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# Antidumping and Countervailing Duty Developments in 2019 and Beyond

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## Back to the Good Old Days?

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# How We Got Here

# A Look Back

- VRAs I—limited coverage, ended with the global recession of 1974-75
- Trigger Price Mechanism—1977-1982—ended with major AD/CVD petitions against European producers in 1982
- VRAs II—1984-1992—supplanted AD/CVD orders on most countries
- New AD/CVD petitions—1992-2000—numerous products, numerous countries
- Steel Safeguards, 2001-2003—tariffs, numerous product exclusions. AD/CVD cases remained in place. US safeguards statute faulted by WTO
- More AD/CVD petitions, 2004-2016

# Recent Developments in AD/CVD

# 2015—Trade Facilitation and Trade Enforcement Act

- New tools to declare home market sales below cost of production
- “Particular Market Situation”
- Injury—profitable industry is not a basis to find no injury
- Injury—treatment of “captive production” by ITC
- Enforce and Protect Act—“evasion” of AD/CVD orders by transshipping, false statements
- There were many winners from the VRAs
  - Kurt Orban: “Quotas and orderly marketing arrangements are a real good deal for steelmakers here and abroad, and also for the steel trader.”

# 2016—Scope of Orders

- 2016—anticircumvention petition in cold-rolled and corrosion-resistant steel from Vietnam using Chinese substrate
  - Final determination, May 2018—cold-rolling and coating is a “minor” addition to value compared to the cost of building a melt shop and hot-strip mill
- August 2018—similar anticircumvention investigations initiated on steel from Vietnam using Korean or Taiwanese substrate
- January 2019—MacLean v. United States—CIT rejects ruling including steel pole line hardware incorporated helical spring washers within scope of HSW orders

# WTO Issues

- Zeroing—April 2019 WTO panel accepted US use of zeroing in “targeted dumping” situations. First time WTO has accepted the use of zeroing. (Canadian softwood lumber dispute)
- China’s NME status—WTO panel decision in EU case expected this spring
- Appellate Body will cease to operate in December 2019

# Beyond 2019

- New legislation
- New court decisions
- 2020 election campaign
- A new ballgame in 2021



Thanks for your attention

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