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# United States Anti-Dumping Duty Law

## I Introduction

Dumping is the sale of goods by foreign producers or exporters in an export market, such as the United States, at prices that are lower than the prices received by the producer or exporter for sales of the same or similar products in their home market or a third market, or prices that are below the cost of producing the products. Under the Anti-Dumping Agreement of the World Trade Organization (WTO) and U.S. law, anti-dumping (AD) duties may be applied if two conditions are met: (1) "less than fair value" (LTFV) or dumped sales must be found to exist; and (2) the LTFV sales must be causing or threatening to cause material injury to the U.S. industry producing like products.

If the two conditions are met, an anti-dumping duty order is issued imposing duties equal to the amount by which the normal value (as determined by sales in the home market or third market, or on a constructed value basis) exceeds the export price, as determined by sales to the United States.

### I.1 Legislative History and Authority

The Anti-Dumping Act of 1916 was the first U.S. law to specifically target dumping. It provides for criminal and civil penalties for the sale of imported articles at a price substantially lower than the actual market value or wholesale price, with the intent of destroying or injuring an industry in the United States. The Anti-Dumping Act of 1916 remains in place today although it is used very infrequently.<sup>1</sup> Prior to 1980, U.S. dumping measures were also governed by the Anti-Dumping Act of 1921. This act was repealed by the Trade Agreements Act of 1979, which added a new Title VII to the Tariff Act of 1930 to address both anti-dumping and countervailing duty issues, and transferred the responsibility for administering the anti-dumping law from the Department of the Treasury to the Department of Commerce.<sup>2</sup> Title VII was subsequently amended by the Trade and Tariff Act of 1984, the Omnibus Trade and Competitiveness Act of 1988 and, most recently, the Uruguay Round Agreements Act (URAA) in December 1994.<sup>3</sup> Title II

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1 The European Communities successfully invoked WTO dispute settlement procedures in response to two separate attempts by certain U.S. steel producers to use the 1916 law.

2 19 U.S.C. § 1671-1677g.

3 Pub. L. 103-465, 108 Stat. 4809, Dec. 8, 1994.