Antidumping and Countervailing Duty Developments in 2019 and Beyond

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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