

EU ANTI-SUBSIDY LAW AND PRACTICE

Second Edition

By

Konstantinos Adamantopoulos

Partner, Attorney at Law Head of Hammonds EU Competition, Trade and Regulatory Department

María J. Pereyra

Counsellor, Legal Affairs Division, World Trade Organization

> LONDON SWEET & MAXWELL 2007

CONTENTS

Forewo	rd	v	
Reviewe	er's Comments	ix	
Preface		xi	
Table of Cases			
	Table of International Agreements		
Table of EU Legislation			
Introdu	ection	1	
		nara	
CHAD	TER 1 MULTILATERAL DISCIPLINES ON SUBSIDIES	para	
CHAF	IN THE WTO	1-001	
1		1-001	
1.	The GATT provisions	1-001	
CHAP'	TER 2 WTO AGREEMENT ON SUBSIDIES AND		
	COUNTERVAILING MEASURES	2-001	
1.	Introduction	2-001	
2.	Structure of the SCM Agreement	2-002	
3.	The SCM Agreement traffic light system	2-011	
4.	Special regime applicable to agricultural subsidies	2-021	
5.	Special regime applicable to developing and least-developed		
	countries	2-025	
6.	Non-market economies in process of transformation	2-031	
СНУБ	TER 3 REMEDIES UNDER WTO LAW	3-001	
1.	Multilateral and unilateral remedies	3-001	
2.	Use of WTO dispute settlement mechanism against	3-001	
۷.	subsidised imports	3-002	
3.	Relation between remedial provisions in the SCM	5-002	
Э.	Agreement and the DSU	3-003	
4.	Types of dispute under the SCM Agreement	3-003	
4. 5.	WTO Dispute Settlement understanding	3-004	
э.	w 10 Dispute Settlement understanding	3-003	
CHAPTER 4 LEGAL FRAMEWORK			
1.	Introduction	4-001	
2.	The basic legal instruments	4-002	
3.	Common Commercial Policy and system of preferential		
	trade agreements	4-005	

xiv CONTENTS

	CHAP	TER 5 SUBSTANTIVE ELEMENTS: THE CONCEPT OF	
		SUBSIDISATION	5-001
	1.	Introduction	5-001
	2.	What is a subsidy?	5-002
	3.	How broad is the concept of government?	5-003
	4.	Country of origin or export	5-004
	5.	What is considered a financial contribution?	5-005
	6.	A benefit is conferred	5-013
	7.	Concept of specificity	5-018
	8.	Categorisation of subsidies under the Basic Regulation	5-027
	9.	Non-countervailable subsidies	5-044
	10.	Special regime applicable to agricultural subsidies	5-048
	11.	Special regime applicable to developing countries and non-	
		market economies in transformation	5-049
	12.	Calculation of the individual subsidy margin	5-052
	13.	Subsidies and state aids	5-072
	СНАВ	TER 6 SUBSTANTIVE ELEMENTS: INJURY AND	
	CIIAI	COMMUNITY INTEREST	6-001
	1.	Introduction	6-001
	2.	Injury	6-002
	3.	Concept of like product	6-029
	3. 4.	Cumulation	6-036
	5.	Causality	6-037
	<i>5.</i> 6.	Calculation of the individual injury margin	6-049
	7.	Community interest	6-052
	/.	Community interest	0-032
	CILAR	TED 7 THE INVESTIGATION	7 001
		TER 7 THE INVESTIGATION	7–001
	1.	A typical case	7–001
`	2.	Parties to the proceedings	7-002
	3.	Intervening authorities	7–007
	4. -	Initiating the investigation	7–010
	5.	The investigation	7–018
	OTT A D	TER A COMMERCIAL DATA OF A SUPER	0.004
	_	TER 8 COUNTERVAILING MEASURES	8-001
	1.	Imposition of measures	8-001
	2.	Nature of countervailing duties and the lesser duty rule	8–002
	3.	Provisional duties	8-005
	4.	Definitive duties	8-006
	5.	Termination of investigation by conclusion of undertakings	8-011
	6.	Registration of imports	8-012
	7.	Retroactivity	8-013
	8.	Duration	8-014
	9.	Suspension of measures	8-015
	10.	Publication requirements	8–016
	11.	Non-discrimination	8-017

CONTENTS XV

CHAP	9-001	
1.	Types of reviews	9–001
2.	Interim reviews	9-002
3.	Newcomer reviews	9-003
4.	Expiry (sunset) reviews	9004
5.	Refunds	9-005
6.	Circumvention	9-006
СНАР	TER 10 JUDICIAL REMEDIES	10-001
1.	Introduction	10-001
2.	Action for annulment	10-002
3.	Action for failure to act	10011
4.	Action for damages	10012
5.	Preliminary rulings	10-013
6.	Interim measures	10–014
APPE	NDICES	
1.	Table of WTO Proceedings Concerning Prohibited	
	Subsidies	A1-001
2	Table of WTO Proceedings Concerning Actionable	
	Subsidies	A2-001
3.	List of Relevant Websites	A3-001
Index		483