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**Committee on Anti-Dumping Practices  
Working Group on Implementation**

**UNOFFICIAL ROOM DOCUMENT<sup>1</sup>**

**COMMITTEE ON ANTI-DUMPING PRACTICES  
WORKING GROUP ON IMPLEMENTATION**

MEETING ON THURSDAY, 2 MAY – FRIDAY, 3 MAY 2019

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**Comité des pratiques antidumping  
Groupe de travail de la mise en œuvre**

**DOCUMENT DE SÉANCE NON OFFICIEL<sup>1</sup>**

**COMMITTEE ON ANTI-DUMPING PRACTICES  
WORKING GROUP ON IMPLEMENTATION**

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**Comité de Prácticas Antidumping  
Grupo de Trabajo sobre la Aplicación**

**DOCUMENTO DE SALA NO OFICIAL<sup>1</sup>**

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To: All Delegations

From: Cristina Bas, Discussant  
AD Working Group on Implementation

Date: 18/03/2018

**Committee on Anti-dumping Practices:  
Working Group on Implementation  
Meeting on Thursday, 2 May – Friday, 3 May 2019**

As you know, the Working Group on Implementation will be meeting in the week of 29 April 2019 to discuss issues relating to (i) gathering and examination of evidence for the determination of a causal relationship between the dumped imports and the injury to the domestic industry; and (ii) assessment of domestic industry's economic indicators in threat of injury analysis. The meeting will be held on **Thursday, 2 May**, continuing on **Friday, 3 May** as required.

As the discussant for this session, I have prepared the **attached outline** of possible issues for this discussion. This outline is not a comprehensive list of issues, but I hope that it will provide you with a good basis for reflection and will help to structure the discussion.

If there are any **other relevant questions** you would like to see included in the discussion, I strongly encourage you to **forward them to me** ([cbas@direcon.gob.cl](mailto:cbas@direcon.gob.cl)) and to the Secretariat ([seref.coskun@wto.org](mailto:seref.coskun@wto.org)) for inclusion in the outline. I would like this session to be as responsive as possible to your interests and needs.

Given the technical nature of the topics, I encourage you to **send capital-based officials** who can both speak with authority about your own practices and benefit from the experience of others. As we are addressing injury-related topics, it would be particularly interesting to have present **officials who are directly involved in making injury determinations**, especially for those Members with bifurcated systems or where in practice there is a division of labour between the margin and injury sides of investigations.

While the **submission of papers** is of course not required, I hope that many of you will do so, whether for circulation or distribution as room documents. I note that the early submission of papers would be desirable, as this will help colleagues to prepare for the meeting.

I look forward to this session where the Working Group will continue to serve as a forum for the **exchange of information about practices and experiences** among technical experts. These sessions represent a unique opportunity to hear directly from your colleagues about how to handle complex issues which we all confront in our day to day work as anti-dumping investigators.

Cristina Bas

**SPRING 2019**

**AD WORKING GROUP ON IMPLEMENTATION:  
OUTLINE OF ISSUES FOR DISCUSSION**

**I. Gathering and examination of evidence for the determination of a causal relationship between the dumped imports and the injury to the domestic industry**

1. Is causality an integral part of your injury analysis or a separate part?
  - a. If it is a separate part of the analysis, is it only limited to analysing the impact of other factors and dismissing their influence, or is there a positive causal link analysis with respect to dumped imports?
2. How do you assess causality between dumped imports and injury?
  - a. What kind of information do you request from the domestic industry to show the causal link between dumped imports and injury?
  - b. How do you analyse the effects of the price and volume of the dumped imports on the prices and volumes of the domestic industry?
  - c. How do you show whether there is a correlation between the price /volume of the dumped imports and the price/volume of the domestic industry?
    - i. Do you make use of econometric modelling in determining the existence of causality? If so, does it play a deciding role in the decision on causality?
    - ii. Would correlation/coincidence of aggregate data be sufficient for a causality finding or would you be looking for individual proof.
  - d. How do you analyse the impact of the injurious effects of the price and volume of dumped imports on the state of the domestic industry?
    - i. Do you consider the possible delays between the dumped imports and their effects on the domestic industry? Please explain.
    - ii. Do you limit your analysis with only the period of investigation? Do you consider any possible future effects of the dumped imports? Please explain.
    - iii. Do you consider the potential effects of an anti-dumping measure on the domestic market in your causality analysis? Please explain.

3. How do you analyse the effects of "other factors"?
- a. What are the "known factors"? Do you limit yourself with the application of Article 3.5; or do you systematically perform your own examination to find out all possible factors?
  - b. Do you perform any individual causality analysis for each of the factors listed in Article 3.5 or do you assess causality on the basis of the relevant factors as a whole? Do you have any particular methodology for such an analysis?
  - c. Please explain how you perform a causality analysis with respect to (i) volume and prices of imports not sold at dumped prices and imports from other countries; (ii) contraction in demand and changes in consumption pattern; (iii) restrictive trade practices by the domestic industry (cartel practices, anti-competitive behaviours, etc.); (iv) strong/destructive competition within the domestic industry (intra-industry competition); (v) cyclical downturn (temporary mismatch of supply and demand) in the market for the product concerned; (vi) poor export performance and productivity of the domestic industry; (vii) poor marketing performance and after-sales services of the domestic industry; (viii) insufficient product quality or product range; (ix) decrease in captive production; (x) financial difficulties, exchange rate fluctuations; (xi) domestic industry's imports of the product concerned; and (xii) self-inflicted injury due to bad business decisions.
  - d. If your attention is directed to "other factor" by an interested party;
    - i. do you require the interested party with the evidence that supports its allegation, or
    - ii. if it is reasonably at your reach, would you collect such evidence, or
    - iii. do you require the information to the domestic industry?
  - e. How do you perform your non-attribution analysis?
    - i. How do you separate and distinguish the injurious effects of the other factors from the injurious effects of the dumped imports? Do you use any specific methodology such as econometric modelling, etc.?
    - ii. Do you construct any hypothetical scenarios (what would be the domestic industry's situation in the absence of the dumped imports and/or in the absence of other factors)? If yes, how?
  - f. When you find that there are other factors that cause injury, how do you measure the magnitude of the injury caused by those factors? Under what condition(s) do you consider that the causal link between the dumped imports and injury is broken?

**II. Assessment of domestic industry's economic indicators in threat of injury analysis**

1. Are questions relating to threat of material injury a standard part of your application questionnaires? Does the petitioner have to choose between threat of injury and actual injury?
2. In which point of the investigation (or pre-initiation stage) do you define injury (as "material injury", "threat of injury" or "material retardation")? Do you announce in your initiation notice what kind of injury you will be investigating? If yes, is it possible to change your decision to investigate one or the other during the investigation?
3. Do you have any rules or guidelines to avoid that the threat of injury analysis is based merely on allegation or speculative assumptions? What sorts of facts are relevant to a threat inquiry?
4. How do you deal with the situations where the downward trends in injury indicators are more recent or less visible, or where there are fewer indicators showing a downward trend, than a present material injury case? Do you have a lower threshold with respect to the injury factors listed in Article 3.4 in threat of injury cases?
5. What kind of prospective analysis do you perform regarding (i) the future evolution of the volume of imports; (ii) the price effects of these imports; and (iii) their resulting impact on the domestic industry? Do you extend your analysis beyond the period after the period of investigation?
6. How do you assess that "the change in circumstances which would create a situation in which the dumping would cause injury" is foreseen?
7. Do you have a standard benchmark for what is "imminent"?
8. Do you have a standard practice of checking the "threat factors" as listed in Article 3.7 or checking any other factors not explicitly listed? Do you seek for additional conditions other than the one in Article 3.7 that need to be satisfied for a threat of injury finding?
  - a. How do you assess whether the rate of increase of dumped imports is "significant"?
  - b. Threat of injury analysis requires additional information with respect to the exporting country performance. How is data collected for that purpose? Are exporters sent specific threat of injury questionnaires to determine their capacity to increase production? Is a normal dumping questionnaire expanded to include this (and other) information in threat of injury cases? Which other sources are used to analyse the capacity of the exporting country

- c. When is the increase in capacity of the exporter "substantial"?
  - d. What methodology do you use to assess "the availability of other export markets to absorb any additional exports"? Which sources of information do you rely on?
  - e. What is the difference, if any, between the assessment of the dumped imports' price and their effect on the domestic industry carried out under Article 3.4 of the ADA and the one carried out under Article 3.7(iii)?
9. How do you perform causality analysis in threat of injury cases?
10. Is the non-attribution analysis carried out the same way as in investigations where injury is defined as present material injury?

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