

Comment on “prospective and retrospective systems in anti-dumping and countervailing duty systems”

By Chinese National Federation of Industries (CNFI)

The Chinese National Federation of Industries (CNFI) is very pleased that the U.S. government is reviewing the methodology on imposition of anti-dumping duties and requests for public comment. Based on Article 9.1 of *the Agreement on Implementation of Article VI of the GATT 1994* (The Anti-dumping Agreement), CNFI would also like to suggest that the Department of Commerce (DOC) give a thought to the adoption of “lesser-duty rules” in this review. CNFI believes that “Prospective System” would be a better way to impose antidumping duty, and the reasons shown below are based on the two perspectives.

1. Remedying injurious dumping exports to the United States

No one will doubt that the purpose of anti-dumping duty is to remove the injury to the domestic industry. When an anti-dumping duty is imposed, it creates a level playing field for the domestic like product to compete with the dumped import on price by offsetting the dumping margin.

To compare the two methodologies on imposition of anti-dumping duties, the “Prospective System” is more predictable than the “Retrospective System”. Under the “Prospective System”, not only importers are able to know exactly at the time of importation what the final duty liability will be, but also the CBP can have the definitive duties in hand at the time of each entry. Under the current “Retrospective System”, the unpredictable final duty liability makes importers unable to determine the cost prior to concluding sales. Thus some importers may default rather than pay the duties when the final duty liability exceeds what has been deposited. Consequently the government may lose a considerable sum of financial revenue while the remedial effects of dumping offsetting become in vain.

2. Creating minimal administrative burden

United States is the biggest market around the world. As one of the leading advocates of free trade, anti-dumping measures are necessary for U.S. government to safeguard its domestic industries from foreign injurious dumping, but they should not create heavy administrative burden to diminish other departmental operations. U.S. government has imposed anti-dumping and countervailing duties on 291 cases until 2009.12.31. It means that DOC averages more than 200 administrative reviews every year in the future. Excessive workload always leads into inaccuracy and inefficiency.

Under the methodology of “Prospective System”, the final duty liability is prospectively definite; there will be generally fewer necessities to proceed annual reviews unless a refund request is lodged. An interim review or an administrative review will be considerably simpler and less intrusive because the purpose is to set a new duty rate or a non-dumped price.