

Antidumping Measures: Exporter specific or Exporter/Producer specific

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- * Core issue: whether a “pure” unaffiliated trading company should be given an individual margin of dumping or an “bundled” rate may be applied to it together with the producer concerned.

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- * ADA/WTO's language: **exporter or producer.**
- * Relevant provision: Art.6.10 says “*The authorities shall,, determine an individual margin of dumping for each known exporter or producer concerned.....*”
- * Leaving discretion to the investigating authorities to decide on a case-by-case basis.

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- * To Investigate the incentive or intention or capability of dumping?
- * In theory, a “Pure” trading company’s traditional roll: buy low sell high or earning commission as agent.
- * Special circumstances need further scrutiny due to differentiated roles and positions in different countries, markets and industries/sectors.

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* Circumstances may include:

1. PUC directly exported by the producer:

A Single entity.

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2. PUC exported by an intermediate trading company (i.e. exporter): dependent upon consideration of relevant factors, *inter alia*,

- 1) relationship of the two;
- 2) export transaction process;
- 3) role and position of that trading company in realizing those transactions;
- 4) expense coverage and profit recognition process of that trading company.

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- * If affiliation relationship exists, they could be regarded as a single entity.
- * If they are unaffiliated, then:
 - 1) Proxy-Agent, or
 - 2) Buyer-seller; or
 - 3) Manufacturer-exporter; or
 - 4) OEM.

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- * Other relevant factors: Customs clearance requirement and practicability.
- * More complicated circumstances may include the trading company locating in a third country or region which is not subject to the investigation.