

WTO JURISPRUDENCE ON ALL OTHERS RATE AND RESIDUAL RATE OF DUMPING AND SUBSIDY: CONFUSION AND REFLECTION

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ABSTRACT

Although confusing, the residual rates and all others rates of dumping and subsidy have not drawn much attention. A residual rate or an all others rate addresses uncooperative exporters and new shippers while an all others rate may further cover cooperative and known exporters except those subject to an individual rate. Therefore, the article calls for a more consistent use of distinguishable terms. As the prerequisite of basing residual or all others rates on facts available, a notification, in whatever form, shall specify in detail all the necessary information from interested parties, paralleling to the scope of facts available and warning of the consequence of non-compliance, which are required by both the Anti-Dumping Agreement and Agreement on Subsidies and Countervailing Measures despite their different provisions. In practical terms, the transparency of residual and all others rate investigations should be improved. In addition, the different treatment to non-market economies can complicate the determinations of residual and all others rates. The author recommends a dual residual rate approach for residual exporters and producers with different economic conditions.

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