

A Brief Introduction of the United States -Korea WTO Dispute Consultations Regarding Anti-dumping and Countervailing Measures Relating to Large Residential Washers from Korea

On 29 August 2013, Korea requested consultations with the United States concerning anti-dumping and countervailing measures relating to large residential washers from Korea.

With respect to the Anti-dumping Agreement

The US Department of Commerce (USDOC) cites the second sentence of Article 2.4.2 of the Anti-dumping Agreement (ADA), which describes “targeted dumping methodology,” in anti-dumping investigation concerning imports of large residential washers from Korea, as well as “zeroing” in this targeted dumping. The use of zeroing and targeted dumping led to the USDOC’s conclusion that the Korean manufacturers were selling the subject product at less than fair value.

According to the second sentence of Article 2.4.2 of the ADA, “if the authorities find a pattern of export prices which differ significantly among different purchasers, regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison, a normal value established on a weighted average basis may be compared to prices of individual export transactions.” Korea contends that since the USDOC never showed a pattern of export prices that differed significantly and justified the use of the targeted dumping methodology, the USDOC failed to provide a fair comparison of export prices and normal prices.

In previous WTO cases, the panel has ruled that zeroing cannot be used in typical AD proceedings, such as original anti-dumping investigations, administrative reviews, new shipper reviews or sunset reviews. However, the WTO has never ruled on whether zeroing is permissible in targeted dumping investigations. Nevertheless, Korea considers the USDOC’s use of “zeroing” under targeted dumping methodology is in violation of the ADA.

With respect to the SCM Agreement

Regarding countervailing duties imposed by the USDOC, Korea argues that the USDOC erred in determining that two Korean banks (the Korea Development Bank and the Industrial Bank of Korea) were each a “public body” that conferred preferential financing to the subject companies because the judgment of “public body” was entirely based on mere government ownership. By contrast, Korea

contends that not only must these two Korean banks belong to the government, but the USDOC must also show that these banks have some kind of government authority. In addition, Korea also argues that the USDOC erroneously overstated the amount of financial contribution provided by the Korean government because it failed to recognize the credit conferred on benefitted products that Samsung manufactured in locations outside Korea. Hence, Korea considers that the determination made by the USDOC is inconsistent with Article 1.1, Article 1.2 and Article 14 of the SCM Agreement.

60 days to resolve differences

Korea and the U.S. have 60 days to discuss the matter and find a satisfactory solution without proceeding further with litigation. If no agreement is reached within this period, Korea may request the establishment of a WTO dispute panel to rule on its complaint.

Resources:

- (1) DS464 : http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds464_e.htm °
- (2) DS464 : http://www.wto.org/english/news_e/news13_e/ds464rfc_29aug13_e.htm °
- (3) WTO Reporter: September 16, 2013 °
- (4) Inside U.S. Trade: September 6, 2013 °