

18 October 2024

(24-7321)

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

CONVENING NOTICE

SUBJECT: COMMITTEE ON ANTI-DUMPING PRACTICES –
WORKING GROUP ON IMPLEMENTATION

Meeting on 31 October 2024

The next meeting of the **Committee on Anti-Dumping Practices Working Group on Implementation** will be held on **Thursday, 31 October 2024** starting at **10:00 AM**. The meeting will take place **in person** at the Centre William Rappard (WTO building) and via **Interprefy**.

1 AGREED TOPICS TO BE DISCUSSED

1. Conditions of competition examined under Article 3.3 of the Anti-dumping Agreement
2. Threat of material injury and material retardation in injury investigations

2 ORGANIZATIONAL ARRANGEMENTS

Documents for the meeting: [Documents Online – Download documents for meetings](#)
[WTO Calendar](#)

Discussion outline: [RD/ADP/WGI/20/Rev.1](#)

Relevant digital tools: Not applicable Yes:

Venue and virtual participation: The meeting will take place in person at the Centre William Rappard (WTO building) and via Interprefy.

Observer Organizations: Members of the WTO and other Governments with Observer status are requested to inform the Secretariat of the names of their representatives as soon as possible.

Resources for delegates: [ADP Committee Gateway page](#)
(For the full details/features of the webpage, please use your credentials to log in)

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Ngozi Okonjo-Iweala

**OCTOBER 2024
AD WORKING GROUP ON IMPLEMENTATION:
REVISED OUTLINE OF ISSUES FOR DISCUSSION**

1 CONDITIONS OF COMPETITION EXAMINED UNDER ARTICLE 3.3 OF THE ANTI-DUMPING AGREEMENT

1. Does your domestic legal framework explicitly define the conditions under which cumulation is permitted? If so, how does it guide your decisions? Do you have any guidelines or any illustrative list of elements to check the "appropriateness of a cumulative assessment"?
2. **Do you have guidance for the petitioners to provide information concerning the conditions of competition in the petition? If so, what information is usually required from the petitioners?**
3. At what stage in the investigation do you decide whether cumulation is appropriate? Are there specific timing considerations that impact this decision? Is it possible to cumulate imports from two or more countries even if the investigations had not been initiated simultaneously?
4. **What period do you use for the analysis of the conditions of competition? Do you consider developments that happened after the initiation of the investigation?**
5. How do you handle situations where cumulation is considered at a later stage in the investigation? What are the procedural implications of such a decision?
6. How do you ensure transparency in the cumulation process, particularly in communicating the reasons for cumulation to interested parties? Do you issue a separate notice when cumulation is decided? Are there specific procedural mechanisms in place to allow stakeholders to contest or provide input on cumulation decisions?
7. **What information do you collect concerning the conditions of competition? Which interested parties are usually required to provide such information (petitioners, purchasers, importers, foreign exporters and/or producers)? Do you face any difficulties in collecting the necessary information from the interested parties?**
8. Are there any specific policy considerations that influence your decision to cumulate or not to cumulate imports from multiple countries?
9. Can cumulation decisions made during the original investigation be revisited in subsequent reviews (e.g., sunset or changed circumstances reviews)? Under what conditions would a re-evaluation of cumulation be warranted, and how might it affect the outcomes of such reviews?
10. How do you ensure that the cumulative effects of imports are appropriately reflected in the injury determination?
11. If possible, under what circumstances would you exclude certain imports from cumulation? How do you handle cases involving imports with varying levels of dumping or different competitive behaviours?
12. Do you approach the injury analysis differently for cumulated versus non-cumulated imports? How do you ensure that the cumulation of imports in that situation does not skew the injury analysis?
13. How do you address concerns that cumulation could mask the individual contributions of imports from certain countries, particularly in cases where some countries have significantly different pricing behaviours or market shares?
14. How do you approach the exercise of discretion in cases where the competitive conditions are ambiguous or mixed?
15. When might it be inappropriate to cumulate imports, even if all the conditions of Article 3.3 are technically satisfied? Can you provide examples where discretion led to a decision not to cumulate?

16. How do you establish the existence of competition between imports from different countries? What elements do you consider (such as similarity of physical characteristics, interchangeability of the end uses, etc)? Do you make any comparison of exported products? **Do you analyse the differences in competition with regard to the product as a whole or the product types?**
17. **Do you consider the differences in prices of imported products? Is the price difference across the suppliers relevant for the analysis of the conditions of competition?**
18. **Do you consider factors affecting prices (such as tariffs, transportation, and other costs associated with imports) as factors affecting competition between the imported products?**
19. **Do you analyse the competition between the imported products on foreign markets? What sources of information do you use?**
20. Do you compare the exporters' market behaviour (market shares, differences or similarities in distribution channels, pricing strategies, etc.)?

2 THREAT OF MATERIAL INJURY AND MATERIAL RETARDATION IN INJURY INVESTIGATIONS

2.1 General Questions

1. How do you define "threat of material injury" and "material retardation" within your domestic legal framework? Are these definitions explicitly laid out in your legislation, or are they interpreted based on established practice or guidelines?
2. Does your domestic legal framework explicitly address the evaluation of threat of material injury and material retardation, or is it primarily driven by authority discretion?
3. For the purpose of initiating investigations, do you require the applicants to make a choice between actual injury, threat of injury and, material retardation in their application? What types of evidence are typically required to substantiate a claim of a threat of material injury or material retardation?
4. At 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?

2.2 Threat of material injury in injury investigations

5. In a given investigation, can you make both findings of actual injury and threat of injury or is it required to make one of the two? What practical impact does this have on your investigations?
6. In your experience, does an industry have to demonstrate signs of deterioration in order to establish that it is faced with a threat of injury? Why/why not?
7. A threat of injury analysis requires a prospective analysis of the condition of the domestic industry:
 - i. What time frame is considered when assessing the threat of material injury? How do you ensure that the time frame for the threat assessment is neither too short to miss emerging threats nor too long to dilute the relevance of the analysis?
 - ii. When making assumptions about the domestic industry's future condition, do you use any numerical tools, i.e. economic models? If yes, do you have standard models or you develop new models on a case-by-case basis? Do you ask/require the interested parties to provide any such models to substantiate their assumptions about the future or do you as an investigating authority come up with your own models?
 - iii. Do you perform a prospective analysis of the evolution of all Article 3.4 factors or only a selected few?
 - iv. 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?
8. In threat of injury investigations, Article 3.4 factors are analysed in order to establish a background against which a threat of injury analysis should be conducted. Do you make a specific conclusion regarding the overall present condition of the domestic industry before moving on to the threat of injury analysis? What kind of a conclusion can it be?
9. Does your investigating authority have the practice of specifically identifying "the change in circumstances which would create a situation in which the dumping would cause injury", referred to in Article 3.7?
10. Do you have a standard practice of checking the "threat factors" listed in Article 3.7 or checking any other factors not explicitly listed? Do you evaluate all of these factors in every case? Do you seek information on additional factors beyond those mentioned in Article 3.7 for a threat of injury finding?

11. A 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?
12. 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?
13. How do you perform causality analysis in threat of injury cases? How do you account for factors unrelated to dumping (e.g., changes in demand, technological shifts, macroeconomic conditions) that could affect the assessment of a threat of injury?
14. Is the non-attribution analysis carried out the same way as in investigations where injury is defined as present material injury?
15. In practical terms, how often do you initiate investigations / adopt measures based on threat of injury considerations?

2.3 Material retardation in injury investigations

16. Does your investigating authority have experience in conducting material retardation cases? Have you ever been approached by an applicant with a material retardation claim? Have you ever initiated on the basis of material retardation? Have you reached a (positive or negative) determination on the basis of material retardation?
 17. While the Anti-Dumping Agreement does not prescribe a specific methodology for material retardation cases, does your legal framework provide any methodology or policy guidance for assessing such cases?
 18. Would you consider that an investigation of material retardation is warranted if the domestic industry has already started production or sales of the like product? What would be the cut-off point for an industry to qualify for an actual injury investigation rather than a material retardation investigation?
 19. What criteria do you use to determine whether a domestic industry is "established"? Is the timing of the start of operations relevant? Are production or order volumes, market share, or financial results relevant?
 20. Would it be relevant to your consideration if the production of the like product is part of new "greenfield" operations or a new business line by an existing domestic industry producing a distinct like product?
 21. What information would you examine to determine if the establishment of an industry has been "materially retarded"?
 22. Article 3.4 requires an evaluation of 15 injury factors in an injury determination. How would you ensure that all relevant factors are "evaluated" in a material retardation investigation, especially when information on some factors may be difficult to collect for a newly established industry?
 23. If your authority determines that a domestic industry has already been established, would you then consider other forms of injury within the same investigation framework, or would you terminate the investigation altogether?
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