

## **SUMMARY REPORT**

### **APEC TRAINING COURSE ON ANTI-DUMPING**

The APEC Training course on Anti-dumping was held in Ha Noi, Viet Nam on 3-4 July 2008 under CTI 01/2008A Project, which was approved by BMC in 2007. The Training course was participated by representatives from China, Indonesia, Malaysia, Hong Kong China, Papua New Guinea, Peru, the Philippines, Chinese Taipei, Thailand and Viet Nam and speakers from Singapore, the United States, Vietnam, Italy and the European Union.

The Training course was divided into the following 4 sessions:

Session 1: Introduction to Anti-Dumping

Session 2: Procedures and Rules for Conducting Anti-Dumping Investigations

Session 3: Imposing Disciplines on the Application of Anti-Dumping Measures: Key WTO Decisions, Emerging Issues and Strategies

Session 4: The Experience of APEC Countries and Industries Targeted for Anti-Dumping Measures

Hereby are key discussion points at the training course:

In the first Session, participants were introduced about rules and obligations under the WTO Anti-dumping Agreement. Anti-dumping is a legal measure allowed by the WTO to ensure fair trade and to safeguard local industries against dumped products. Dumping occurs if a company sells at a lower price in an export in the importing country, under certain circumstances the importing economy authorities may impose anti-dumping duties to offset the effects of the dumping. The GATT 1947 contained a special article on dumping and anti-dumping action. Article VI of the GATT condemns dumping that causes injury, but it does not prohibit it.

Determination of dumping:

- Article 2 of the ADA covers the determination of dumping and sets out basic principles and leaves discretion to WTO members with respect to implementation.

- Article 2.1 provides that a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country. This is the standard situation.

- Article 2.2 sets out alternatives for calculating normal value in cases when there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country, such sales do not permit a proper comparison.

- Article 2.3 covers the construction of the export price.

- Article 2.4 contains detailed rules for making a fair comparison between export price and normal value.

- Article 2.5 deals with transshipments.

- Article 2.6 defines the like product.

- Article 2.7 confirms the applicability of the second supplementary provision to paragraph 1 of Article VI in the Annex I to GATT 1994, the so called non-market economy provision.

Session 2 and 3 touched upon procedures and rules for conducting anti-dumping investigations and imposing disciplines on the application of anti-dumping measures. According to statistics, since the establishment of the World Trade Organization (WTO), the WTO has been reported 3,097 anti-dumping cases during 1995 – 2007. Several APEC members are the biggest victims in this field. Up to June 2007, 8 out of 10 countries which are the most frequent target of suspicions that they sell exported goods at a lower price than on their home markets are in the APEC region. The cumulative anti-dumping probes worldwide against China have numbered more than 551 (ranking number 1 in the world), followed by the Republic of Korea (235 cases), Chinese Taipei (178 cases), the United States (176 cases), and Japan (138 cases). APEC's percentage in the world's total anti-dumping cases now accounts for 60 per cent (1,838 out of 3,097 cases) while APEC's trade share

in the world is 48 per cent only. This has proved that the use of anti-dumping measures has been more and more popular. Therefore, learning about the rights and obligations and procedures and rules for conducting anti-dumping investigations is of crucial importance to every economy to ensure that anti-dumping measures will be used in the right and justifiable manner, thus preventing from creating barriers to trade.

The AD procedures include the following 9 steps: (i) initiation of a case; (ii) initial investigation; (iii) preliminary determination; (iv) imposition of provisional measures; (v) price commitments; continuation of investigation; (vi) final decision; (vii) official imposition of definitive measures; (viii) annual review and (ix) review of sunset clause.

In Session 3, participants were also introduced about key concepts of anti-dumping, including zeroing, continuous bond, use of adverse “fact available”, causation in injury investigations, application of country wide rate in non-market economy investigation (MET), like product, anti-circumvention measures etc...

Participants were also highlighted with the key problems faced by exporting producers in countries which are considered as non-market economies for the purpose of anti-dumping investigations. It also underlines some very interesting issues concerning the construction of a normal value. Some real AD case shows that even when exporting producers can be granted MET, the determination of the normal value can be a difficult issue which, when not executed properly, can lead to significant distorted results to the detriment of the exporting producers. There is the importance for exporting producers to remain vigilant towards the calculation operated by the investigating authority and to have accounting records which are properly kept and allow for a clear identification of all costs items included in (or deducted from) the cost of production of the product under investigation. Indeed, any claim for a specific adjustment or deduction in the cost of production must be substantiated on the basis of the accounting records of the company.

In Session 4, participants listened to experiences of China and Viet Nam in dealing with anti-dumping cases. Representatives of Vietnam Seafood Association presented about the anti-dumping measures imposed by the US on Tra Fish and Shrimp and lessons drawn from the cases.

Overall, participants shared the feelings that the Training course is very useful for them to learn about anti-dumping and would like to see more courses on relevant topics.

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