

# Introduction of Antidumping Practice

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# Solar Stories...

- \* 2012-2014 US investigation on solar cells and modules from Taiwan and China.

Figure I-8  
CSPV production process



# Timeline

2011.10.19  
Solar World  
filed 1st  
AD&CVD  
application.

2012.03.26  
US DOC CVD PD.  
Trina 4.73%,  
Suntech 2.90%,  
all other 3.61%

2012.10.17  
US DOC AD&CVD FD.  
Trina 34.29%,  
Suntech 46.51%,  
all other 41.20%

2011.11.16  
US DOC  
initiated the  
investigation.

2012.05.25  
US DOC AD PD.  
Trina 31.14%,  
Suntech 31.22%,  
all other 31.18%

2013.12.31  
Solar World filed  
2<sup>nd</sup> AD&CVD  
application.

# Impact of 2012 AD Duty

## Solar Cells & Panels

### Imports for Consumption, 2010 to September 2013

#### C.I.F. Values in US\$

Country of Origin	Annual 2010	Annual 2011	Annual 2012	YTD 2012	YTD 2013	September 2012	September 2013
<b>Group Summary: Solar Cells &amp; Panels</b>							
China.....	1,206,549,209	2,837,673,703	1,717,878,995	1,571,501,908	805,193,825	112,723,349	139,882,719
Taiwan.....	276,763,504	161,126,493	424,075,442	328,121,489	371,369,430	27,936,168	71,756,857
ALL COUNTRIES.....	2,691,867,987	5,049,570,673	5,183,538,855	4,339,730,920	2,736,179,212	395,264,684	364,542,269
<b>HTS 8541406020: SOLAR CELLS ASSEMBLED INTO MODULES OR PANELS</b>							
China.....	1,168,079,330	2,684,937,070	1,699,666,132	1,554,201,920	803,205,661	112,546,347	139,553,899
Taiwan.....	203,755,740	121,159,850	376,381,969	284,121,229	365,087,818	24,424,741	70,880,294
ALL COUNTRIES.....	2,443,336,509	4,690,497,218	5,053,264,104	4,231,068,968	2,718,364,694	389,133,314	361,439,296
<b>HTS 8541406030: SOLAR CELLS, NOT ASSEMBLED INTO MODULES OR MADE UP INTO PANELS</b>							
Taiwan.....	73,007,764	39,966,643	47,693,473	44,000,260	6,281,612	3,511,427	876,563
China.....	38,469,879	152,736,633	18,212,863	17,299,988	1,988,164	177,002	328,820
ALL COUNTRIES.....	248,531,478	359,073,455	130,274,751	108,661,952	17,814,518	6,131,370	3,102,973

# Top Petitioners

Anti-dumping Initiations: By Reporting Member 01/01/1995 - 31/12/2013

Reporting Member	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Brazil	5	18	11	18	16	11	17	8	4	8	6	12	13	24	9	37	16	47	54	334
United States	14	22	15	36	47	47	77	35	37	26	12	8	28	16	20	3	15	11	39	508
India	6	21	13	28	64	41	79	81	46	21	28	31	47	55	31	41	19	21	29	702
Australia	5	17	44	13	24	15	24	16	8	9	7	11	2	6	9	7	18	12	20	267
Argentina	27	22	14	6	24	41	28	10	1	12	9	10	8	19	28	14	7	13	19	312
Canada	11	5	14	8	18	21	25	5	15	11	1	7	1	3	6	2	2	11	17	183
Indonesia		11	5	8	8	3	4	4	12	5		5	1	7	7	3	6	7	14	110
<b>Total</b>	157	226	246	264	359	296	372	311	234	220	200	203	166	218	217	173	165	209	283	4519

(Source: WTO)

# Top Defendants

Anti-dumping Initiations: By Exporting Country 01/01/1995 - 31/12/2013

Exporting Country	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
China	20	43	33	27	43	43	55	50	53	49	53	73	62	78	78	44	51	60	74	989
Korea, Republic of	14	11	15	27	35	23	23	23	17	24	12	10	13	9	8	9	11	22	25	331
Taipei, Chinese	4	9	16	10	22	14	19	16	13	21	13	13	6	11	12	5	9	22	16	251
Thailand	8	9	5	2	19	12	17	12	7	9	13	8	9	13	8	5	8	10	14	188
United States	12	21	15	16	14	13	15	11	21	14	12	11	7	8	14	19	10	9	13	255
India	3	11	8	13	13	10	12	16	14	8	14	6	4	6	7	4	7	10	11	177
Japan	5	6	14	14	22	12	14	13	16	9	7	9	4	3	5	5	5	6	11	180
<b>Total</b>	<b>157</b>	<b>226</b>	<b>246</b>	<b>264</b>	<b>359</b>	<b>296</b>	<b>372</b>	<b>311</b>	<b>234</b>	<b>220</b>	<b>200</b>	<b>203</b>	<b>166</b>	<b>218</b>	<b>217</b>	<b>173</b>	<b>165</b>	<b>209</b>	<b>283</b>	<b>4519</b>

(Source: WTO)

# Sectors

## Anti-dumping Initiations: By Sector 01/01/1995 - 31/12/2013

HS section name	2008	2009	2010	2011	2012	2013	Total
XV Base metals and articles	70	52	43	58	76	93	1287
VI Products of the chemical and allied industries	34	47	44	29	34	48	908
VII Resins, plastics and articles; rubber and articles	21	31	24	13	40	41	590
XIII Articles of stone, plaster; ceramic prod.; glass	4	11	12	14	13	23	189
XVI Machinery and electrical equipment	16	22	10	8	18	22	392
XI Textiles and articles	39	20	7	2	12	21	339
X Paper, paperboard and articles	2	8	20	11	6	12	226
<b>Total</b>	<b>218</b>	<b>217</b>	<b>173</b>	<b>165</b>	<b>209</b>	<b>283</b>	<b>4519</b>

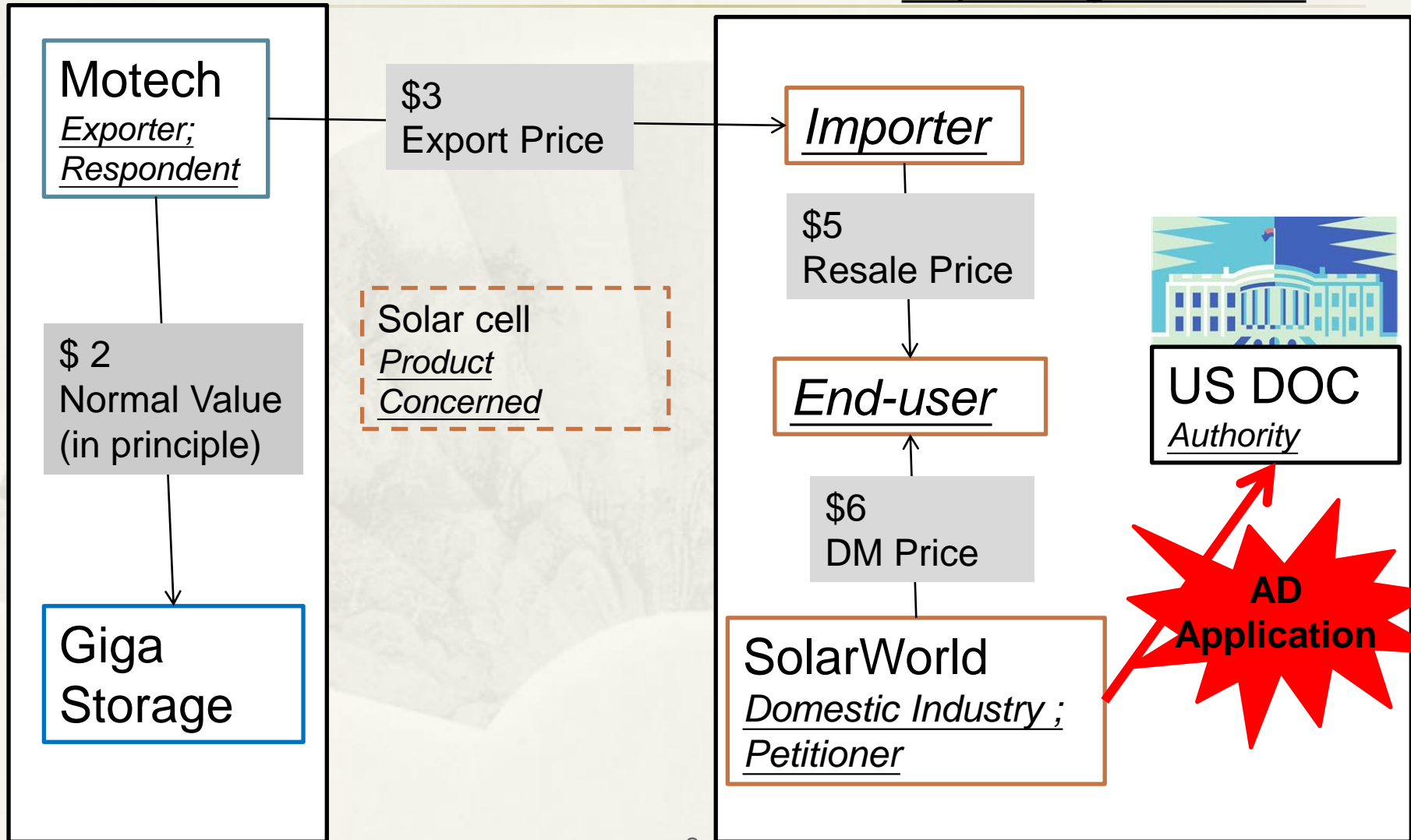
(Source: WTO)



Taiwan  
Exporting Member



USA  
Importing Member





# Basic Ideas

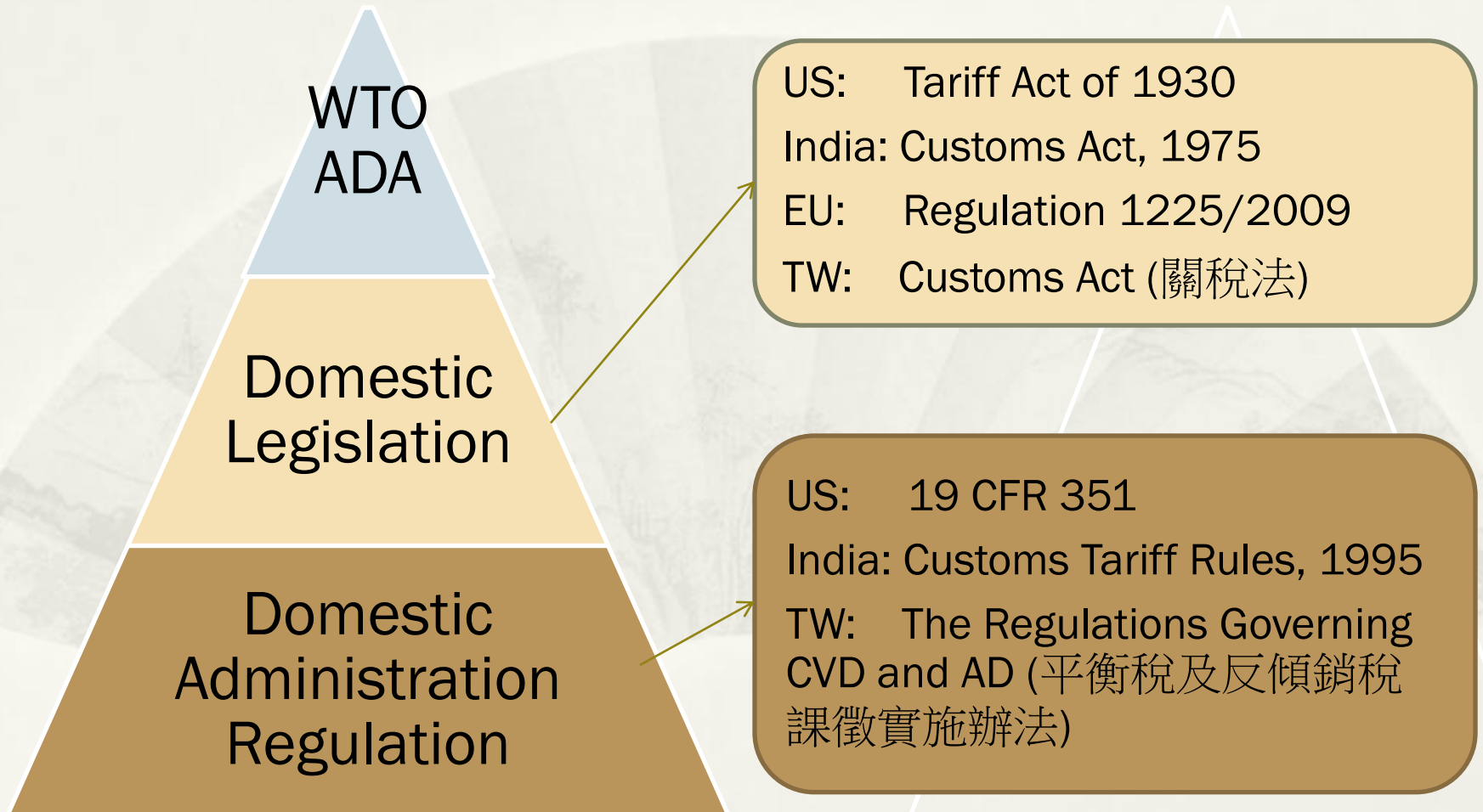
- \* Art VI:1 of GATT, “The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry.

# Basic Ideas

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- \* AD is a trade remedy against “unfair trade”.
- \* Three conditions: Dumping, Injury, and Causal Link.
- \* Dumping = Export Price < Normal Value

# Pyramid of AD Law



# Dumping: Normal Value

- \* Ordinary Course of Trade (Art 2.1): “...if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.”
  - ✓ Below cost: (Art 2.2.1): “...at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade...”
  - ✓ Low volume (FN 2): “...in the domestic market of the exporting country shall normally be considered a sufficient quantity for the determination of the normal value if such sales constitute 5 per cent or more of the sales of the product under consideration to the importing Member...”

# Dumping: Normal Value

- \* Non-Market Economy (NME) (Ad Art VI of GATT): “...in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, ... it necessary to take into account the possibility that **a strict comparison with domestic prices in such a country may not always be appropriate.**”
- \* In practice, “Surrogate Country” method.

# Dumping: Fair Comparison

- \* Fair Comparison (Art 2.4): “A fair comparison shall be made between the export price and the normal value. This comparison shall be made at:
  - ✓ the same level of trade;
  - ✓ at the ex-factory level;
  - ✓ in respect of sales made at as nearly as possible the same time;
  - ✓ Due allowances: terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences.

# Injury and Causal Link

## \* Injury :

- ✓ Volume: Art 3.2, “...a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member. “
- ✓ Price: Art 3.2, “...a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
- ✓ Other eco indices: Art 3.4, “...decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity.....

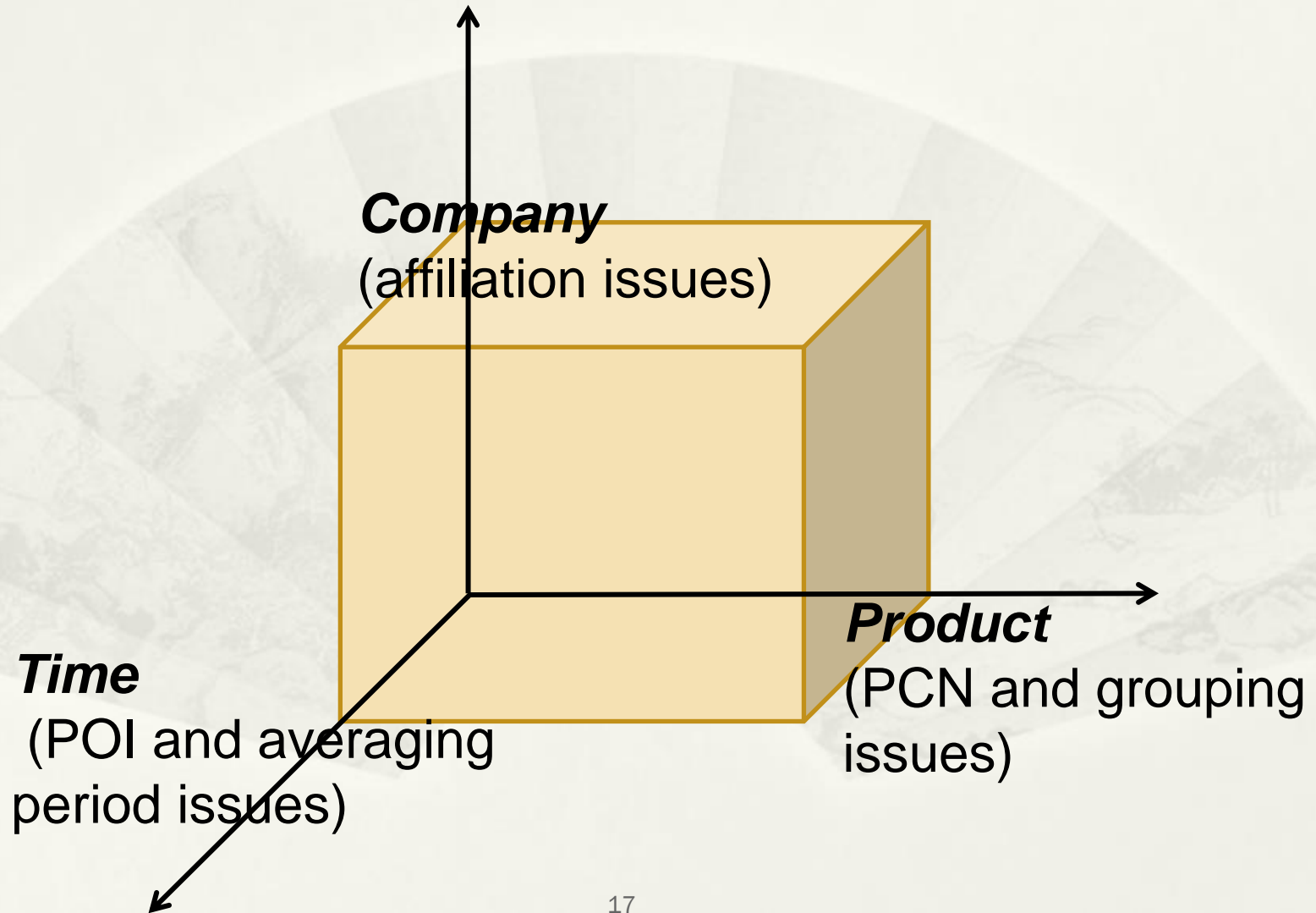
# Injury and Causal Link

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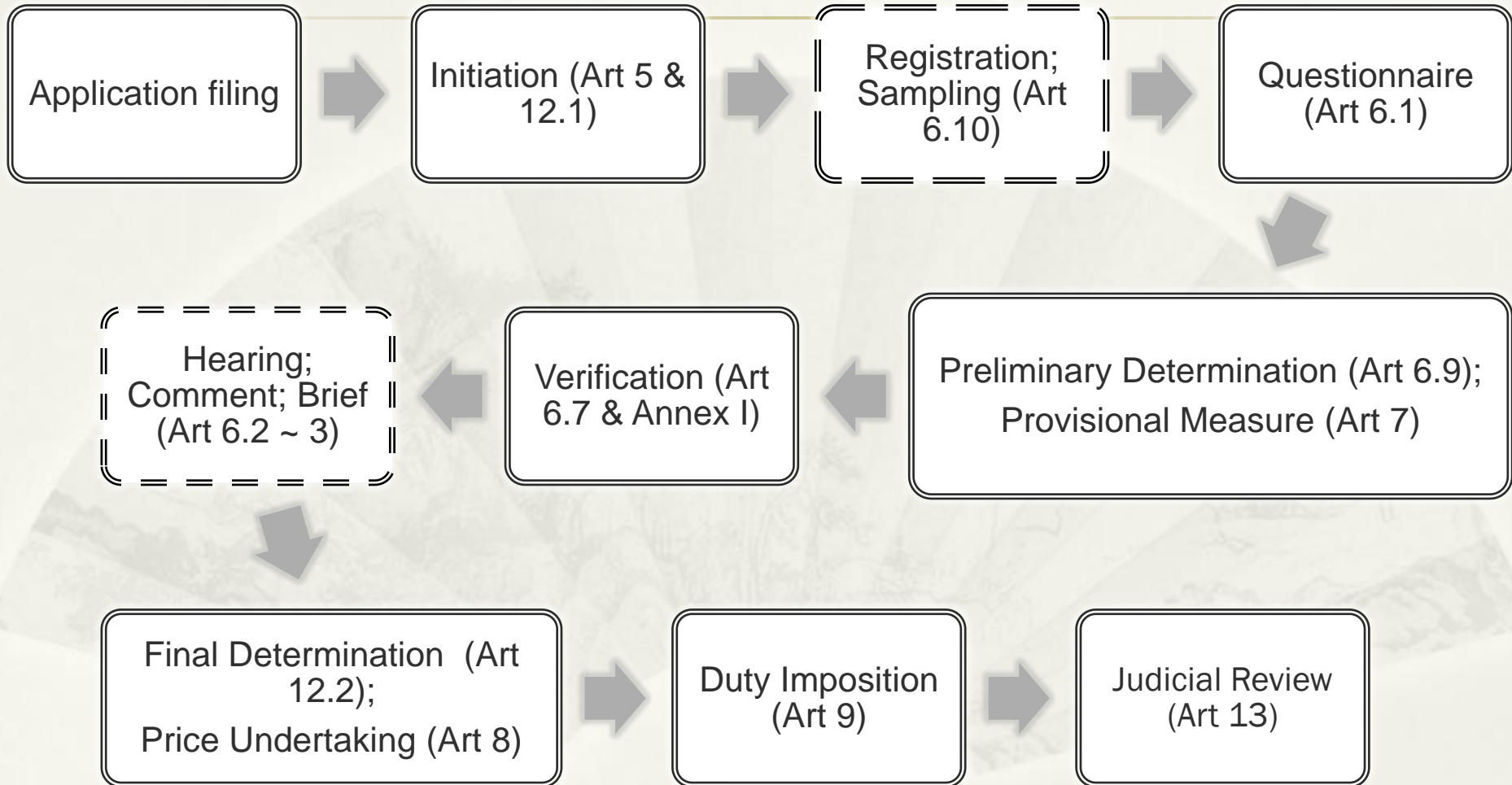
- \* Causal Link (Art 3.5):
  - ✓ Non-dumped imports;
  - ✓ Demand and consumption pattern;
  - ✓ Other competition practices;
  - ✓ Tech development;
  - ✓ Export performance and productivity.



# Dumping Inv. Scope



# Investigation Procedure



# Investigation Procedure

- \* Sampling (Art 6.10): “In cases where the number of exporters, .... is so large as to make such a determination impracticable, the authorities may limit their examination either to a reasonable number of interested parties or products by using samples which are statistically valid... or to the largest percentage of the volume of the exports from the country in question which can reasonably be investigated.”
- \* Questionnaire (Art 6.1): “Exporters or foreign producers receiving questionnaires used in an anti-dumping investigation shall be given at least 30 days for reply.”
- \* Preliminary Determination (Art 6.9):” ...before a final determination is made, inform all interested parties of the essential facts under consideration which form the basis for the decision...”

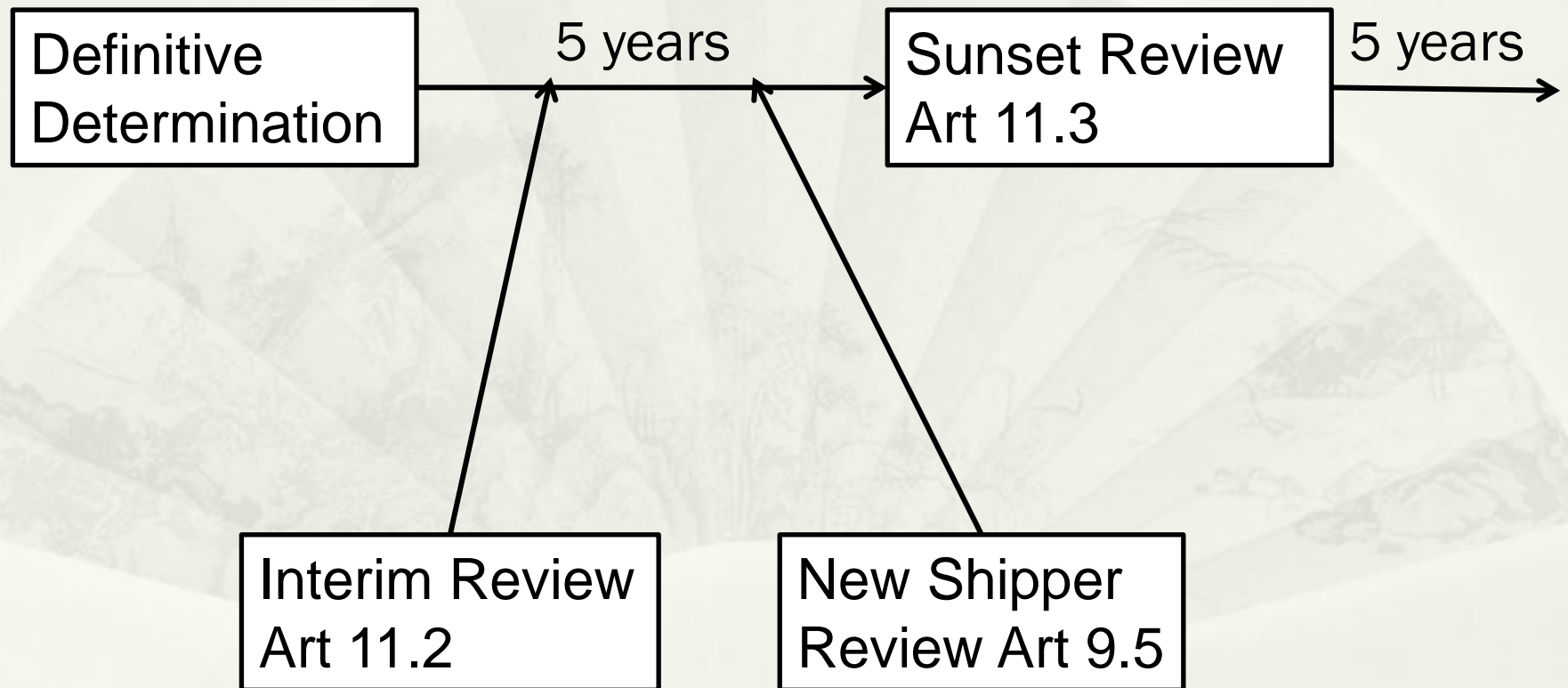
# Investigation Procedure

- \* Provisional AD (Art 7): “...a preliminary affirmative determination has been made of dumping and consequent injury to a domestic industry, and... necessary to prevent injury being caused during the investigation.”
- \* Verification (Art 6.7): “...In order to verify information provided or to obtain further details, the authorities may carry out investigations in the territory of other Members as required...”
- \* Hearing/Comment (Art 6.2~3): “...all interested parties shall have a full opportunity for the defence of their interests...”

# Evidence

- \* Bound by Information(Art 6.6): “...the authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based...”
- \* Best information available (Art 6.8 & Annex II): “In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available.”

# AD Lifecycle



# AD Lifecycle

- \* Interim Review (Art 11.2): “The authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed ... upon request by any interested party which submits positive information substantiating the need for a review.”
- \* New Shipper Review (Art 9.5): “...the authorities shall promptly carry out a review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question Member during the period of investigation who have not exported the product to the importing...”
- \* Sunset Review (Art 11.3): “...any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition ..., unless the authorities determine, in a review ... that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury”



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**THANK YOU**