Table of Contents

Pref	ace			xvii
~	. 1			
	pter 1	a coder		1
	oductio			1
	_	_	Its Elements	1
1.2		_	s and Discussions Concerning Dumping	
	Deteri	ninations		2
	1.2.1	Dumpin	g Determinations	3
		1.2.1.1	Product	3
		1.2.1.2	Normal Value	- 3
		1.2.1.3	Export Price	5
		1.2.1.4	Comparison	3 3 - 3 5 5
	1.2.2		nping Determinations and WTO Law	8
			gal Approach	12
1.3			O Anti-dumping Law and the EU Measures	15
		WTO Se		15
		1.3.1.1	The WTO Agreements and Decisions from	
			the Ministerial Conference	16
		1.3.1.2	Panel and Appellate Body Reports	. 17
			Customary International Law	19
			Principles of Law	20
		1.3.1.5	*	22
	1.3.2		tation of WTO Agreements	23
		-	General Interpretative Approach	23
			National Interpretation: Article 17.6(ii)	
			of the ADA	26
	1.3.3	EU Dun	nping Measures and Judicial Reviews	27

	apter 2	31
	O Law as a Rule-Oriented System	
2.1	Evolution of Anti-dumping Law in GATT/W	
	2.1.1 Anti-dumping in GATT: from Beginn	
	Kennedy Round	33
	2.1.1.1 Non-market Economies	35
	2.1.1.2 The Group of Experts	36
	2.1.2 The Kennedy Round (1963-1967)	37
	2.1.3 The Tokyo Round (1973-1979)	39
	2.1.4 The Uruguay Round (1986-1994)	40
2.2	1 0	w 41
	2.2.1 Substantial Rules	41
	2.2.1.1 Dumping	42
	2.2.1.2 Injury	42
	2.2.2 Procedural Rules	43
	2.2.2.1 Initiation of the Investigation	
	2.2.2.2 Investigation	44
	2.2.2.3 Measures and Anti-dumping	Duties 46
	2.2.3 Final Words	47
2.3	The Enforcement of WTO Anti-dumping La	w in the
	WTO System	49
	2.3.1 Dispute Settlement under GATT 1947	7 49
	2.3.2 WTO Dispute Settlement	51
	2.3.3 Final Comments	54
2.4	EU in GATT/WTO	55
	2.4.1 The EU as a WTO Member	- 55
	2.4.2 Evolution of EU Anti-dumping Legis	lation in
	Light of GATT/WTO Law	57
	2.4.2.1 Community Interest	59
	2.4.2.2 Guaranties of Rights in Anti-	-dumping Cases 59
	2.4.2.3 Circumvention	60
	2.4.2.4 Regulations Inconsistent with	
	2.4.3 Application of WTO Law in the EU	
	2.4.3.1 The Effect of GATT/WTO F	•
	2.4.3.2 Panel and Appellate Body A	
	Reports in EU	64
2.5		68
2.5	i mai words	
Cha	apter 3	
	oduct under Consideration and Like Product	71
3.1		72
3.2		73
5.4	3.2.1 Product under Consideration	73
	3.2.1.1 No Criteria to Determine Pro	
	Consideration	73
	Constactation	13

Tabl	e of Co	ontents		ix
		3.2.1.2	The Binding Definition	76
	322	Like Pro	oduct	78
3.3		egislation		80
2.1	EU Pi	ractice		80
3.4	3/11	Product	under Investigation	81
	3.7.1		Physical, Chemical, and Technical	
		5. 1.1.1	Characteristics	81
		3/112	The CN Codes	83
			Interchangeability	86
			Qualitative Differences	89
			Different Functionality and Patented Products	91
				92
	2 4 2		Different Production Techniques	95
		Like Pro		
3.5	Final	Commen	ts	98
Cha	pter 4			101
Nor	mal Va			101
4.1			Actual Domestic Price	101
	4.1.1		egislation	102
		4.1.1.1	Comparable Prices	102
		4.1.1.2	Ordinary Course of Trade	103
		4.1.1.3	Like Product	106
		4.1.1.4	Destined for Consumption in the	
			Exporting Country	106
	4.1.2	Practice	by Panels and Appellate Body	107
			General Statements about Article VI of	
			GATT 1994, Article 2.1 of the ADA and	
			Normal Value	107
		4.1.2.2	Comparable Prices	109
			Ordinary Course of Trade	112
		1.1.2.5	4.1.2.3.1 A Definition of Ordinary Course	
			of Trade	112
			4.1.2.3.2 Tests to Determine Ordinary	112
			Course of Trade	115
		4.1.2.4		113
		4.1.2.4	Country	117
		1125		117
		4.1.2.5	1 0	117
	412	DIII	between Associates	117
	4.1.3	EU Leg		119
		4.1.3.1	•	120
		4 4 6 6	Customers	120
		4.1.3.2	1	100
			Export Price	120
		4.1.3.3		121
			4.1.3.3.1 Sales between Associated Parties	121

			4.1.3.3.2	Sales below Costs and SAG	123
		4.1.3.4		Value Shall Be Based on the Price	
				porting Country	124
		4.1.3.5	The Sale	Must Be of the Like Product	125
		4.1.3.6	Low-Volu	ime Sales	125
		4.1.3.7	Destined	for Consumption	125
	4.1.4	EU Prac			125
		4.1.4.1	Comparat	ole Prices	126
		4.1.4.2	-	Course of Trade	127
				Sales between Associated Parties	128
				Prices below Costs and SAG	129
	,			Local Export Sales	133
		4.1.4.3	Low-Volu		134
			4.1.4.3.1	The Two 5% Tests	134
				Disregard of Some Products from	10.
				the 5% Calculation	136
			4.1.4.3.3		100
				Below 5%	138
		4.1.4.4	Exporting		139
		4.1.4.5		for Consumption in the Exporting	137
			Country	tor consumption in the Exporting	140
		4.1.4.6		am Sales between Associates	140
4.2	Alterr			Domestic Prices	144
			egislation	2 Simestic 1 Hoos	145
			Third-Cou	intry Price	146
		4.2.1.2		alue Based on Costs, SAG	140
			and Profit		146
			4.2.1.2.1		140
				of the ADA	147
			42122	Calculation of SAG and Profits	148
	422	Practice		and Appellate Body	149
	1.2.2			tatements about Article 2.2 and	147
		1.2.2.1	Article VI		149
		4.2.2.2		on of Costs	151
				on of SAG and Profits	151
		T.2.2.3	4.2.2.3.1	Principal Method in Article 2.2.2	154
			4.2.2.3.2	Relationship between the	134
			T.2.2.3.2	-	
				Subparagraphs in Article 2.2.2(i),	150
			4.2.2.3.3	(ii) and (iii) Data from Sales Not Made in	156
			7.2.2.3.3		157
			12221	the Ordinary Course of Trade	157
			4.2.2.3.4	The Same General Category of	1.50
			12225	Products, Article 2.2.2(i)	158
			4.2.2.3.5	Weighted Average, Article 2.2.2(ii)	159

V	1
Λ	

Table of Contents

			12236	Any Other Reasonable Method,	
			4.2.2.3.0	Article 2.2.2(iii)	160
	122	EIIIoa	islation	Article 2.2.2(III)	160
	4.2.3	EU Leg	Calculatio	n of Costs	161
				n of SAG and Profit	163
	101			ii of SAG and Front	165
	4.2.4	EU Prac		sin batayaan Article 2.1 and	103
		4.2,4.1	Article 2.3	nip between Article 2.1 and	165
		4040			169
				3: Rejection of Third-Country Prices	170
				on of Costs	170
		4.2.4.4		on of SAG and Profits	172
				Low-Volume Sales	174
		4045		Sales below Costs	174
				Average: Article 2.6(a)	170
		4.2.4.6		General Category of Products:	170
			Article 2.0		178
		4.2.4.7		thod: Any Other Reasonable	170
		_		Article 2.6(c)	179
4.3	Final	Commer	nts		181
	_				
	pter 5				107
	ort Pri				187
		Legislat			187
				ppellate Body	189
		egislation	n		192
5.4	EU P				194
	5.4.1		Export Pric		194
		5.4.1.1		ing the Actual Export Price	195
			5.4.1.1.1		10.7
				Agreements	195
			5.4.1.1.2	Other Reasons for Disregarding	
				the Actual Export Price	199
		5.4.1.2	Sales thro	ough a Trading House	200
	5.4.2	Alterna	tive Export	Price	202
5.5	Final	Comme	nts		204
	pter 6				• • •
Con	-			Value and Export Price	207
6.1		_		and Export Price	208
			Legislation		208
	6.1.2	Practice		and Appellate Body	210
		6.1.2.1		es Affecting Price Comparability	
			and Cond	litions and Terms	211
		6.1.2.2	Levels of	Trade	213 214

		6.1.2.4	Conversion	on of Currencies	216
		6.1.2.5	Other Dif	fferences	218
	6.1.3	EU Leg	islation		219
		EU Prac			222
		6.1.4.1	Differenc	es in Physical Characteristics:	
			Article 2.		222
		6.1.4.2		harges and Indirect Taxes:	
			Article 2.		223
		6.1.4.3		s, Rebates and Quantities:	
			Article 2.		225
		6.1.4.4		Trade: Article 2.10(d)	226
		6.1.4.5		, Insurance, Handling, Loading	
				llary Costs: Article 2.10(e)	227
		6.1.4.6		Article 2.10(f)	228
		6.1.4.7		rticle 2.10(g)	229
				es Costs: Article 2.10(h)	230
				ions: Article 2.10(i)	231
				Conversions: Article 2.10(j)	233
				etors: Article 2.10(k)	234
6.2	Calcu		Dumping		235
			egislation	<i>8</i>	236
				and Appellate Body	237
		6.2.2.1	The Hiera	archy of the Methods in	231
			Article 2.		237
		6.2.2.2		ary Step: Multiple Averaging	238
		6.2.2.3	Zeroing	ary stopt trustiple revoluting	242
			6.2.2.3.1	Zeroing and the Weighted-Average-	2.2
				to-Weighted Average Method:	
				Article 2.4.2	243
			6.2.2.3.2		213
				Transaction Method: Article 2.4.2	249
			6.2.2.3.3	Zeroing and the Weighted-Average-to-	217
			0.2,2.0.0	Transaction Method: Article 2.4.2	253
			6.2.2.3.4	Zeroing under Article 2.4	256
	6.2.3	EU Legi			260
	6.2.4	EU Prac			262
		6.2.4.1		erred Method of Article 2.11	262
		6.2.4.2	Zeroing	The Middle of Middle 2.11	265
		0.22	6.2.4.2.1	Zeroing under the Weighted-	203
			0.22.1	Average-to-Weighted-Average	
				Method	265
			6.2.4.2.2	The Time After EC: Bed Linen	266
			6.2.4.2.3	The Weighted-Average-to-	200
				Transaction Method: First	
				Condition	267
					207

Tab	le of Co	ontents				xiii
			6.2.4.2.4	Transaction	ed-Average-to -Method: Second	
			6.2.4.2.5	Condition Zaroing und	dor the Weighted	269
			0.2.4.2.3	_	ler the Weighted- Transaction Method	274
6.3	Indivi	dual or G	eneral Dui	mping Margi		275
0.5		WTO Le				276
			-	and Appella	te Body	276
	0.0.			nformation	j	276
			Related E			278
				ased on Prod	uct Types	279
	6.3.3	EU Legi	_			280
		EU Pract				281
			Related P	roducers		281
		6.3.4.2	Non-coop	erating Produ	icers	283
6.4	Final	Comment	_			285
Cha	pter 7					
Spe	cial An	ti-dumpiı	ng Rules I	Regarding C	hina	289
7.1	China	: The Acc	cession to	the WTO		289
7.2				e Producers		291
	7.2.1	WTO Le	gislation			291
		7.2.1.1			of GATT 1994	
			and ADA			292
			The Speci			293
	7.2.2				ach towards China	294
		7.2.2.1			ket Economy	_
			Criteria in		1	294
				and Technica	l Statements	295
	7.2.3	EU Legi				296
			Analogue	•		297
			_		onomy Treatment	298
				et Economy		299
	7.2.4				Economy Approach	200
			le Produce			300
		7.2.4.1	-		ination or Industry	200
		7242	Examinati			300
		7.2.4.2		Criteria in A		301
			7.2.4.2.1		erence and Market	202
				Conditions	Determine to December	303
				7.2.4.2.1.1	Determinants Regarding	202
				704010	Business Decisions	303
		,		1.2.4.2.1.2	Determinants Regarding	207
			70400	T4.	Market Conditions	307
			7.2.4.2.2	internationa	al Accounting Standards	309

			1.2.4.2.3	Distortions from the Non-market	
				Economy	312
			7.2.4.2.4	Property Rights and Bankruptcy Laws	315
			7.2.4.2.5	Currency Exchanges are Carried	
		7.2.4.3	Morket Ea	Out at Market Rate	316
		1.2.4.3	-	onomy Treatment during the	. 3
		7.2.4.4	Investigation		317
		1.4.4.4	Droducere	g Normal Value for Chinese	- 4
		7215	The ELL D	Granted Market Economy Treatment	318
	7.2.5	7.2.4.3 FII Dro	otion Colors	actice and WTO Law	318
	1.2.5	7 2 5 1	The Feeter	ion of an Analogue Country	320
		1.2.3.1	Third Cour	s to Select an Appropriate	
			Third Cour		321
			7.2.3.1.1	Same Economic Level	323
			7.2.5.1.2	Competition on the Market	325
			7.2.3.1.3	The Sale must be Representative	327
			7.2.3.1.4	Similar Production Processes	327
			7.2.3.1.3	Different Types of Quality	328
			7.2.5.1.6	Access to Raw Materials	329
				Labour Costs	330
		7252	7.2.5.1.8	Devaluation of Currency	331
		7.2.5.2	Determinin	g Normal Value with an	
		7252	Analogue C		331
		7.2.5.3	Determinin	g Normal Value When No	
		7051	Appropriate	Analogue Countries Is Found	333
		7.2.5.4		actice and WTO law	333
		7.2.5.5		m between Non-Market	
				and Market Treatment	
7.3	Datam		of Chinese	Exporters	334
1.5	Deterr	nining th	e Dumping	Margin	337
		7.3.1.1	Individual 7		338
7.4	Einel 4	7.3.1.2	The Country	y-Wide Margin	340
7.4	rinai (Commen	ts		341
Cha	nton O				
	pter 8	ah4a			
rilla	l Thou	gnts			343
Δhh	reviatio	nc			
שוטוט	reviatio	7115			351
Ann	endix I				
		of GATT	1004		
4 61	OIC VI	MIL	177 4		353
Anne	endix I	r			
			ementation 4	of Article VI of GATT	
1994	(ADA)	~** **********************************	······································	OF AT HOLE AT OF CALL	25-
	(-22/11)				357

Table of Contents	XV
Appendix III Article 15 of the Protocol on Accession of China to the WTO Price Comparability in Determining Subsidies and Dumping	385
Appendix IV Basic Regulation	387
Reports from Panels and Appellate Body (by Name)	427
Council and Commission Regulations and Decisions	431
Regulations and Decisions (by Name)	451
Judgments of the EC Court and Court of First Instance and Opinions of Advocate Generals	467
Bibliography	473
Index	479