



# Trade Guide Anti-Dumping

## WTO AGREEMENT ON ANTI-DUMPING

### What is this Agreement and what does it do?

The Anti-Dumping Agreement of the World Trade Organization (WTO), commonly known as the AD Agreement, governs the application of anti-dumping measures by WTO member countries.

A product is considered to be “dumped” if it is exported to another country at a price below the normal price of a like product in the exporting country. Anti-dumping measures are unilateral remedies (the imposition of anti-dumping duties on the product in question) that the government of the importing country may apply after a thorough investigation has determined that the product is, in fact, being dumped, and that sales of the dumped product are causing material injury to a domestic industry that produces a like product.

All [members of the WTO \(offsite link\)](#) are parties to this Agreement, whose full name is the “Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994”. It went into effect on January 1, 1995. Pursuant to the Doha Ministerial Declaration, negotiations for the Anti-Dumping Agreement are currently underway. The agreement has no expiration date. The negotiations are scheduled to be completed by January 1, 2005.

### Who benefits from this Agreement?

Any company involved in international trade can benefit from clear and predictable rules for the application of anti-dumping measures.

### How can this Agreement help my company?

The AD Agreement ensures that WTO members will not apply anti-dumping measures arbitrarily. It provides detailed substantive requirements for determining whether dumping and injury are, in fact, taking place, and sets forth elaborate procedures that governments must follow when they conduct anti-dumping investigations and impose anti-dumping duties. The Agreement ensures that all proceedings will be transparent and that all interested parties have a full opportunity to defend their interests.

### Substantive Requirements

Since a determination of dumping requires a comparison between the export price of a product and its normal value in the exporting country, the AD Agreement sets forth rules for the calculation of export price and normal value. It then explains how a “fair comparison” is made between the two. The government conducting an anti-

dumping investigation uses this fair comparison as the basis for determining the “margin of dumping”.

The Agreement then sets forth rules for determining whether dumped imports are causing injury to a domestic industry that produces a like product. Injury is defined to mean material injury itself, the threat of material injury or material retardation in the establishment of a domestic industry. The government authorities must establish injury to the domestic industry and that the dumped imports are a cause of that injury. The AD Agreement provides for “cumulative assessments” of the effects of imports on a domestic industry when imports of a product from more than one country are simultaneously subject to anti-dumping investigations.

## **Investigations**

A government normally initiates an anti-dumping investigation on the basis of a written application by a domestic industry, although in special circumstances the government itself can initiate the investigation on the industry’s behalf. The application must provide evidence of dumping, injury and a causal link between the two. It must include a complete description of the allegedly dumped product, information on the like product produced by the applicant, evidence regarding export price and normal value, an assessment of the impact of the imports on the domestic industry and information concerning industry support for the application.

The rules set forth in the Agreement for the collection of evidence state that as soon as government authorities initiate an investigation, they must provide the full text of the written application to all known exporters. All interested parties are given access to non-confidential information and the opportunity to meet with the parties that have adverse interests, so that opposing views can be presented and rebuttal arguments offered. Before they make a final determination of whether dumping has occurred, the government authorities must inform all interested parties of the essential facts under consideration, giving them sufficient time to defend their interests.

An application will be rejected, according to the Agreement, and an investigation promptly terminated if the government authorities conclude that there is insufficient evidence of either dumping or injury. The Agreement provides that unless there are special circumstances, investigations will be concluded within one year and will continue in no case more than 18 months after their initiation.

## **Price Undertakings**

The Agreement provides that government authorities can suspend or terminate an anti-dumping proceeding if they receive voluntary undertakings from an exporter that it will revise its prices or cease exporting to the area in question at dumped prices. Investigating authorities have the option of accepting price increases that are less than the margin of dumping if they are adequate to remove the injury to the domestic industry.

## **Imposition of Anti-dumping Duties**

Under the Agreement, it is up to the government of the importing country to decide whether or not to impose anti-dumping duties. (The Agreement provides an option of not imposing duties in cases where all requirements for imposing such duties have been fulfilled, but not all authorities allow such an option.) The amount of the duty set by the government cannot exceed the margin of dumping, but the Agreement permits it to be lower if it is adequate to remove the injury to the domestic industry.

Normally anti-dumping duties are applied to all imports of the subject merchandise made on or after the date on which there is a preliminary determination of dumping, injury and causality.

The Agreement states that an anti-dumping duty shall remain in force as long as necessary to counteract dumping that is causing injury. It contains a “sunset” provision that provides that the duty will be terminated five years from the date of its imposition unless the government authorities determine in a review that termination of the duty would lead to continuation or recurrence of dumping and injury.

## **The Committee; Notifications**

The Agreement established a Committee on Anti-dumping Practices, composed of representatives of each WTO member country. This Committee meets not less than twice a year and affords members the opportunity to consult on any matters relating to the operation of the Agreement. Member countries are required to notify this Committee of their anti-dumping legislation and/or regulations, their anti-dumping actions and the names, addresses and contact numbers of officials responsible for anti-dumping matters.

## **Can the U.S. Government help me if I have a problem?**

Yes. If your export business is being adversely affected because another WTO member country is not complying with the Anti-Dumping Agreement, contact the Office of Trade Agreements Negotiations and Compliance’s hotline at the U.S. Department of Commerce. The Center can help you understand your rights under this Agreement and can alert the relevant U.S. Government officials to make inquiries, if appropriate, with the other country involved that could help you resolve your exporting problem.

Disputes under the Anti-dumping Agreement can also, in certain circumstances, be resolved by the U.S. Government through the WTO’s dispute settlement process, which is described in the Exporter’s Guide to the WTO Understanding on the Settlement of Disputes.

## **How can I get more information?**

The complete text of the WTO Anti-Dumping Agreement is available from the Office of Trade Agreements Negotiations and Compliance’s [WTO Agreements database](#).

If you have questions about this Agreement or how to use it, you can [e-mail](#) the Office of Trade Agreements Negotiations and Compliance, which will forward your message to the Commerce Department’s Designated Monitoring Officer for the Agreement. You can also contact the Designated Monitoring Officer at the following address:

Designated Monitoring Officer -

WTO Anti-Dumping Agreement

Office of Antidumping/Countervailing Duty Policy

Enforcement and Compliance

International Trade Administration

U.S. Department of Commerce

14th Street & Constitution Avenue, N.W.

Washington, D.C. 20230

Tel: (202) 482-3058

Fax: (202) 501-7952