

Product Under Consideration

International Conference on Trade Remedy Measures India 2015

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Product Under Consideration

Product under consideration (PUC):

- * Is the issue that every investigating authority needs to solve first in a case;
- * Is one of the basic issues that may get through the whole investigation proceeding, including the enforcement of measure, reviews.

Multilateral Rules on PUC

- * ADA/WTO is not entirely silent, but truly lacks specific and clear provision in governing PUC;
- * Leaving discretion to each authority to determine it based on their respective domestic law or on case-by-case basis;
- * Various thresholds and methodologies among different jurisdictions, thus causing problems

Multilateral Rules on PUC

- * Though, guidelines still exist:
 - 1) “A product” in Art.2.1;
 - 2) “Like Product” in Art.2.6;
 - 3) “A complete description of the alleged dumped product” in Art.5.2(ii).

Practical Dimension

1. Defining the PUC

Normally including description of the following factors:

- 1) Tier 1: physical or chemical characteristics, end-use;
- 2) Tier 2: substitutability, competition relationship, HTS number, sales pattern;
- 3) Tier 3: production specification, packing, quality, etc.

Practical Dimension

2. Exclusion of certain Product:

- 1) Based upon application or the result of investigation;
- 2) Can be clearly defined;
- 3) Should be made publicly known in the Public Notice of Initiation or Determinations

Practical Dimension

3. Modification and Adjustment of Product Scope

- 1) Necessary due to information asymmetry;
- 2) Provision of opportunity for comments or holding a public hearing;
- 3) Tended to narrow, not expand, the scope;
- 4) Clear distinction among various product types may affect the investigation.

Practical Dimension

4. Confirmation after Enforcement of Measures

- 1) Newly developed product, normally;
- 2) Investigating authority working together with the Customs and the industry;
- 3) Sometimes formal procedure might be needed.

Some Issues

- * Different types/models of the product;
- * Finished vs. Semi-finished products;
- * Finished vs. Key Parts or components;
- * Finished vs. Intermediate products; etc.

Whether they could be defined within a single product scope depends mainly upon their basic characteristics and end-use. Some may think of circumvention issue in the future.