

General Overview of Trade Remedy Measures

International Conference on Trade Remedial Measures

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by

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Directorate General of Anti-dumping

& Allied Duties

DIRECTORATE GENERAL OF ANTI-DUMPING AND ALLIED DUTIES

- The Directorate General of Anti-dumping and Allied Duties (DGAD) administers the Anti-dumping and anti-subsidies & Countervailing measures in India.
- It functions in the Department of Commerce in the Ministry of Commerce and Industry and is headed by the 'Designated Authority'.

- The Designated Authority's function is to conduct the anti-dumping/anti-subsidy & countervailing duty investigations and make recommendations to the Central Government for imposition of anti-dumping or anti-subsidy measures.
- The Designated Authority recommends the Anti-dumping duty/Countervailing and it is the Department of Revenue (Ministry of Finance), which imposes/levies such duty vide its Notification within three months of the receipt of the recommendation.

Legal framework on Trade Remedy

- Customs Tariff Act, 1975- Section 8B, 8C,9, 9A,9B &9C
- Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995
- Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995
- Customs Tariff (Identification and Assessment of Safeguard Duty) Rules 1997
- Customs Tariff (Transitional Product Specific Safeguard Duty) Rules 2002

Investigation Procedure and Imposition of duty

Anti-dumping and Countervailing Duty

- Initiation, Investigations and Recommendations by Designated Authority, Department of Commerce
- Imposition and collection of anti-dumping and countervailing duty by Department of Revenue, Ministry of Finance

Investigation Procedure and Imposition of duty

Safeguard Duty

- Initiation, Investigations and Recommendations by DG(Safeguards), Department of Revenue, Ministry of Finance
- Imposition and collection of safeguard duty by Department of Revenue, Ministry of Finance

Mid-term Review

- The Designated Authority may initiated mid-term review of anti-Dumping Duty on its own or upon request by any interested party.
- An Application for Mid-Term Review of Anti-Dumping Duties shall not be filed earlier than 12 months from the date of the order of imposition of Anti-Dumping Duties by Department of Revenue.

Sunset Review

- Any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition.
- The Designated Authority may initiate Sunset Review of anti-Dumping Duty on its own or upon request by domestic industry within a reasonable period of time prior to expiry of anti-dumping duty.
- The duty may remain in force pending review the outcome of Sunset Review.

Countries investigated by DGAD

Australia	Hong Kong	New Zealand
Bangladesh	Indonesia	Norway
Belarus	Iran	Oman
Brazil	Israel	Pakistan
Bulgaria	Japan	Philippines
Canada	Kenya	Qatar
China PR	Korea RP	Russia
Chinese Taipei	Malaysia	Singapore
Egypt	Mexico	Thailand
EU	Nepal	USA
		Vietnam

Time for completion of Cases

- As per Customs Tariff Act and Rules framed thereunder, time limit for completion of Anti-dumping investigation is 12 months.
- Department of Revenue may allow extension of time beyond 12 months upto a total of 18 months.
- As far as possible the investigations are completed within 12 months.
- Extension of time is taken due to litigation , data gaps, complexities of case, etc.
- Other constraints are:-
 - Limited staff
 - There were 4 teams till last year and 5 teams this year for investigation

Countervailing Duty on Subsidized Articles

- Directorate General of Anti-dumping and Allied Duties is mandated to initiate, investigate and recommend imposition of Countervailing Duty on Subsidized Articles to the Central Government.
- The legal framework under which the Anti-subsidy investigations are carried by the DGAD is Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995

- Subsidy exists where any country or territory bestows any financial contribution in the form of grant, equity, loan etc. or any other benefit accruing financial advantage which gives a competitive edge to the exporters of that country vis-à-vis the producers in the importing country.
- The Central Government may, by notification in the Official Gazette, impose a countervailing duty not exceeding the amount of such subsidy.
- Countervailing measure in the form of countervailing duty is to be imposed only after the determination that subsidy is a specific subsidy and it relates to export performance.

CVD Case

- On 29.5.2014, DGAD initiated Countervailing Duty investigation concerning imports of **Castings for Wind Operated Electricity Generators** whether or not machined in raw finished or sub assembled form or as a part of a sub assembly or as a part of an equipment component meant for wind operated electricity generators originating in or exported from China PR.

Safeguard Cases

- Safeguards measures are applied in the form of either safeguard duty or safeguard Quantitative Restrictions(QRs).
- Since its inception, DG (Safeguards) has carried out several investigations.
- As on date, the safeguard measures are in force on 4 products.

Steps taken towards establishment of DGTR

- JS in-charge of DGAD has been declared as HOD.
- Separate DGTR Budget has been operational since 1.4.2013.
- DGAD has started its functioning in new office at Jeevan Tara Building, Parliament Street, New Delhi, from June, 2014.

CESTAT

- The law provides that an order of determination of existence degree and effect of dumping is appealable before the Customs, Excise and Service Tax Appellate Tribunal. However, as per the judicial view, only the final findings/order of the Designated Authority/Ministry of Finance can be appealed against before the CESTAT.
- No appeal will lie against the Preliminary findings of the Authority and the provisional duty imposed on the basis thereof.

- The Appeal against the order of Central Government arising out of final findings of Designated Authority may be filled before the CESTAT within 90 days.
- The post of President, CESTAT is currently held by Justice G. Raghuram.
- As on date, 90 cases are pending in CESTAT.

Challenges

- Requirement of Manpower- increase in anti-dumping cases due to global slowdown. There are 98 cases under investigation and only 5 experienced teams to handle these cases.
- Need to involve industrial chambers and industry associations in educating industry specially MSMEs on these issues and set up cells to assist DGAD.
- Directorate General of Trade Remedies has to be created to include defence of cases of anti-dumping and CVD against India.

Thank you