

Record Note of Discussion of the 1st India Korea Seminar on Trade Remedies on 12th June, 2019

1. In pursuance of Cooperation envisaged under the MoU on Trade Remedy measures between India and South Korea, DGTR organized a technical seminar on Trade Remedy Measures on Price Undertaking and Anti-Circumvention in The Ashok, New Delhi. The Korea delegation comprising of six delegates was led by Dr. Kang Myung-Soo, Deputy Minister and Standing Commissioner, Korea Trade Commission. The India delegation was led by Sh. Sunil Kumar, Additional Secretary and Director General, DGTR
2. Prior to the seminar, the two sides held a bilateral meeting to identify various measures which could enhance cooperation. These included enhanced transparency, exchange of officials in various seminars etc. The two sides agreed to have the next co-operation committee meetings in October 2019 in Seoul. KTC would provide two sets of dates to India for fixing up mutually convenient dates.
3. Opening the seminar, Sh. Sunil Kumar, AS&DG welcomed the participants from wide spectrum of stakeholders who have a considerable stake in all Trade Remedial Measures and who actively participate in such investigations. The DG underscored the importance of the Memorandum of Understanding signed in the spirit of evolving mutual understandings of systems and practices of the two countries which would help all stakeholders in both the countries to undertake fair and international trade. Further, the mutual exchange of views and ideas would be a useful step for participants of both the countries.
4. Dr. Kang Myung-Soo, Deputy Minister and Standing Commissioner, KTC highlighted the important role the MoU plays in increasing mutual understanding and trade between the two countries while maintaining the fairness and effectiveness of the Trade Remedy systems. He emphasized that the seminar was indeed an important step towards enhanced cooperation between two countries to strengthen bilateral cooperation in Trade Remedy.
5. Sh. Sanjay Chadha, Additional Secretary, DoC provided a broad view of CEPA with Korea signed in January, 2010 which is now due for a review. He stressed that capacity building on both sides is necessary.
6. For the first Technical session on Price Undertaking, Ms. Kwon Soonsim, Deputy Director, KTC gave a presentation on price undertaking system of Korea. She highlighted the procedure of Price Undertaking Mechanism followed in Korea, the procedure of opinion gathering from interested parties and contents of Price Undertaking proposal. She explained in detailed the review mechanism in case of change of circumstances and also how prompt countermeasures are taken in order to prevent dumping in case of non-fulfilment of price undertaking. The difficulties faced undertaking the price including some practical case studies were also explained.
7. Sh. IP Singh, Principal Advisor (Cost), DGTR presented India's experience on Price Undertakings. He highlighted the procedure followed by India for acceptance of Price

Undertaking and the challenges faces at the stage of acceptance. He stressed that monitoring of price undertaking remains a challenge due to allegations of over-invoicing / variations in prices as per statements obtained from local custom/port authorities in exporting country and Indian Customs Authorities, Non-submission, delayed submission or incomplete submission of periodical information, Scope for circumvention

8. The seminar was then open for discussions. A question was raised by one of participants as to what happens in the event of one of exporters offers Price Undertaking while the others do not and if the government of the exporting country also gives an undertaking. Panelist from KTC clarified that there should be a consensus and better understanding among the exporters to arrive at a level of price undertaking. Also, only the exporters need to give undertaking and no assurance from the government of exporting country is required.

9. When asked about how the concerns of the domestic industry are taken into consideration while undertaking the price, panellist from KTC replied that the Authority considers the concerns of the domestic industry while making a decision on Price Undertaking.

10. For the second technical session on 'Anti-Circumvention', Dr Rajiv Arora, Addl. DGFT, DGTR presented views on need and relevance to prevent circumvention and the multilateral global provision. He mentioned about India's circumvention provisions explaining in detail the nature and forms of circumvention. The need to evaluate rationale of product or channel shift in order to establish non attribution to avoidance of existing AD measure and the modalities to exempt bonafide exporters among other challenges faced during anti-circumvention investigations was also explained by him in detail

11. Mr. Jaewook Jung, Deputy Director, KTC gave presentation on Korea's experience in Anti-circumvention investigation. Since Korea has no Rules to handle Anti-Circumvention issues, he discussed about matters to be considered in incorporating Rules.

12. The floor was put open for the question answer session in which certain queries were raised by the participants present. One of the questions asked was with regard to the clever tactics of the domestic industry and what precautions are taken by the Authority when it is found that the PUC is defined narrowly by the DI so that injury may thin out?

Dr. Rajiv Arora replied by stating that this is the point of challenge for the Designated Authority. The endeavour is to keep the scope of product minimal so that the injury parameters can be established in a precise manner and abuse of over protection through anti-dumping is avoided. Also over period of time designated authority has acquired insight into what is the right scope of product in an investigation. The authority examines a lot of parameters before initiating a case.

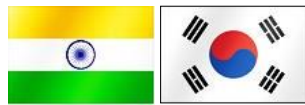
13. Another question raised in connection with the above mentioned question was that does the authority ever suggest any applicant to go for anti-dumping duty instead of anti-circumvention duty if the circumstances suggest so.

Dr. Rajiv Arora replied that anti-circumvention rules have come into the play only in 2012. The first petition came in 2015 which culminated into an initiation. We look at the parameters which are laid down in rules which need to be tested before initiation of a case. Also if DGTR finds that there is a no previous case, it a new product, no trade pattern shift. DGTR might even suggest that go for a new inquiry instead of circumvention.

14. A question was put to the Korean speaker as to what are the parameters they look in to initiate an anti-circumvention investigation, and what parameters are considered while determining the Dumping margin in case of Circumvention investigation. The Korean speaker replied stating they have no experience in anti-circumvention investigations. Usually they deal with the circumvention issues in two ways (a) By forfeiting the country of origin and the profiting producer of the product (b) By initiating new investigation.

15. The Directorate General summarized the session on Anti-Circumvention investigations stating that though on anti-circumvention there is WTO agreement in place, only few countries have come together and framed their domestic rules and India is one of them. India has initiated only 5 cases till now. There is a need to constantly evolve and as we gather experience, we need to hold further extensive stakeholder consultations and bring about positive amendments in the rules laid down.

1ST INDIA-KOREA SEMINAR ON TRADE REMEDIES



12TH JUNE, 2019

VENUE: THE ASHOK HOTEL, NEW DELHI

9:15-9:45 AM - Bilateral Meeting between heads of two Investigating Authorities (Closed Meeting)

Inaugural Session

10:00 AM: Welcome Address - Sh. Sunil Kumar, Director General, DGTR
10:10 AM: Special Address - Dr. Kang Myung-Soo, DM & Standing Commissioner, KTC
10:20 AM: Address - Sh. Sanjay Chadha, Addl. Secretary, DoC
10:30 AM: Vote of Thanks - Ms. Arti Bangia, Deputy Director, DGTR

Tea Break: 10.30 AM -11.00 AM

Technical Session 1: Evaluation of Price Undertaking Mechanism

Global and country experience on acceptance of Price Undertaking, Role of stakeholders in acceptance of Price Undertaking, Challenges in Stage of Acceptance of price undertaking, Challenges in establishing a price threshold, Challenges in monitoring Price Undertaking, Challenges of over-invoicing/compensatory arrangements in undermining price undertaking, Possible recourses by Authorities in case of default, Price Undertaking and reference price AD measure - A Comparative assessment

Time: 11:00 AM – 1 PM

Session chair : Dr. Kang Myung-Soo, DM & Standing Commissioner, KTC

Panelists : 1. Ms. Kwon Soonsim*, Deputy Director, KTC
2. Sh. IP Singh*, Principal Advisor (Cost), DGTR, India
3. Dr. James Nedumpara, Professor and Head, CTIL, India (*Panelist and Moderator*)

1 PM – 2 PM – LUNCH BREAK

Technical Session 2 : Anti-Circumvention – Challenges & Responses

Global understanding and Forms of Circumvention, Challenges to establish phenomena of Circumvention, Challenges in evaluating undermining of existing remedial effects, Can Authorities devise ways and means to discourage Circumvention?, How to distinguish between bonafide trade pattern shift viz a viz the phenomena of circumvention to evade the levied AD measure etc.

Time: 2 PM – 4:00 PM

Session chair : Sh. Sunil Kumar, Director General, DGTR, India

Moderator : Sh. Satish Kumar, Addl. DG, DGTR, India

Panelists : 1. Dr. Rajiv Arora*, Addl. DG, DGTR, India

2. Mr. Hyunggi Choi, Director, Trade Remedy Policy Division, KTC

3. Mr. Jung Jaewook*, Deputy Director, KTC

***A SHORT PRESENTATION BY THE PRESENTERS FROM INDIAN SIDE AND KOREAN SIDE TO FACILITATE THE PANEL DISCUSSION**

4 PM – 4:15 PM – TEA BREAK

4:15 PM – 5 PM – CLOSING REMARKS
