement. This is certainly the case in high-tech industries, like electronics. This problem affects the handling of later-developed products in circumvention cases. Suffice it to note here that all such cases demonstrate the potential impediment to technological progress that comes from facile expansions of the coverage of "like product" in AD proceedings.

## *Retarding the Benefits of Globalization of Production*

As the economy becomes more global in scope, companies are transferring their production overseas to their export markets or to developing countries where costs are lower. However, when such transfers take place for products that are subject to AD duties, they are often assumed to be attempts at circumvention. Anti-circumvention measures that inadequately distinguish between production shifting for legitimate commercial reasons and for circumvention purposes risk not only distorting trade but also shrinking investment.

Furthermore, as Japanese companies transfer their production overseas, or outsource to overseas companies in developing countries, cases are arising where third party countries begin to implement anti-dumping measures against the countries in question, targeting the products manufactured in such ways. Care must be taken in relation to this issue, which is one of the risks of the globalization of manufacturing.

## *Rise of Protectionism in Consequence of the Financial Crisis*

In 2008, confusion in global financial markets arose because the subprime loan problem in the United States had repercussion on the other countries that gave rise to slowdown of the whole world economy. Because of this, in addition to an increase in protectionist measures including export restrictions and increased tariffs, there was an increase of Anti-Dumping measures on the pretext of protecting domestic industry. In fact, the number of Anti-Dumping investigation in 2008 was increased compared to the number in 2007 by approximately 27%. The abuse of protectionist measures imposed under the pretext of overcoming economic depression has a bad influence on sound trade. Close attention therefore should be paid to such movements.

## *Conclusion*

As the above discussion indicates, the economic effects of abusive anti-dumping measures can be substantial in terms of trade volume and critical to a wide range of business activities. Unfortunately, importing countries can easily resort to such practices because they can be accomplished under the guise of measures sanctioned by

the GATT/WTO and the Anti-Dumping Agreement. For these reasons, application of AD measures as a means of restricting imports has increased substantially in recent years. It should also be noted that the most serious victims of abusive AD measures are often the consumers and user industries in the importing country.

# 5. JAPAN'S ANTI-DUMPING ACTIONS

Japan's companion law and regulation to the AD Agreement is Article 8 of the Customs Tariff Law, the Cabinet Order on Anti-Dumping Duties and the Guidelines on Procedures for Countervailing and Anti-Dumping Duties. Prior to 1991, only three anti-dumping cases had been filed in Japan, none of which resulted in an investigation. With regard to the application against ferro-silicon-manganese from China, South Africa and Norway, Japan determined that there was sufficient evidence to justify the initiation of its first AD investigation in October 1991. In February 1993, a final determination to impose AD duties on Chinese exporters was made after an affirmative finding of dumping and injury and a causal link between them (two of the Chinese exporters agreed to a price undertaking with the Japanese government). In January 1998, this measure was terminated under the sunset clause.

In December 1993, a dumping complaint was filed against imports of certain cotton yarns from Pakistan. The investigation was initiated in February 1994 and after a year and a half of impartial and rigorous investigation, it was found that dumped imports had in fact caused material injury to the domestic industry. An anti-dumping duty was therefore imposed in August 1995. This measure was terminated in July 2000 under the sunset clause.

In February 2001, an application for the initiation of an investigation was filed against imports of certain polyester staple fibers from Korea and Chinese Taipei. An investigation was initiated in April 2001. After a 15-month fair and impartial investigation, the authority concluded that dumping and injury were occurring. AD duties were imposed for the five-year period starting July 26, 2002 and ending June 6, 2007 (see Figure 5-3). On June 30, 2006, an application for extension of the period for continued imposition (an application for sunset review) of the AD duties was filed by domestic industry and an investigation was started on August 31 of the same year.
As a result, it was confirmed that injury might continue or recur and extension of the period for imposition of the AD duties up to June 28, 2012 was determined in June 2007.
In January 2007, a dumping complaint was filed against imports of electrolytic manganese dioxide from South Africa, Australia, China and Spain, and investigation was initiated in April.

## Figure 5-3

## Imposition of Anti-dumping Duties on Polyester Staple Fibers from Korea and Chinese Taipei

| History | |
|---|---|
| 28 February 2001: | Complaint (from five Japanese companies) to impose antidumping duties was accepted |
| 23 April 2001: | Investigation was initiated |
| 19 July 2002: | Investigation was completed |
| 26 July 2002: | Antidumping duties were imposed (for five years until 30 June 2007) |
| 30 June 2006: | Complaint (from three Japanese companies) to extend the period of Antidumping duties was accepted |
| 31 August 2006: | Investigation was initiated for the extension of the period of dumping duties |
| 1 July 2007: | Extended anti-dumping duties were imposed (for five years until 28 June 2012)<br><br>**<Anti-dumping duty rates**<br>**Korea:** Four companies: No duties;<br>One company: 6%;<br>Other companies: 13.5%<br><br>**Chinese Taipei:** All companies: 10.3% |

## Figure 5-4

## Imposition of Anti-dumping Duties on Electrolytic Manganese Dioxide from Australia, Spain, China and South Africa

| History | |
|---|---|
| 31 January 2007: | Complaint (from two Japanese companies) to impose antidumping duties was accepted |
| 27 April 2007: | Investigation was initiated |
| 14 June 2008: | Provisional Antidumping duties were imposed |
| 22 August 2008: | Investigation was completed |
| 1 September 2008: | Antidumping duties were imposed (for five years until 31 August |

| | |
|---|---|
| | 2013)<br><br>**<Anti-dumping duty rates**<br>**Australia:** All companies: 29.3%<br>**Spain:** All companies: 14.0%<br>**China:** All companies: 46.5%;<br>One company: 34.3%;<br>**South Africa:** All companies: 14.5% |

# 6. ANTI-DUMPING CASES IN THE WTO DISPUTE SETTLEMENT PROCESS

Since the WTO was established, there have been a total of 80 consultation requests under the disputes settlement procedures regarding anti-dumping measures. (Five of these cases were brought by Japan.) By February 2010, in 42 cases, panels have been established and 35 reports have been adopted. 20 cases were appealed to the Appellate Body and all reports of Appellate Body have been adopted.

## Reference

## List of ongoing AD cases against Japanese products (as of January 31, 2010)

| **United States** | | |
|---|---|---|
| **Product** | **(top) initiation<br>(bottom)imposition** | **Developments** |
| Polychloroprene Rubber | 1972.12.16<br>1973.12.06 | 1999.08.06 continuance (from first “sunset review”)<br>2005.08.04 continuance (from second “sunset review”) |
| PC Steel Wire Strand | 1977.11.23<br>1978.12.08 | 1999.02.03 continuance (from first “sunset review”)<br>2004.06.25 continuance (from second “sunset review”)<br>2009.12.11 continuance (from third “sunset review”) |
| Carbon Steel Butt-Weld Pipe Fittings | 1986.03.24<br>1987.02.10 | 2000.01.06 continuance (from first “sunset review”)<br>2005.11.21 continuance (from second “sunset review”) |
| Stainless Steel Butt-Weld Pipe-fittings | 1987.04.24<br>1988.03.25 | 2000.03.06 continuance (from first “sunset review”)<br>2005.10.20 continuance (from second “sunset review”) |
| Brass Sheet & Strip | 1987.08.14<br>1988.08.12 | 2000.05.01 continuance (from first “sunset review”)<br>2006.04.03 continuance (from second “sunset review”) |
| Granular Polytetrafluoroethylene Resin | 1987.12.03<br>1988.08.24 | 2000.01.03 continuance (from first “sunset review”)<br>2005.12.22 continuance (from second “sunset review”) |
| Ball Bearings | 1988.04.27<br>1989.05.15 | 2000.07.11 continuance (from first “sunset review”)<br>2006.09.15 continuance (from second “sunset review”) |
| Gray Portland Cement & Clinker | 1990.06.15<br>1991.05.10 | 2000.11.15 continuance (from first “sunset review”)<br>2006.06.16 continuance (from second “sunset review”) |

| United States | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Stainless Steel Bar | 1994.01.27<br>1995.02.21 | 2001.04.18 continuance (from “sunset review”)<br>2007.01.23 continuance (from second “sunset review”) |
| Clad Steel Plate | 1995.10.25<br>1996.07.02 | 2001.11.16 continuance (from “sunset review”)<br>2007.03.22 continuance (from second “sunset review”) |
| Stainless Steel Wire Rod | 1997.08.26<br>1998.09.15 | 2004.08.13 continuance (from “sunset review”)<br>2009.07.01 continuance (from second “sunset review”) |
| Stainless Steel Sheets | 1998.07.13<br>1999.07.27 | 2005.07.25 continuance (from “sunset review”) |
| Hot-Rolled Carbon Steel Flat Products | 1998.10.22<br>1999.06.29 | 2005.05.12 continuance (from “sunset review”) |
| Carbon Steel Plate | 1999.03.16<br>2000.02.10 | 2005.12.06 continuance (from “sunset review”) |
| Small Diameter Seamless Pipe | 1999.07.28<br>2000.06.26 | 2005.05.08 continuance (from “sunset review”) |
| large Diameter Seamless Pipe | 1999.07.28<br>2000.06.26 | 2005.05.08 continuance (from “sunset review”) |
| Tin mill products | 1999.11.30<br>2000.08.28 | 2006.07.21 continuance (from “sunset review”) |
| Welded Large Diameter Line Pipe | 2001.02.23<br>2001.12.06 | 2007.11.05 continuance (from “sunset review”) |
| Polyvinyl Alcohol | 2002.10.01<br>2003.07.02 | 2009.04.13 continuance (from “sunset review”) |
| Superalloy degassed chromium | 2005.03.30<br>2005.12.22 | |

| China | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Cold Rolled Steel Sheets | 1999.06.17<br>2000.12.18<br>(Partial price undertakings) | 2006.04.08 continuance (from “sunset review”) |
| Coated Printing Paper | 2002.02.06<br>2003.08.06 | 2009.08.04 continuance (from “sunset review”) |
| Phthalic Anhydride | 2002.03.06<br>2003.08.31 | 2009.08.31 continuance (from “sunset review”) |
| SBR (Styrene Butadiene Rubber) | 2002.03.19<br>2003.09.09 | 2009.09.08 continuance (from “sunset review”) |
| Polyvinyl Chloride (PVC) | 2002.03.29<br>2003.09.29 | 2009.09.28 continuance (from “sunset review”) |
| TDI (Toluenediisocyanate) | 2002.05.22<br>2003.11.22 | 2009.11.21 continuance (from “sunset review”) |
| Phenol | 2002.08.01<br>2004.02.01 | 2010.01.31 continuance (from “sunset review”) |
| Ethanolamine | 2003.05.14<br>2004.11.14 | 2009.11.13 start of sunset review |
| Optical Fiber | 2003.07.01<br>2005.01.01 | 2009.12.31 start of sunset review |
| Chloroprene Rubber | 2003.11.10<br>2005.05.10 | |

| China | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Hydrazine Hydrate | 2003.12.17<br>2005.06.17 | |
| Trichloroethylene | 2004.04.16<br>2005.07.22 | |
| Dimethyl Cyclosiloxane | 2004.07.16<br>2006.01.16 | |
| Furan Phenol | 2004.08.12<br>2006.02.12 | |
| Nucleotide Food Additives | 2004.11.12<br>2006.05.12 | |
| Epichlorohydrin | 2004.12.28<br>2006.06.28 | |
| Spandex | 2005.04.13<br>2006.10.13 | |
| Catechol | 2005.05.31<br>2006.05.22 | |
| Polybutylene Terephthalate | 2005.06.06<br>2006.07.22 | |
| Electrolytic Capacitor Paper | 2006.04.18<br>2007.04.17 | |
| Bisphenol A (BPA) | 2006.08.30<br>2007.08.29 | |
| Methyl Ethyl Ketone | 2006.11.22<br>2007.11.21 | |
| Acetone | 2007.03.09<br>2008.06.08 | |

| Thailand | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Cold Rolled Steel Sheets | 2002.02.15<br>2003.03.13 | 2009.03.19 continuance (from “sunset review”) |
| Hot Rolled Steel Sheets | 2002.07.08<br>2003.05.27 | 2009.05.21 continuance (from “sunset review”) |

| South Korea | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Stainless Rods and Section Steel | 2003.07.05<br>2004.07.30<br>(Partial price undertakings) | 2009.03.27 start of sunset review |
| PVC Plates | 2004.05.19<br>2005.04.20<br>(Partial price undertakings) | |
| Industrial Robots | 2004.10.01<br>2005.09.16 | |
| Automobile Guide Hole Punchers | 2006.02.17<br>2006.11.22<br>(three-year duration) | |
| Ethyl Acetate | 2007.09.17<br>2008.08.2<br>(three-year duration) | |

| Chinese Taipei | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Art Paper | 1998.12.30<br>2000.07.20 | 2006.03.03 continuance (from “sunset review”) |

| Australia | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Polyvinyl Chloride (PVC) | 1992.02.05<br>1992.10.22 | 1997.10.22 continuance (from first “sunset review”)<br>2002.08.29 continuance (from second “sunset review”)<br>2007.10.04 continuance (from third “sunset review”) |
| Hot Rolled Plate Steel | 2003.08.20<br>2004.04.01 | |

| India | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Acrylic Fiber | 1998.01.07<br>1999.01.22 | 2004.12.21 continuance (from “sunset review”)<br>2009.07.06 continuance (from second “sunset review”) |
| Styrene-butadiene Rubber | 1998.04.07<br>1999.08.24 | 2004.07.26 continuance (from “sunset review”)<br>2009.03.31 continuance (from second “sunset review”) |
| Aniline | 1999.09.13<br>2000.10.06 | 2006.06.09 continuance (from “sunset review”) |
| Caustic Soda | 2000.05.26<br>2001.06.26 | 2006.09.13 continuance (from “sunset review”) |

| India | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Flexible Slabstock Polyols | 2001.09.21<br>2002.10.31 | 2007.02.05 continuance (from “sunset review”) |
| Pentaerythritol | 2001.11.22<br>2002.10.31 | 2008.02.05 continuance (from “sunset review”)” |
| 6-Hexanelactam | 2003.09.22<br>2004.11.17 | 2009.07.17 start of sunset review |
| Polyvinyl Chloride (PVC) | 2006.06.28<br>(investigation ongoing) | |
| Peroxosulfates | 2007.08.29 | |

| Mexico | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Steel Tubing | 1999.05.13<br>2000.11.10 | 2005.11.11 continuance (from “sunset review”) |

| Venezuela | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Steel Tubing | 1999.04.23<br>2000.07.13 | 2006.08.07 continuance (from “sunset review”) |

| Argentina | | |
|---|---|---|
| **Product** | **(top) initiation (bottom)imposition** | **Developments** |
| Welded Steel Tubes | 2000.12.15<br>2001.12.15 | 2008.06.12 continuance (from “sunset review”) |
| Late Selective Herbicides | 2000.12.22<br>2002.06.24 | 2006.06.16 continuance (from “sunset review”) |

**Source: Data of Fair Trade Center**