Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry Portfolio
Additional Budget Estimates Hearing 2013-14
27 February 2013

AGENCY/DEPARTMENT: ANTI-DUMPING COMMISSION

TOPIC: Anti-Dumping Methodology

REFERENCE: Written Question – Senator Bridget McKenzie

QUESTION No.: AI-95

1. Can you outline in detail the methodology used to determine whether a product is being dumped?

2. Are there any potential flaws or weaknesses associated with this methodology?

3. In the context of the Commission's recent decision regarding imported South African peaches, where the Commission found only 'negligible' dumping, is it true that the same product, from the same importer and same contract has had dumping tariffs applied in New Zealand for a number of years?

4. How does the methodology used here in Australia differ from methodologies used in other nations?

5. How was the methodology decided upon?

ANSWER

1. Australia's Anti-Dumping legislation, reflecting the obligations established under the World Trade Organization (WTO) Anti-Dumping Agreement, provides three alternative methodologies for establishing whether an exported product is dumped. However, neither Australia's legislation, nor the Anti-Dumping Agreement, prescribes the circumstances in which a particular method is to be preferred.

   Each method requires a comparison of the "normal value" of the product with the "export price" of the product to establish if there is a differential which gives rise to actionable dumping (ie a dumping margin of 2 per cent or greater). The normal value of the goods is generally the selling price of the goods in the domestic market of the exporter although, in certain circumstances, other methods can be used to establish the normal value (such as cost construction).

   This normal value is then compared with the price at which the goods are exported to Australia – where the export price is lower than normal value, the goods are considered dumped. The existence of dumping and the size of a dumping margin are worked out for individual exporters. An investigation may be terminated on the grounds that a margin is less than 2% in respect of one exporter but continue for exporters that have margins of 2% or greater.

Method 1: Comparison of weighted average prices (WA to WA)

WA to WA compares a weighted average normal to a weighted average export price. As with other methods it is subject to a fair comparison requirement meaning that the population of domestic sales used for determination of the normal value can be limited to a selection of domestic sales. For example sales of selected nearest matching models.

Any other differences in the terms and circumstances of the sale need to be accounted for when comparing the export prices to the domestic prices. Common adjustments are credit terms, transport expenses, and specification differences. Using this method of comparison means that there does not have to be an equal number of sales being compared.

Under the WA to WA method margins of price difference between normal value and export price can pertain to models and for certain shorter periods that had been analysed. These margins are accumulated in order to calculate a single dumping margin for the product for the whole of the period being investigated (usually one year) and for the exporter concerned.

Method 2: Comparison of normal value and export prices transaction to transaction (T to T)

T to T compares a single selected normal value to a single export price and an equal number of sales are compared. Like the WA to WA method, the T to T method is subject to the fair comparison principle. Where there are a large number of export transactions the transaction-to-transaction method becomes administratively impractical.

Under the T to T method margins of price difference between normal value and export price yield a margin for every export transaction being compared and for each model. All of these transaction margins have to be accumulated in order to calculate a single dumping margin for the product for the whole of the period being investigated (usually one year) and for the exporter concerned.

This method produces a series of different 'margins' as there are export transactions – each of these are amalgamated using a weighted average to calculate a single dumping margin over the investigation period for the product. Any negative transaction margins are offset against any positive transaction margins to comply with WTO jurisprudence and government policy.

Method 3: Comparison of a weighted average normal value to an individual export transaction (WA to T)

WA to T compares a weighted average normal value to the prices of individual export transactions. This method may only be used where certain conditions are found to apply. Pursuant to the WTO Anti-Dumping Agreement, the Commission must have established that there is a pattern of export prices which differ significantly among different purchasers, regions or time periods. Also, it must be established why these differences cannot be taken into account appropriately by the use of a WA to WA method of comparison or the T to T method of comparison. As with the other two methods the fair comparison principle applies.

Under the WA to T method margins of price difference between normal value and export price yield a margin for every export transaction being compared and for each model. All of these transaction margins are accumulated in order to calculate a single dumping margin for the product for the whole of the period being investigated (usually one year) and for the exporter concerned. In this accumulation process the Commission reserves the right to not offset any negative transaction margins against any positive transaction margins.

2. The Commission considers that each of the particular methods for calculating dumping outlined above may be used to address particular circumstances of each individual case. The WA to WA method has been used by the Commission (and its predecessor within Customs and Border Protection) in the vast majority of cases because, typically, the volumes of Australian export sales and domestic sales to be compared are significant in number.

   The common scenario experienced by the Commission is high volume commodity products which do not demonstrate any targeted dumping (ie differential pricing) in the Australian market and therefore do not warrant the WA-T method to "unmask" such practices.

   In occasional cases the T to T method has been used – for example where an investigation may involve large capital equipment which may be of a high value but low volume and may be produced to order. In this scenario a T-T methodology may present the most appropriate basis for undertaking a dumping margin calculation.

3. Yes, the dumping investigations conducted by the Commission and New Zealand's Anti-Dumping authority both involved similar peach products and the same South African exporters. However the scope of the product involved in the New Zealand investigation was broader. Dumping duties were initially imposed on exports of peach products from South Africa to New Zealand in August 1996.

   The Commission investigated exports of South African peaches sold to Australian importers. The terms and conditions of trade to these Australian customers varied from the trading arrangements between the South African exporters and New Zealand importers. Accordingly, the Commission did not investigate the "same contract".

4. The Commission understands that many other comparable Anti-Dumping administrations, including the USA, Canada and EU, use the WA to WA method almost exclusively.

   The US advised the WTO Committee on Anti-Dumping Practices Ad Hoc Group on Implementation that it only considers using the T to T where the normal value can be expected to vary significantly from shipment to shipment; there are few domestic and export sales of the goods; the goods vary according to order (such as capital equipment where technical variations exist between each sale). Outside of these cases, the T to T method becomes administratively impractical. The US has started to use the WA to T method in those cases where they have evidence of price differentiation / targeted dumping.

   The Commission understands that New Zealand and Egypt commonly apply the T to T method for their dumping margin calculations. In NZ's case, the Commission understands that this methodology is preferred because typically NZ does not have a large number of export sales transactions to be compared with normal value. However, the NZ administration uses the WA to WA method where there are a large number of export transactions or where there are a large number of different model types at different prices making up the goods under investigation.

5. Australia's dumping laws were changed in the late 1990's to reflect changes to the WTO Anti-Dumping Agreement following the completion of the Uruguay Round. One of the many changes made was the provisions concerning the dumping calculation methods.

   The Anti-Dumping Commission's Dumping and Subsidy Manual (setting out the Commission's policy and practice for Anti-Dumping investigations) - http://www.adcommission.gov.au/reference-material/manual/documents/DumpingandSubsidyManual-December2013_001.pdf sets out the Commission's policies for dumping margins calculations.