

TOPIC 1 - WHAT CONSTITUTES CIRCUMVENTION?

Paper by the European Community

The following communication, dated 29 September 1997, has been received from the Permanent Delegation of the European Community.

Circumvention of anti-dumping measures may occur where, following the initiation of a proceeding and the imposition of anti-dumping measures, imports evade the scope of application of the order. This can occur, *inter alia*, in the following manner:

1. Minor modification of a product to an extent that anti-dumping duties are not collected, although this slightly modified product retains its basic essential characteristics and is sold to similar groups of customers or for similar purposes.

Such modifications could be a change in the form, the physical shape or the composition of the product (possibly representing a different step in the production chain), eg:

- After the imposition of measures on imports of a chemical product, this product is imported in a form not covered by the anti-dumping order (as paste instead of powder even though that may be more expensive). This difference in the form does not change the characteristics or the use of the product, but leads to a non-collection of anti-dumping duties.
- Subsequent to the imposition of measures on a mineral product, the purity of the grade is changed (by addition of a neutral additive), to an extent that a different customs classification, not covered in the anti-dumping order, applies. As in the above example, the product is destined for the same end-use as prior to the measures.
- Without any change in their physical characteristics, certain goods are presented in bulk rather than small batches which may result in a different customs classification. Partition into small batches for use can easily be done after customs clearance.

2. Assembly operations of a like product in a third country or in an importing country, if the setting up of this operation, for instance, coincides with or follows an anti-dumping investigation and is of a non-substantial nature. In this context, various factors would have to be taken into consideration, such as the proportion of parts/inputs sourced respectively in the country subject to measures and in the country of assembly and other sources.

Examples

- (a) Shipments of the finished goods are being replaced by shipments of parts and/or kits thereof which may arrive in different shipments, different containers and unloading ports etc., and which are easily assembled in the importing country.
 - (b) Parts of the like product and/or kits thereof could also be shipped to a third country where they are easily assembled and forwarded to the importing country in the form of a finished product.
3. Goods may be transhipped through a third country.

Following the anti-dumping investigation and imposition of anti-dumping measures, the like product is shipped to the importing countries via other third countries (transshipment) not subject to measures.

4. Incorrect customs declarations concerning the origin, tariff classification or value of the goods imported (likely in combination with one of the above-mentioned examples).

The above examples are not exhaustive and are mentioned to illustrate the ways in which anti-dumping measures can be circumvented.