

MINISTRY OF DEVELOPMENT, INDUSTRY AND FOREIGN TRADE

SECRETARIAT OF FOREIGN TRADE

DEPARTMENT OF TRADE REMEDIES

LESSER DUTY RULE

The Brazilian Experience

NEW DELHI / April 2015

The Legal Texts - SCM

The Current Regulation – Decree 1.751/1995:

Art. 55. For the purposes of this Decree, the term “compensatory duty” shall be understood as a monetary amount equal to or less than the determined amount of actionable subsidies, for the sole purpose of counteracting the subsidisation causing injury.

The Legal Texts - AD

The Former Regulation – Decree 1.602/1995:

Art. 45. For the purposes of this Decree, the term “anti-dumping duty” shall be understood as a monetary amount equal to or less than the determined margin of dumping, for the sole purpose of counteracting the injurious effects of dumped imports.

The Legal Texts - AD

The Current Regulation – Decree 8.058/2013:

Article 78. The term "anti-dumping duty" shall be understood as a monetary amount equal to or less than the determined margin of dumping.

Paragraph 1. Except in the cases provided for in paragraph 3 and CAMEX decisions under article 3, anti-dumping duties shall be less than the margin of dumping where such amount is sufficient to remove the injury to the domestic industry caused by the dumped imports.

Paragraph 2. The amount of the anti-dumping duty may not exceed the margin of dumping.

Paragraph 3. The amount of the anti-dumping duty shall correspond exactly to the margin of dumping in the following cases:

- I. producers or exporters whose margin of dumping was calculated on the basis of the best information available or whose anti-dumping duty was imposed pursuant to article 80;
- II. affirmative re-determinations in respect of the chapeau of article 155, sub-paragraph II; and
- III. reviews:
 - a) by virtue of changes in circumstances which, under chapter VIII, section II, subsection I, involve strictly the calculation of the margin of dumping;
 - b) of new producers or exporters, under chapter VIII, section III, subsection I; or
 - c) anti-circumvention, under chapter VIII, section III, subsection II, provided the anti-dumping duty in force was imposed on the basis of the margin of dumping.

APPLICATION OF LDR

PRICE COMPARISON:

DOMESTIC INDUSTRY PRICE

X

IMPORT PRICE

DOMESTIC INDUSTRY PRICE

ALSO REFERRED TO AS NON INJURIOUS PRICE

- **WEIGHTED AVERAGE PRICE**
- **AN ACTUAL PRICE OR A “CONSTRUCTED” PRICE**
- **COST OF PRODUCTION + REASONABLE AMOUNT FOR PROFITS**

NON INJURIOUS PRICE

COST OF MANUFACTURING

+

SG&A EXPENSES

+

FINANCIAL (INTEREST) EXPENSES

+

PROFIT

NON INJURIOUS PRICE

PROFIT

- CURRENT MARGIN OF PROFIT (NO EFFECT ON DOMESTIC INDUSTRY PRICE - DEPRESSION OR SUPPRESSION)
- MARGIN OF PROFIT BEFORE THE INJURIOUS EFFECTS OF IMPORTS ON THE DOMESTIC INDUSTRY WERE FELT
- MARGIN OF PROFIT OF OTHER COMPANIES PRODUCING THE SAME CATEGORY OF PRODUCTS, BUT NOT THE “LIKE PRODUCT”

IMPORT PRICE

FOB PRICE

+

OCEAN FREIGHT

+

INTERNATIONAL INSURANCE

+

IMPORT DUTY

+

CUSTOMS CLEARANCE EXPENSES

CIF
PRICE



FAIR COMPARISON

- INTERNAL FREIGHT
 - - EX-FACTORY LEVEL **x** CIF INLAND PRICE
 - - DELIVERED **x** DDP PRICE
- INDIRECT TAXES (EG. VAT)
- LEVEL OF TRADE
- CHANNEL OF DISTRIBUTION
- QUANTITIES
- CREDIT EXPENSES
- CATEGORY OF PRODUCT (EG. CODIP)

LESSER DUTY

➤ SPECIFIC DUTY (Amount per Unit)

Domestic Industry Price – Import Price

➤ AD VALOREM DUTY (%)

Domestic Industry Price – Import Price
CIF Price

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**SECRETARIAT OF FOREIGN TRADE
DEPARTMENT OF TRADE REMEDIES**

THANK YOU!

Ministério do
Desenvolvimento, Indústria
e Comércio Exterior

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