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WTO Dispute Settlement and Anti-Dumping Measures: A Comparative Legal Analysis of Cases Involving India, the USA, and the UK

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ABSTRACT

This study examines the legal architecture and applied practice of anti-dumping law through the lens of WTO dispute settlement and the concrete experiences of India, the United States, and the United Kingdom. It maps the core treaty obligations in “Article VI of GATT 1994” and the “Agreement on Implementation of Article VI of GATT 1994 (Anti-Dumping Agreement)”, paying particular attention to the disciplines on fair comparison and the calculation of dumping margins in “Article 2.4.2”, as well as review and final duty provisions that shape the lifecycles of measures. It then sets out the domestic bases that give effect to these rules in India under “Section 9A of the Customs Tariff Act, 1975” and the “1995 Anti-Dumping Rules”, in the United States through “Section 731, Tariff Act of 1930 (19 U.S.C. § 1673)”, and in the United Kingdom under the “Taxation (Cross-border Trade) Act 2018” and accompanying regulations administered by the Trade Remedies Authority. The analysis situates India’s policy and litigation posture within the WTO system’s consultations, panel review, appeal, compliance, and retaliation stages, while engaging the collapse of the Appellate Body and the rise of interim appeal arbitration among willing members. It highlights the United Kingdom’s post-Brexit accession to the WTO’s Multi-Party Interim Appeal Arbitration Arrangement (MPIA) and considers how this choice may influence UK-related disputes that intersect with Indian exporters or supply chains. The study retains a focused case selection by design: “*India — Anti-Dumping Measures on Imports of Certain Products from the EC*”, “*India — Anti-Dumping Measure on Batteries from Bangladesh*”, “*Commissioner of Customs, Bangalore v. G.M. Exports*”, and “*Union of India v. Kumho Petrochemicals Co Ltd*”. These matters clarify notification practice, gap-period levies, sunset review timing, and negotiated exits, and they anchor doctrinal lessons on injury, causation, transparency, and domestic statutory interpretation that tracks treaty language. The study closes by drawing comparative insights on calculation practice, such as the legacy of zeroing debates in the United States, and institutional design choices, such as the UK TRA’s open guidance culture, to propose calibrated suggestions for Indian administration and advocacy strategy at the DGTR and in Geneva panels and arbitrations. References to provisions are made only where quoted or closely paraphrased, and case names appear with full citations as requested.

Keywords: WTO, DSU, Anti-Dumping Agreement, zeroing, India, United States, United Kingdom, DGTR, TRA, compliance

Introduction

Anti-dumping law functions as a trade remedy that sits at the junction of public international law, administrative procedure, and microeconomic evidence. The legal basis lies in “Article VI of GATT 1994”, which permits anti-dumping duties when dumping causes or threatens material injury to a domestic industry, and in the Anti-Dumping Agreement, which operationalizes objective benchmarks for normal value, export price, fair comparison, de minimis thresholds, and causation. In practice, the treaty’s technical prescriptions yield national systems that differ in process design and evidentiary emphasis, yet all systems must remain within the WTO envelope. India’s framework under “Section 9A of the Customs Tariff Act, 1975” and the “1995 Anti-Dumping Rules” delegates investigation to the DGTR and decision-making on duty imposition to the Central Government. The United States relies on a dual-agency structure where the Department of Commerce determines dumping and the International Trade Commission determines injury within “Section 731 et seq. of the Tariff Act of 1930”. The United Kingdom, after Brexit, moved from EU institutions to a bespoke regime under the “Taxation (Cross-border Trade) Act 2018” with the Trade Remedies Authority conducting investigations and providing recommendations. Comparative study across these three systems matters for Indian policy and litigation because the United States provides a data-rich repository of calculation methods and administrative reviews, including the historical controversy over zeroing; the United Kingdom represents a recently reconstituted, guidance-forward authority that emphasizes public process within a still-maturing statutory scheme; and India exemplifies an active user of the remedy that must calibrate domestic timelines and transparency against WTO review risks. The geopolitical setting also presses for attention to remedies. Since late 2019, the Appellate Body’s paralysis recast compliance incentives and forum strategies, drawing many members toward the MPIA as an interim appeal route. The United Kingdom’s accession to the MPIA creates concrete choices for parties engaged in disputes with UK measures or exporters. These dynamics present a practical agenda for India: design DGTR investigations that can withstand Article 17.6 scrutiny; devise settlement, review, and expiry pathways

² 2017 351 E.L.T. 65 SC.

that limit exposure under Articles 2, 3, 6, 9, and 12 of the Anti-Dumping Agreement; and manage cross-border litigation postures that balance Geneva risk with bilateral or plurilateral trade goals.³

Research Questions

The research questions for the study are as follows: -⁴

- to examine how treaty text and domestic statutes shape calculation, injury, and review in India, the United States, and the United Kingdom in ways that affect Indian exporters and petitioners.
- to assess whether WTO dispute settlement and interim appeal arbitration are steering convergence in methods and timelines, and to identify targeted suggestions for Indian administrative and advocacy practice.

Problem Statement

India confronts recurring challenges in initiating, defending, and contesting anti-dumping measures at the DGTR and in Geneva, while the United States' history with zeroing and the United Kingdom's post-Brexit regime introduces contrasts in calculation, transparency, and remedies that bear directly on Indian exporters, importers, and counsel. The combined effect is a moving field where Indian choices on evidence, notification, and review can either reduce or heighten WTO exposure and commercial risk.⁵

Objectives of the Study

The objectives of the study are as follows: -⁶

- to distil doctrinal rules from WTO texts and selected decisions, and to align them with domestic statutes and practices in India, the United States, and the United Kingdom.
- to propose calibrated suggestions for Indian procedures and strategies that improve legal soundness, predictability, and international defensibility.

Research Methodology

The study deploys a doctrinal method grounded in primary sources from WTO law, the texts and status notes of the selected disputes, Indian and foreign judgments, and official materials of the DGTR, the USTR, and the UK TRA, supported by leading commentary. The analysis cites specific treaty provisions only where quoted or closely paraphrased, and it refrains from adding case laws beyond the designated matters.⁷

Legal Framework

The Anti-Dumping Agreement articulates a compact system that relies on objective, verifiable comparisons between normal value and export price, a credible account of injury, and a causation analysis that isolates the effects of dumped imports from other factors. The definition of dumping in "Article 2.1" aligns with the broader logic of "Article VI of GATT 1994", but the operative disciplines lie in the details of "Article 2.4" and "Article 2.4.2". The latter prescribes preferred comparison methods and sets the stage for debates about calculation practice in investigations and reviews. Review provisions and duty assessment rules link back to the duty ceiling and require that duties not exceed the margin properly calculated under Article 2, while transparency provisions in Article 6 and reasoning duties in Article 12 underpin due process. Injury and causation under Article 3 require positive evidence standard and an objective examination of volume, price effects, and impact on the domestic industry. The de minimis threshold and negligible import tests, read with fair comparison obligations, limit overbroad measures. The interplay of these provisions determines the legality of methodologies and timelines in day-to-day administration and in Geneva.⁸

Domestic Bases

India's primary authority for anti-dumping measures is "Section 9A of the Customs Tariff Act, 1975", supported by the "Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995". These texts establish the DGTR's investigative role, notice and participation mechanics, and the five-year expiry rule for duties unless earlier revoked, with review procedures that can

³ GATT 1994 - Article VI (Practice), available at: https://www.wto.org/english/res_e/publications_e/ai17_e/gatt1994_art6_oth.pdf (last visited on October 29, 2025).

⁴ Adarsh Ramanujan, "Anti-Dumping Practice in India: Due Process, Confidentiality and the WTO Standards", 57 *Indian Journal of International Law* 147 (2017).

⁵ Michael Trebilcock, Robert Howse, et.al., *The Regulation of International Trade* 204 (Routledge, London, 1st edn., 2013).

⁶ Alangar Jayagovind, "Anti-Dumping Agreement and Exhaustion of Law Remedies", 3 *Indian Journal of International Economic Law* 1 (2010).

⁷ Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement), available at: https://www.wto.org/english/docs_e/legal_e/19-adp_01_e.htm (last visited on October 28, 2025).

⁸ Anti-Dumping Agreement - Article 2 (Practice), available at: https://www.wto.org/english/res_e/publications_e/ai17_e/anti_dumping_art2_oth.pdf (last visited on October 27, 2025).

extend measures on a reasoned basis. The United States relies on “Section 731 of the Tariff Act of 1930, 19 U.S.C. § 1673” for imposition, while Commerce calculates margins and the ITC determines injury; substantial practice has evolved around administrative reviews and sunset reviews, which remain central to the United States’ remedial architecture. The United Kingdom operates under the “Taxation (Cross-border Trade) Act 2018” and implementing regulations, with the Trade Remedies Authority publishing detailed guidance on how dumping, injury, and causation inquiries proceed and how duties may be recommended to ministers. Together, these systems express comparable statutory aims, yet they diverge in institutional separation, guidance styles, and the precision of procedural timelines for review and expiry.⁹

Wto Dispute Settlement Architecture

The WTO’s dispute settlement regimen proceeds from consultations to panel adjudication, then to appeal, with post-adoption surveillance of implementation and, where necessary, compliance review and calibrated retaliation. The treaty expression appears in the “Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)”, which sets timeframes for consultations and panels, provides for appeals on issues of law, and designs post-ruling procedures for monitoring and remedying non-compliance. The Appellate Body ceased to function after December 2019 due to an appointments stalemate, altering incentives and outcomes in appealed disputes. In response, a diverse group of members established the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) to preserve appellate review by agreement under “DSU Article 25”. The United Kingdom has now joined the MPIA, adding a G7 member with a new domestic trade remedies authority to the group that relies on interim arbitration to maintain two-tier review. Where the respondent is an MPIA participant and the complainant opts in, appeals can move to arbitrators operating under agreed procedures. This development matters for disputes implicating UK measures or exporters and for Indian litigators assessing forum choices and remedial sequencing, especially when parallel domestic litigation or review timelines run alongside Geneva proceedings. The DSU continues to frame compliance sequencing under Articles 21 and 22, with surveillance through the DSB and, if needed, authorization to suspend concessions calibrated to the level of nullification or impairment.¹⁰

Table 1: Timeline of select Indian AD investigations and WTO challenges¹¹

Year-month	Matter	Stage	Source
2025-06	LLDPE imports - initiation notification F. No. 6/26/2025-DGTR	Investigation initiated	¹²
2025-09	Cold-rolled flat products (300 and 400 series) - initiation F. No. 6/28/2025-DGTR	Investigation initiated	¹³
2025-09	Nylon 6 in any form - initiation AD(OI)-32/2025	Investigation initiated	¹⁴
2025-10	Ethambutol HCl from China and Thailand	Investigation advanced	¹⁵
2003-12	<i>India — Anti-Dumping Measures on Imports of Certain Products from the EC</i> ¹⁶ ,	Consultations, mutually agreed solution	¹⁷
2004-01	<i>India — Anti-Dumping Measure on Batteries from Bangladesh</i> ¹⁸ ,	Consultations, mutually agreed solution	¹⁹

Standards of Review

Two treaty provisions frame how panels and, where applicable, appellate instances evaluate national anti-dumping determinations. “DSU Article 11” requires an objective assessment of the matter, encompassing facts, legal applicability, and conformity. “Article 17.6 of the Anti-Dumping Agreement” adds a calibrated approach to fact-finding and legal interpretation: panels review whether the investigating authority established and evaluated facts in an

⁹ Section 9A: Anti-Dumping Duty on Dumped Articles, *available at*: https://www.indiacode.nic.in/show-data?actid=AC_CEN_2_2_00039_197551_1554713855359&orderno=14 (last visited on October 26, 2025).

¹⁰ Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), *available at*: https://www.wto.org/english/tratop_e/dispu_e/dsu_e.htm (last visited on October 28, 2025).

¹¹ Upendra Baxi, “Towards Socially Sustainable Globalization: Reflections on Responsible Contracting and the UN Guiding Principles on Business and Human Rights”, 57 *Indian Journal of International Law* 163 (2017).

¹² Initiation Notification - LLDPE (English), *available at*: https://worldtradescanner.com/Initiation Notification - LLDPE English_0001.pdf (last visited on October 24, 2025).

¹³ Initiation Notification: Cold-Rolled Flat Products of Stainless Steel 300 and 400 Series, *available at*: https://unicustomsconsulting.com/wp-content/uploads/2025/10/Initiation-Notification_-Cold-Rolled-Flat-Products-300-and-400-Series.pdf (last visited on October 23, 2025).

¹⁴ Initiation Notification: Nylon 6 (RV 3.0 to 3.6) From China PR, Russia, Taiwan and Thailand, *available at*: <https://thaitr.dft.go.th/storage/announcements/P8uOMYzXkmhxfEZwY5sCZ4czSFZGUvqK0UNQJecd.pdf> (last visited on October 22, 2025).

¹⁵ Manoj Kumar, “India Advances Anti-Dumping Probe Into Tuberculosis Drug Imports From China, Thailand”, *available at*: <https://www.reuters.com/business/healthcare-pharmaceuticals/india-advances-anti-dumping-probe-into-tuberculosis-drug-imports-china-thailand-2025-10-27/> (last visited on October 21, 2025).

¹⁶ WT/DS304.

¹⁷ India - Anti-Dumping Measures on Imports of Certain Products From the European Communities, *available at*: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds304_e.htm (last visited on October 20, 2025).

¹⁸ WT/DS306.

¹⁹ India - Anti-Dumping Measure on Batteries From Bangladesh, *available at*: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds306_e.htm (last visited on October 29, 2025).

unbiased and objective manner, and they accept one permissible interpretation of the Agreement where competing, reasonable readings exist. These provisions do not authorize de novo recalculation or substitution of judgment on economic assessments; they ensure discipline in reasoning, evidence handling, and legal coherence. Contemporary debate concerns the contour of permissible deference and the consistency of panel practice under Article 17.6 with the DSU's general objective-assessment requirement. These standards directly influence how authorities' draft notices, disclose data, select comparison methodologies, and justify injury and causation findings, since thin reasoning or opaque adjustments risk reversal under the composite standard.²⁰

India: Key Anti-Dumping Disputes and Judgments

India's experience as respondent and as a forum for judicial control of anti-dumping measures offers concrete guidance for administrators and litigants. In Geneva, the European Communities' omnibus complaint on Indian measures opened a structured dialogue on transparency and injury analysis, while Bangladesh's consultations over lead acid batteries underscored how least-developed country complainants can catalyze negotiated resolution. In the domestic legal system, the Supreme Court in "*Commissioner of Customs, Bangalore v. G.M. Exports*"²¹, addressed the impermissibility of gap-period levies, ensuring that practice aligns with the text and structure of the "1995 Rules". Later, in "*Union of India v. Kumho Petrochemicals Co Ltd*"²², the Court clarified that once an anti-dumping notification lapses, revival or interim extension cannot bridge the expiry while a sunset review is pending, absent the statute's express allowance. These decisions collectively push Indian administration toward firmer notice, tighter sequencing, and treaty-consistent readings of national law, while Geneva's processes remain an external check, especially where calculation choices or review timelines diverge from agreed disciplines.

WTO: DS304 India - Anti-Dumping Measures on Imports of Certain Products from the EC

In the case of *India — Anti-Dumping Measures on Imports of Certain Products from the EC*²³, the European Communities requested consultations on 8 December 2003 concerning a set of twenty-seven Indian anti-dumping measures that covered diverse products originating in Community member states. The request raised issues under the Anti-Dumping Agreement that included Article 1 on the scope of measures, Article 3 on injury and causation, Article 6 on evidence disclosure and due process, and Article 12 on reasoned determinations, along with a GATT Article VI concern. The dispute did not move to a panel stage. The parties engaged through consultations that stretched across measures and investigations initiated and concluded at different times. The public record shows that the matter ended by a mutually agreed solution, closing the docket without adjudication. The Union's concern centered on the combined effect of multiple Indian measures and the perceived shortcomings in injury analysis, including volume and price effects, and the presentation of causal reasoning explaining the displacement of other factors. India, for its part, defended the reliance on the data sets before the authority and the structure of its rules, while the consultations provided space for both sides to communicate desired procedural steps. The systemic lesson lies in the way omnibus consultations can function as a compliance dialogue without formal litigation. The settlement posture suggests that authorities benefit from documenting the entire chain of inferences in injury determinations, including charts and narrative showing how prices, volumes, and profitability link to dumped imports rather than macroeconomic changes or firm-specific choices. The case also hints that early disclosure of essential facts under Article 6 can blunt broader critiques and limit multilateral exposure when many measures are at stake. For Indian practitioners, a major takeaway rests in pre-litigation audit practices: reviewing findings against Article 3 and Article 12 requirements before finalization reduces pressure points that could invite Geneva scrutiny.

WTO: DS306 India - Anti-Dumping Measure on Batteries from Bangladesh

In the case of *India — Anti-Dumping Measure on Batteries from Bangladesh*²⁴, Bangladesh requested consultations on 28 January 2004 concerning India's anti-dumping duty on lead acid batteries from Bangladeshi producers. The dispute represented a landmark for an LDC complainant engaging the WTO system over a focused product and a concentrated set of exporters. The record indicates an early-stage exchange on the calculation of margins, the treatment of data from cooperating firms, and the transparency of essential facts disclosure needed to allow meaningful defense. The consultations took place against a background of commercial urgency for Bangladeshi firms with material export dependence on the Indian market. Public sources report that India removed the duties through a customs notification, and the parties notified a mutually agreed solution, ending the matter without a panel. The sequence signals a use of Geneva consultations as a catalyst for remedial self-correction where domestic review and reconsideration can respond to LDC concerns without prolonged litigation. For analysts, the case underscores the importance of properly described product scope, credible normal value proxies when home market data are thin, and injury assessments that acknowledge the size and segment of the domestic market relative to imports from an LDC supplier. For Indian authorities, the dispute illustrates how clarifying essential facts and reasoning in notices can limit misunderstandings or perceived procedural gaps that could trigger escalations. For LDCs, the matter demonstrates that carefully framed consultations coupled with domestic engagement can yield concrete outcomes in a compressed timeframe, particularly where de minimis considerations and market share evidence weigh against the continuation of duties at prior levels.

Supreme Court: Commissioner of Customs, Bangalore v. G.M. Exports, 2015

²⁰ Michelle T. Grando, *Evidence, Proof, and Fact-Finding in WTO Dispute Settlement* 96 (Oxford University Press, Oxford, 1st edn., 2009).

²¹ 2015 324 E.L.T. 209 SC.

²² *Supra* note 2.

²³ *Supra* note 16.

²⁴ *Supra* note 18.

In the case of *Commissioner of Customs, Bangalore v G.M. Exports*²⁵, the Supreme Court addressed whether anti-dumping duties could be levied on imports made during the gap between the expiry of a provisional anti-dumping duty and the imposition of a final duty. The appeals arrived at the Court after diverging views across High Courts and tribunals, reflecting uncertainty about how provisional and final measures interact under the “1995 Rules”. The Court read the statutory text together with the structure of the Rules, including the time limit for provisional measures and the mechanism by which a final duty may incorporate the provisional duty. It held that collection during the interregnum was impermissible, since the final duty incorporates only to the extent and period the rules explicitly allow, and there is no textual base to validate collection for the period after provisional expiry and before final imposition. The judgment’s approach demonstrates fidelity to the statutory design as a closed set of authorizations and time-bound permissions, rather than as an open-ended remedial power. In consequence, the administration must complete the sequence of disclosure, final findings, and government decision within the periods contemplated in the legal scheme if it seeks continuous coverage. For trade and counsel, the holding provides certainty on exposure and supports planning for shipments in the interregnum, while also encouraging authorities to refine internal calendars to avoid gaps. The decision’s reasoning engages WTO-consistent readings of domestic law by aligning with the structure visible in the treaty’s approach to provisional measures and final imposition, but the Court grounded its conclusion in statutory text and the Rules rather than independent treaty adjudication. The ruling has since guided DGTR and revenue practice, and it remains a touchstone for the timing of anti-dumping actions.²⁶

Supreme Court: Union of India v. Kumho Petrochemicals Co Ltd, 2017

In the case of *Union of India v Kumho Petrochemicals Co Ltd*²⁷, the Supreme Court considered whether an expired anti-dumping notification could be revived or effectively extended during the pendency of a sunset review. The Court examined “Section 9A of the Customs Tariff Act, 1975” and the structure of the “1995 Rules” to determine the limits of governmental action during review. It concluded that once the original notification has lapsed by efflux of time, there is no statutory footing to revive or extend it through interim measures that bridge the period until the sunset review concludes. The pathway for continuity must be grounded in the statute and rules as written, including any express provisos that authorize temporary continuation pending review; absent such text, executive action cannot supply a bridge. The judgment elevates legal certainty for importers and exporters and signals to the DGTR and the Central Government that prospective planning is essential to avoid lapses when a review is underway. It also aligns domestic temporal discipline with the broader WTO logic that ties remedial action to reasoned findings at defined procedural nodes rather than open-textured discretion. For administrators, the case underscores the importance of early initiation, efficient conduct of the review, and timely forwarding of recommendations, so that any continuation of duties tracks the legal scheme. For litigants, it clarifies that collateral attempts to preserve duties after expiry will likely fail if unmoored from statutory text. The decision continues to shape guidance texts and findings that cite the Supreme Court’s interpretation to explain why initiation notices and public notice’s structure participation and timekeeping without creating a backdoor to revive expired measures.²⁸

Practice Notes

Recent DGTR activity illustrates an active review and initiation pipeline that has policy and litigation consequences. In mid-2025, authorities initiated anti-dumping investigations into LLDPE and cold-rolled flat products, and they advanced an investigation into Ethambutol Hydrochloride from China and Thailand, with the Reuters and trade press noting the scale of new filings in a single quarter. The pipeline also included Nylon 6 and multilayer paperboard, among other cases, reflecting a diversified docket that touches chemicals, polymers, metals, and pharmaceuticals. For practitioners, this trend requires careful attention to essential facts disclosure, non-confidential summaries, and price comparisons that meet “Article 2.4.2” discipline when drawing inferences from constructed values or third-country benchmarks, because scrutiny of margins and injury narratives remains sharp where market dynamics and public health concerns intersect. For strategies at the WTO, Indian authorities should anticipate potential consultations on product categories with sensitive downstream uses and maintain dossiers that capture causation narratives with specificity. The United Kingdom’s MPIA participation also introduces an important forum variable for UK-related matters that may draw Indian party interest. The United States continues to provide a reference point for review practice and calculation debates, with attention to the legacy treatment of zeroing under the Anti-Dumping Agreement’s comparison rules. Across these developments, the guiding principle remains to anchor findings in robust, transparent, and timely reasoning that can withstand panel review under “DSU Article 11” and “ADA Article 17.6”, while ensuring that domestic statutory steps under “Section 9A” and the “1995 Rules” are met without lapses.²⁹

United States: Key Anti-Dumping Disputes and Judgments

The modern United States anti-dumping narrative turns on the methodological debate over “zeroing”, the interaction between the Department of Commerce’s technical choices and the International Trade Commission’s injury determinations, and the degree to which domestic courts accepted or restrained agency discretion before the World Trade Organization’s Appellate Body curtailed the practice. The doctrinal arc begins with the use of simple and model zeroing in investigations and reviews under “19 U.S.C. § 1673” and “19 C.F.R. Part 351”, travels through a series of Appellate Body reports condemning zeroing under “ADA Article 2.4” and “Article 2.4.2”, and culminates in a 2012 policy shift by Commerce to cease zeroing in most administrative reviews. The jurisprudence shows how trade remedies law mediates between domestic deference and multilateral constraint, where agency

²⁵ *Supra* note 21.

²⁶ Sucheta, “Law Relating to ‘Anti-Dumping Duty’ Interpreted Keeping in Mind the International Laws and Treaties”, available at: <https://www.sconline.com/blog/post/2015/10/06/law-relating-to-anti-dumping-duty-interpreted-keeping-in-mind-the-international-laws-and-treaties/> (last visited on October 27, 2025).

²⁷ *Supra* note 2.

²⁸ Supreme Court of India: Order Dated 9 June 2017, available at: https://api.sci.gov.in/supremecourt/2014/32132/32132_2014_Order_09-Jun-2017.pdf (last visited on October 26, 2025).

²⁹ Biranchi N. P. Panda, “Is Dispute Settlement System of the World Trade Organization an Adjudicative or Adjustive System?”, 4 *NALSAR Law Review* 90 (2008).

practice that once survived review in the U.S. Court of International Trade and the Federal Circuit later faced adverse WTO rulings and the prospect of retaliation that prompted regulatory change. The shift did not erase all controversies, especially in targeted dumping and particular comparison methodologies, but it reoriented U.S. calculations and forced re-assessment of margins, cash deposits, and assessment rates across numerous orders.³⁰

WTO: DS322 U.S. - Measures Relating to Zeroing and Sunset Reviews

The zeroing debate acquired a decisive multilateral dimension when Japan challenged U.S. methodologies in a dispute that spanned investigations, assessments, and sunset reviews. The controversy centered on whether zeroing, by discarding negative dumping comparisons, violated the fair-comparison requirement in “ADA Article 2.4” and the specific comparison rules in “Article 2.4.2”, and whether recurring use of the methodology could be treated as a norm capable of challenge. The litigation also became a test of compliance, as subsequent proceedings examined adjustments to calculations and the persistence of inconsistencies in reviews and sunset determinations notwithstanding adverse findings. The procedural history, which included original reports and compliance evaluations, underscored the systemic tension between domestic methodological preferences and the disciplines embedded in the Anti-Dumping Agreement as interpreted by the Appellate Body.³¹

In the case of *United States — Measures Relating to Zeroing and Sunset Reviews*³², the facts concerned a multi-pronged Japanese complaint against a series of U.S. anti-dumping proceedings where Commerce applied zeroing in weighted-average-to-weighted-average comparisons in original investigations and in transaction-specific calculations during administrative reviews, and where zeroing also influenced importer-specific assessment rates and outcomes in sunset reviews. Japan alleged that zeroing inflated dumping margins and distorted the fair comparison required by the Anti-Dumping Agreement. The Appellate Body agreed in substantial part, upholding conclusions that zeroing in original investigations was inconsistent with “Article 2.4.2”, and finding that zeroing in reviews and in importer-specific assessments contravened “Article 2.4” and undermined the agreement’s structure. On sunset reviews, the Appellate Body confirmed that reliance on margins tainted by zeroing defeated the discipline in the Agreement because it perpetuated an artificial view of dumping as a continuous phenomenon. The dispute moved into compliance, where the panel and Appellate Body considered whether U.S. adjustments sufficed. The compliance proceedings found continued violations in specific aspects, including the failure to expunge the effects of zeroing from assessment rates and sunset determinations in a manner consistent with the recommendations and rulings adopted by the Dispute Settlement Body. The trajectory of WT/DS322 therefore cemented a categorical stance against zeroing across the principal comparison contexts and signaled that remedial conformity required more than incremental tinkering with formulas. It foreshadowed the broader policy pivot a few years later, when Commerce reworked review methodologies and assessment calculations to align with WTO findings. The legal significance lies in the unambiguous reading of “Article 2.4” and “Article 2.4.2”, the recognition that zeroing is not a benign arithmetic choice but a structural distortion, and the confirmation that persistent reliance on such margins compromises both the accuracy of dumping measurements and the integrity of associated determinations that depend on those measurements.

WTO: DS294 U.S. - Laws, Regulations and Methodology for Calculating Dumping Margins

The European Communities initiated a foundational challenge that targeted not only individual determinations but also the laws, regulations, and administrative methodologies that sustained zeroing in investigations and periodic reviews. That challenge framed zeroing as an entrenched practice capable of being litigated as a norm, thereby widening the scope beyond case-by-case appeals. The Appellate Body’s report clarified that the textual discipline of “Article 2.4.2” prohibited model zeroing in investigations and that the fair-comparison discipline in “Article 2.4” similarly constrained derivative techniques in reviews. The dispute became a jurisprudential anchor for later cases because it supplied a template for assessing systemic breaches and for pressing comprehensive compliance rather than piecemeal fixes. The case also set the stage for subsequent European complaints addressing continued application of zeroing in reviews after initial WTO defeats.³³

In the case of *United States — Zeroing (EC)*³⁴, the report addressed challenges to zeroing across multiple investigations and reviews initiated by the European Communities, with the record demonstrating a pattern of excluding negative comparison results from margins, which created an upward bias. The Appellate Body affirmed that model zeroing in investigations breached “Article 2.4.2”, which requires that when using the weighted-average-to-weighted-average comparison, authorities must consider all comparable export transactions and cannot discard non-dumped comparisons. It also found that simple zeroing used in administrative reviews violated “Article 2.4” because it defeated a fair comparison between export price and normal value. The case’s significance extended into compliance, where the dispute scrutinized whether the United States had adequately remedied the methodological flaws. That dynamic, in turn, influenced the European Communities to bring DS350 to challenge continued use, confirming DS294 not as an isolated censure but as the first major stone in a line of jurisprudence that reshaped the United States’ approach to calculations and spurred the 2012 policy change to end zeroing in most reviews. The legal memory of DS294 endures in domestic practice where the absence of zeroing in most contexts is now a baseline expectation rather than an open question.

WTO: DS350 U.S. - Continued Existence and Application of Zeroing Methodology

³⁰ 19 CFR Part 351: Antidumping and Countervailing Duties, available at: <https://www.ecfr.gov/current/title-19/chapter-III/part-351> (last visited on October 25, 2025).

³¹ *United States - Measures Relating to Zeroing and Sunset Reviews*, available at: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds322_e.htm (last visited on October 24, 2025).

³² WT/DS322/AB/R.

³³ *United States - Laws, Regulations and Methodology for Calculating Dumping Margins*, available at: https://www.wto.org/english/tratop_E/dispu_e/cases_e/ds294_e.htm (last visited on October 23, 2025).

³⁴ WT/DS294/AB/R.

The follow-on challenge by the European Communities pursued the continued application of zeroing notwithstanding earlier rulings, highlighting the difficulty of extracting a methodology from both legacy cases and entrenched administrative routines. The panel and Appellate Body considered whether a persistent formula could be litigated as a continuing measure and whether particular subsequent reviews remained infected by zeroing. The reports reinforced that zeroing's legal infirmity was not contingent on the procedural posture of a case but inherent in the method's selective treatment of negative comparisons. The dispute also increased pressure on the United States to adopt a forward-looking solution that would address pending and future reviews, a pressure that contributed to the widely-noted policy announcement of February 2012 to cease zeroing in most review contexts and to recalibrate assessment mechanics. The European Commission's reportage and the public U.S. materials document this practical compliance path.³⁵

In the case of *United States — Continued Existence and Application of Zeroing Methodology*³⁶, the European Communities documented a broad set of reviews where Commerce used zeroing to calculate margins and assessment rates, thereby maintaining higher duty liabilities than would arise under offset-inclusive comparisons. The Appellate Body confirmed that zeroing's vice attached across review types, rejecting attempts to cabin earlier rulings to investigations alone. The legal outcome reinforced that the Anti-Dumping Agreement's fair-comparison norm cannot be evaded by recharacterizing the stage of proceedings or by infusing the assessment phase with transaction-specific zeroing. The dispute's compliance context ushered in a more definitive solution, with the United States mapping a "Roadmap" and announcing a Final Modification for Reviews that abandoned zeroing in most reviews, ending importer-specific assessment practices that excluded negative comparisons and revising calculation instructions that Commerce issues to Customs and Border Protection. As a practical matter, DS350 validated that structural fixes were necessary to meet WTO obligations and to forestall authorized retaliation by major partners. The decision thereby marks the hinge between a contentious methodological era and a recalibrated regime that accepts offsets and produces lower margins in many cases, though discrete issues persist in targeted dumping and exceptional methodologies.

WTO: DS471 U.S. - Certain Methodologies and their Application to Ad Proceedings Involving China

The China-focused dispute engaged several distinct strands of anti-dumping practice. One concerned the "weighted-average-to-transaction" or WA-T comparison method and how it was deployed in conjunction with differential pricing analysis. Another addressed non-market economy wide-rates and the circumstances under which Commerce assigned an NME-wide rate based on adverse facts available, raising questions about due process and evidentiary support. China also contested various surrogate value and facts-available practices as inconsistent with the Anti-Dumping Agreement's requirements for fairness and transparency. The panel and Appellate Body found multiple violations, and later proceedings fixed the reasonable period for implementation. In 2019, arbitration determined the level of countermeasures China could take, emphasizing the practical stakes of compliance. The case refined the limits of methodology beyond zeroing, spotlighting how comparison choices, adverse inferences, and NME frameworks interact with fairness and evidentiary standards.³⁷

In the case of *United States — Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China*³⁸, the facts involved a series of U.S. investigations and reviews of Chinese products where Commerce used WA-T to accommodate alleged patterns of price differences, applied NME-wide rates when certain firms did not secure separate-rate status, and relied on adverse facts available for selected determinations. The Appellate Body found that the U.S. practices, as applied, failed to meet the Anti-Dumping Agreement's disciplines, including concerns that the WA-T method was used in a manner not confined to the exceptional circumstances contemplated by "Article 2.4.2", and that recourse to adverse facts lacked adequate justification in several instances. The report also criticized aspects of the NME-wide rate paradigm when it operated as a blunt assignment tool without sufficient individual analysis or opportunity to rebut adverse inferences. An arbitrator later set the level of authorized retaliation after the reasonable period expired, confirming the seriousness of non-compliance exposure. The legal significance of DS471 extends beyond zeroing by clarifying that creative methodological pivots, whether via differential pricing frameworks or NME constructs, must still satisfy the Agreement's fairness, transparency, and evidentiary demands. The case drove further internal refinement of comparison choices and facts-available practices within Commerce's evolving regulatory texts and administrative guidance.³⁹

U.S. Supreme Court: *United States v. Eurodif S.A.*

The intersection between statutory text and complex industry contracts surfaced in a dispute over whether separative work unit transactions for uranium enrichment constituted sales of services or sales of goods for purposes of U.S. anti-dumping duties. The case implicated "19 U.S.C. § 1673" and Commerce's interpretive authority under *Chevron*. Treating the transactions as sales of services would have removed them from the Tariff Act's anti-dumping regime; treating them as sales of goods placed them squarely within scope. The litigation therefore became a referendum on how agencies apply anti-dumping law to hybrid arrangements and on the latitude, courts afford to Commerce when supply-chain structures challenge conventional goods-versus-services classifications. The Supreme Court's holding confirmed the breadth of Commerce's interpretive room where statutory terms encounter atypical contracting.⁴⁰

³⁵ WT/DS350 - United States - Continued Existence and Application of Zeroing Methodology, available at: https://policy.trade.ec.europa.eu/enforcement-and-protection/dispute-settlement/wto-dispute-settlement/wto-disputes-cases-involving-eu/wtds350-united-states-continued-existence-and-application-zeroing-methodology_en (last visited on October 22, 2025).

³⁶ WT/DS350/AB/R.

³⁷ United States - Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China, available at: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds471_e.htm (last visited on October 21, 2025).

³⁸ WT/DS471/AB/R.

³⁹ US - Anti-Dumping Methodologies (China) - Appellate Body Report, available at: <https://www.worldtradelaw.net/document.php?id=reports%2Fwtoab%2Fus-antidumpingmethodologieschina%28ab%29.pdf> (last visited on October 20, 2025).

⁴⁰ *Nken v. Holder*, available at: <https://caselaw.findlaw.com/us-supreme-court/555/305.html> (last visited on October 29, 2025).

In the case of *United States v. Eurodif S.A.*⁴¹, the facts involved contracts under which utilities supplied unenriched uranium and paid enrichers based on separate work units to obtain low enriched uranium, with the contracting parties characterizing the arrangement as a services transaction. Commerce regarded the transactions as resulting in the sale of a good because the enrichment process transformed the input into a commercially distinct product delivered to the buyers, and because the structure functioned economically as a purchase of low enriched uranium notwithstanding the legal form. The Supreme Court upheld Commerce's interpretation, holding that the Tariff Act does not compel a services characterization and that Commerce's view was reasonable in light of the statute's aim to address unfairly traded goods. The judgment emphasized that anti-dumping coverage cannot be avoided through formalistic drafting where the economic substance is the acquisition of a transformed product, and it endorsed deference to Commerce given the technical nature of anti-dumping administration. The decision's practical consequence was to preserve the application of anti-dumping duties to enrichment transactions, reinforcing the principle that trade remedy statutes reach arrangements whose commercial reality is a sale of goods even when contractual labels suggest otherwise, and it strengthened agency discretion to classify borderline transactions in a manner consistent with the remedial purposes of Title VII.

Federal Circuit: *Timken Co v. United States*,

Before the WTO-driven pivot, the Federal Circuit evaluated zeroing within the architecture of U.S. law and sustained Commerce's approach in administrative reviews when framed as a reasonable interpretation of statutory silence. The case addressed how Commerce defined and aggregated dumping margins when negative comparisons occurred and whether excluding such comparisons from offsets comported with the statute. The court's reasoning reflected the longstanding deference to Commerce in methodological matters, especially where the statute did not prescribe a single formula. That result stood in tension with the later series of Appellate Body rulings and illustrates how domestically reasonable interpretations can become internationally untenable when treaty obligations, as authoritatively interpreted, cut in a different direction.⁴²

In the case of *Timken Co v United States*⁴³, the facts involved reviews concerning bearings where Commerce calculated margins by aggregating only positive dumping differences and disregarding negative comparisons, a technique that raised overall margins and sustained orders at higher levels. Petitioners favored the approach as consistent with the definition of "dumping margin" in "19 U.S.C. § 1677(35)", while respondents argued that fairness and symmetry required accounting for both positive and negative results. The Federal Circuit upheld Commerce's method in the administrative review context, stressing that the statute's text did not forbid the exclusion of negative comparisons and that methodological choices of this type fell within Commerce's expertise. The judgment captured the pre-2012 domestic equilibrium, where agency latitude to define comparison mechanics was substantial, pending any explicit statutory amendment or multilateral constraint. After adverse WTO cases, the domestic picture changed as Commerce altered its regulations and practice to avoid zeroing in most reviews, thereby reducing the legal salience of *Timken* in current methodology while preserving its demonstration of Chevron-style deference in trade calculations when the statute is silent or ambiguous.

Compliance Pivot

The decisive change came with Commerce's February 14, 2012 Final Modification for Reviews, which eliminated zeroing in most administrative reviews, new shipper reviews, and expedited reviews and revised assessment instructions to provide offsets for non-dumped comparisons. The agency acted under "section 123(g) of the URAA", citing repeated WTO rulings and the prospect of retaliation by major partners. Subsequent Federal Register notices and agency statements implemented the new method, and later determinations referenced the offset-inclusive approach in importer-specific assessments. While targeted dumping and exceptional situations preserved some discretion, the baseline practice aligned with Appellate Body jurisprudence and defused otherwise escalating compliance frictions with the European Union and Japan. This pivot reshaped cash deposits, final margins, and litigation strategies in active reviews, marking one of the most consequential methodological reforms in U.S. anti-dumping administration in the last two decades.⁴⁴

Year ⁴⁵	Measure or case	Outcome snapshot
2024-2025	Certain excavators from China	Provisional AD duties applied in December 2024, updated May 2025, with duty bands up to 64.17 percent; case AD0047 maintained on TRA portal with subsequent final steps recorded. ⁴⁶
2024-2025	Steel safeguard	TRA recommended extension to June 2026; UK issued safeguard notices and later ministerial decisions addressing public interest and scope. ⁴⁷

⁴¹ 555 U.S. 305 (2009).

⁴² *Timken Co. v. United States*, available at: <https://law.resource.org/pub/us/case/reporter/F3/354/354.F3d.1334.03-1238.03-1098.html> (last visited on October 28, 2025).

⁴³ 354 F.3d 1334 (Fed. Cir. 2004).

⁴⁴ Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, available at: <https://www.govinfo.gov/content/pkg/FR-2012-02-14/pdf/2012-3290.pdf> (last visited on October 27, 2025).

⁴⁵ Upendra Baxi, "Towards Socially Sustainable Globalization: Reflections on Responsible Contracting and the UN Guiding Principles on Business and Human Rights", 57 *Indian Journal of International Law* 170 (2017).

⁴⁶ Trade Remedies Notice: Provisional Anti-Dumping Duty on Certain Excavators From China, available at: <https://www.gov.uk/government/publications/trade-remedies-notice-provisional-anti-dumping-duty-on-certain-excavators-from-china> (last visited on October 26, 2025).

⁴⁷ TRA Recommends Steel Safeguard Measure Be Extended to 2026, available at: <https://www.gov.uk/government/news/tra-recommends-steel-safeguard-measure-be-extended-to-2026> (last visited on October 25, 2025).

2025	Aluminium foil	TRA proposed keeping anti-dumping measure in place for five years from June 2024, with ad valorem rates between 14.2 and 35.6 percent. ⁴⁸
2025	Biodiesel from China	TRA proposed new anti-dumping measure, emphasizing the Economic Interest Test in communications. ⁴⁹

Table 2: Selected TRA actions and outcomes relevant to dumping or safeguards

United Kingdom: Regime and Emerging Case Law

Following EU exit, the United Kingdom established an autonomous trade remedies framework grounded in primary legislation in the “Taxation (Cross-border Trade) Act 2018” and secondary legislation in the “Trade Remedies (Dumping and Subsidization) (EU Exit) Regulations 2019.” The Trade Remedies Authority conducts investigations, applies an economic interest test, and makes recommendations, while the Secretary of State retains decision powers, including acceptance, variation, or rejection of recommendations, and may exercise call-in powers in transition review contexts. The TRA maintains a public investigations portal, keeps case files, and publishes Statements of Essential Facts and determinations. Judicial review in the Administrative Court has already tested the framework, confirming roles and standards of review, as well as the legal consequences of provisional measures and guarantee requirements. The overall system demonstrates early maturity, balancing investigatory independence and ministerial accountability.⁵⁰

Institutional Setup

The legal basis rests on Schedule 4 of the 2018 Act for dumping and subsidies and on the 2019 Regulations for procedural detail across initiation, sampling, non-cooperation, undertakings, and reviews. The investigative sequence includes application screening, initiation, data collection, sampling and verification where needed, injury and causation analysis, and the issuance of the Statement of Essential Facts. The “economic interest test” examines wider effects, including impacts on downstream users and consumers, the competitive process, and the significance of affected sectors. The Secretary of State issues Trade Remedies Notices to give effect to accepted recommendations. The TRA portal provides open access to public files and the status of active and completed cases, aiding transparency and allowing stakeholders to engage through registration. The framework has been adjusted since 2021 to clarify ministerial call-in and public interest override powers. These adjustments signal a responsive regime that still anchors determinations in the evidentiary record and the statutory tests in Schedule 4.⁵¹

High Court: *Caterpillar (Xuzhou) Ltd v. Secretary of State for Business and Trade and Tra*,

The High Court’s first major review of the UK’s autonomous framework arose from an ongoing investigation into alleged dumping of certain excavators from China following a complaint by a domestic producer. In the case of *Caterpillar (Xuzhou) Ltd v Secretary of State for Business and Trade and TRA*⁵², the facts involved a provisional affirmative determination by the TRA and a related ministerial decision to require a guarantee corresponding to provisional duties under paragraph 15 of Schedule 4. The claimant challenged procedural steps, the sufficiency of reasoning, aspects of injury assessment, and the lawfulness of the guarantee decision at a stage where the TRA had not yet issued its final determination. The Administrative Court, constituted by Saini J, reviewed the statutory scheme in detail, including the division of roles between the TRA as investigator and the Secretary of State as decision-maker, the purpose and structure of provisional measures, and the content of the record and public file. On judgment, the Court dismissed the claim, holding that the TRA had acted within its statutory functions under Schedule 4, that the analysis supporting provisional measures and guarantee arrangements was rational and sufficiently reasoned, and that the Secretary of State’s acceptance and guarantee decision fell within the range of lawful responses to the TRA’s recommendations at the provisional stage. The Court also addressed allegations of procedural unfairness and candour, rejecting them by reference to the materials disclosed and the opportunities given to interested parties to comment on the Statement of Essential Facts. The ruling clarified that while provisional decisions are interlocutory and subject to change at final determination, they remain amenable to judicial review only on established public law grounds and that courts will not substitute their own assessment of injury or causation for that of the specialist authority absent legal error. Subsequent public materials recorded that the TRA issued its final determination within days, with a differentiated duty rate for the claimant, and that the Secretary of State acted on that recommendation, underscoring the rapid evolution of facts that often accompanies interim relief in trade remedy proceedings. The case therefore serves as a foundational authority on the allocation of roles under UK trade remedies law and the standard of review applicable to provisional steps, guarantees, and ministerial acceptance, emphasizing record-based analysis and institutional competence.⁵³

UK in WTO Disputes

⁴⁸ TRA Recommends Keeping Anti-Dumping Measure on Aluminum Foil, available at: <https://www.gov.uk/government/news/tra-recommends-keeping-anti-dumping-measure-on-aluminium-foil> (last visited on October 24, 2025).

⁴⁹ TRA Proposes New Anti-Dumping Measure on Chinese Biodiesel, available at: <https://www.gov.uk/government/news/tra-proposes-new-anti-dumping-measure-on-chinese-biodiesel> (last visited on October 23, 2025).

⁵⁰ Taxation (Cross-Border Trade) Act 2018: Schedule 4, available at: <https://www.legislation.gov.uk/ukpga/2018/22/schedule/4> (last visited on October 22, 2025).

⁵¹ May van Schalkwyk, Pepita Barlow, et al., “Brexit and Trade Policy: An Analysis of the Governance of UK Trade Policy and What It Means for Health and Social Justice”, 17 *Globalization and Health* 61 (2021).

⁵² [2025] EWHC 1124 (Admin).

⁵³ *Caterpillar Xuzhou v. Secretary of State for Business and Trade* (2025), available at: <https://www.judiciary.uk/wp-content/uploads/2025/05/Caterpillar-Xuzhou-v-Secretary-of-State-for-Business-and-Trade.pdf> (last visited on October 21, 2025).

The United Kingdom participates actively as a third party in WTO disputes, including cases addressing anti-dumping methods and safeguards, which allows it to file submissions and present its views without being a complainant or respondent. In DS598 on Chinese barley duties, the UK reserved third-party rights in May 2021, exemplifying engagement with systemically significant issues of anti-dumping and countervailing duties in commodity markets. Public guidance explains the UK's policy on when third-party participation is warranted and the opportunities it creates for the UK to shape jurisprudence and support rules-based outcomes. Participation in such disputes complements domestic practice by providing exposure to evolving jurisprudence and informing UK positions on economic interest and injury analysis.⁵⁴

Safeguards and Ad Landscape

The early UK landscape shows a blend of transition reviews, new anti-dumping investigations, and safeguard work on steel, with decisions reflecting both injury evidence and public interest considerations. The TRA recommended extending the steel safeguard to June 2026, and ministerial decisions and notices refined scope, quotas, and public interest parameters. In parallel, the TRA opened and advanced new anti-dumping cases, such as certain excavators from China, and undertook reviews on products like aluminum foil and steel-relevant categories. Communications consistently reference the economic interest test, and public files facilitate scrutiny of injury, causation, and causality breaks. This portfolio illustrates a regime that is still consolidating doctrine while responding to market movements, supply-chain shocks, and domestic production changes.⁵⁵

Comparative Analysis

A comparative frame clarifies how institutional design, methodological choices, and compliance strategies shape outcomes across jurisdictions. The United States presents a two-agency model where Commerce calculates margins and the Commission assesses injury, and where courts historically deferred to Commerce's expertise until multilateral decisions forced methodological change. The United Kingdom pairs an investigative authority with ministerial decision powers and overlays an economic interest test that brings public interest considerations to the foreground. India's Directorate General of Trade Remedies conducts investigations under the "Customs Tariff Act, 1975" and the "1995 Anti-Dumping Rules", with the Central Government imposing duties through notification and appellate scrutiny available to the CESTAT under "Section 9C." Comparative assessment shows that methodologies and decision structures interact with review standards, and that multilateral jurisprudence can catalyze domestic reform even where statutes remain unchanged.⁵⁶

Procedure and Institutions

India's DGTR-centric model features initiation under "Section 9A" and the 1995 Rules, evidence gathering, and issuance of findings to support imposition by the Central Government, with appeals to CESTAT shaping doctrinal stability. The United States divides roles between Commerce and the ITC, a structure that separates dumping calculations from injury but requires coordination on timing and scope; judicial review in the CIT and the Federal Circuit emphasizes reasoned decision-making within statutory bounds. The United Kingdom assigns investigation to the TRA and final decision powers to the Secretary of State, using Trade Remedies Notices to implement outcomes, and subjects provisional and final steps to judicial review on public law grounds. Transparency practices, including public files and Statements of Essential Facts in the UK and extensive Federal Register notices in the U.S., create shared expectations of procedural openness even when substantive choices differ.⁵⁷

Methodology and Fair Comparison

The United States' zeroing controversy defined international doctrine on fair comparison, with Appellate Body reports in DS294, DS322, and DS350 condemning practices that excluded negative comparisons and with DS471 policing newer approaches to comparison and adverse facts in NME contexts. Post-2012, offset-inclusive methods became standard in most reviews, reducing margins in many cases. Indian practice, built on statutory and rule-based definitions of normal value and export price, has focused on timing, continuity, and the careful use of provisional duties under "Section 9A(2)" and "Rules 12 and 13", while managing downstream impacts through injury causation analysis. The UK's economic interest test situates methodological choices within a broader welfare assessment, ensuring that even where dumping and injury are found, measures must still make sense in terms of national economic interest, a safeguard against mechanical imposition.⁵⁸

WTO Compliance Pathways

The United States' pathway relied on a regulatory fix driven by "URAA § 123(g)" procedures and a Final Modification for Reviews, aligning review calculations with WTO expectations while leaving nuanced debates over targeted dumping and differential pricing for later rulemakings. India often uses sunset reviews and mutually agreed solutions to keep measures calibrated to current injury conditions, embedding compliance within the notification-and-review cycle administered by the DGTR and the Central Government. The United Kingdom joined the Multi-Party Interim Appeal Arbitration

⁵⁴ WTO Trade Disputes: UK Third Party Involvement, *available at*: <https://www.gov.uk/government/publications/trade-disputes-where-the-uk-is-a-third-party/wto-trade-disputes-uk-third-party-involvement> (last visited on October 20, 2025).

⁵⁵ Van Bael & Bellis, *EU Anti-Dumping and Other Trade Defense Instruments* 176 (Kluwer Law International, Alphen aan den Rijn, 1st edn., 2019).

⁵⁶ Bernard Hoekman, Jasper Wauters, "US Compliance with WTO Rulings on Zeroing in Anti-Dumping", 10 *World Trade Review* 5 (2011).

⁵⁷ Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, *available at*: https://upload.indiacode.nic.in/showfile?actid=AC_CEN_2_2_00042_196252_1534829466423&filename=Customs+Tariff+%28Identification%2C+Assessment+and+Collection+of+Anti-Dumping+Duty+on+Dumped+Articles+and+for+Determination+of+Injury%29+Rules%2C+1995+%281%29.pdf&type=rule (last visited on October 29, 2025).

⁵⁸ Thomas J. Prusa, Luca Rubini, "United States – Use of Zeroing in Anti-Dumping Measures Involving Products from Korea: It's Déjà Vu All Over Again", 12 *World Trade Review* 101 (2013).

Arrangement in June 2025, providing an appeal backstop in the absence of an operational Appellate Body and signaling a commitment to enforceable multilateral remedies while domestic judicial review refines the contours of TRA and ministerial authority. These routes show varied institutional logics, but each accepts that credible compliance reduces litigation risk, lowers retaliation exposure, and stabilizes trade remedy ecosystems.⁵⁹

Forum	Representative cases	Core legal issue	Finding	Compliance or follow-up	Practical takeaway
WTO AB and Panels	<i>United States — Zeroing (EC)</i> ⁶⁰ ; <i>United States — Measures Relating to Zeroing and Sunset Reviews</i> ⁶¹ ; <i>“United States — Continued Existence and Application of Zeroing Methodology</i> ⁶² ; <i>“United States — Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China</i> ⁶³ ,	Legality of zeroing and limits on methodologies including WA-T and adverse facts	Zeroing condemned in investigations and reviews; constraints on WA-T and NME-wide practices	U.S. Final Modification for Reviews and subsequent administrative adjustments; retaliation authorized in DS471 after non-compliance period	Multilateral jurisprudence can force methodological reform with material effects on margins and assessments.
U.S. Courts	<i>Timken Co v United States</i> ⁶⁴ ; <i>United States v. Eurodif S.A.</i> ⁶⁵ ,	Deference to Commerce on margin construction; classification of complex transactions	Deference sustained for zeroing pre-2012; enrichment contracts treated as goods sales	Domestic acceptance later tempered by WTO-driven policy change; Chevron deference remains influential	Domestic deference yields to policy adjustments when multilateral exposure becomes costly.
UK Courts	<i>Caterpillar (Xuzhou) Ltd v Secretary of State for Business and Trade and TRA</i> ⁶⁶ ,	Scope of TRA and ministerial powers; legality of provisional measures and guarantees	Claim dismissed; roles and standards of review clarified	Final determinations and ministerial notices followed swiftly, confirming institutional responsiveness	Judicial review polices legality while preserving the TRA’s technical space and ministerial discretion.
India - DGTR and Government	Statutory scheme under “Section 9A” and the “1995 Rules” with appeals under “Section 9C”	Initiation, injury, causation, provisional and final duty imposition	Routine notifications and reviews keep measures current	Sunset reviews and injury re-evaluation maintain compliance and proportionality	Statutory clarity and regular reviews support defensible measures.

Compliance and Implementation

WTO rulings translated into concrete shifts in all three jurisdictions but along different vectors. In the United States, the 2012 rollback of zeroing in reviews reengineered assessment rates and cash deposit calculations to include offsets for non-dumped comparisons, with Federal Register rulemaking underlining the connection to WTO findings under the URAA’s implementation rubric. Residual issues lingered around targeted dumping and particular comparison methodologies, addressed in subsequent regulatory texts and practice, but the general prohibition on zeroing in reviews is an embedded feature. India’s system reflects systematic notifications under the Customs Tariff Act and the 1995 Rules, where provisional duties, final findings, and sunset reviews keep measures aligned with current injury, allowing continuous recalibration that lowers the odds of sustained inconsistency. The United Kingdom’s autonomous regime evolved rapidly through TRA guidance, ministerial notices, and Administrative Court scrutiny, while accession to the MPIA in June 2025 provided an appeal pathway in WTO disputes during Appellate Body paralysis. The cumulative effect is a shared recognition that

⁵⁹ Chad P. Bown, Joost Pauwelyn, et al., *The Law, Economics and Politics of Retaliation in WTO Dispute Settlement* 199 (Cambridge University Press, Cambridge, 1st edn., 2010).

⁶⁰ *Supra* note 34.

⁶¹ *Supra* note 32.

⁶² *Supra* note 36.

⁶³ *Supra* note 38.

⁶⁴ *Supra* note 43.

⁶⁵ *Supra* note 41.

⁶⁶ *Supra* note 52.

durable compliance is not episodic but proceduralized through domestic rulemaking, review cycles, and transparent file management that together make abrupt methodological reversals less likely and litigation risks more manageable across the trade remedies portfolio.⁶⁷

Conclusion

A comparative reading of anti-dumping disciplines across India, the United States, and the United Kingdom shows a converging emphasis on transparent reasoning, disciplined calculation, and defensible review timelines anchored in treaty text and domestic statute. In India, the combined effect of consultation outcomes in and the Supreme Court's statutory fidelity in "*Commissioner of Customs, Bangalore v. G.M. Exports*"⁶⁸, and "*Union of India v. Kumho Petrochemicals Co Ltd*"⁶⁹, pushed practice toward tighter sequencing and away from gap-period levies or revival manoeuvres not grounded in "Section 9A of the Customs Tariff Act, 1975" and the 1995 Rules. These developments align domestic law with the WTO's fair-comparison and due-process disciplines, even as the paralysis of the Appellate Body altered appeal incentives and increased the salience of consultations, compliance dialogues, and carefully documented essential facts. The United States offers the clearest demonstration of multilateral jurisprudence catalysing domestic methodological reform: successive Appellate Body reports condemned zeroing in investigations and reviews, and persistent compliance pressure culminated in the Department of Commerce's 2012 Final Modification for Reviews that generally ended zeroing in reviews and revised assessment mechanics. The case law arc from WT/DS294 through WT/DS322 and WT/DS350, complemented by WT/DS471 on differential pricing and adverse facts, re-centered "Article 2.4" and "Article 2.4.2" as accuracy-promoting rules rather than mere arithmetic preferences, and its re-balanced Chevron-style deference to agencies with the obligation to ensure a fair comparison and transparent evidentiary foundations. The United Kingdom's trajectory, by contrast, illustrates how a newly autonomous regime can embed transparency and public interest through the Trade Remedies Authority's open files and the economic interest test, while judicial review in cases such as "*Caterpillar (Xuzhou) Ltd v Secretary of State for Business and Trade and TRA*"⁷⁰, confirms the allocation of roles between investigator and minister and the limited, legality-focused nature of court supervision at the provisional stage. The UK's June 2025 accession to the MPIA restores an appellate backstop for disputes with consenting parties, adding certainty to Geneva-linked litigation strategies that involve UK measures or exporters. Together these threads show that durable compliance is less a one-off event than a procedural habit built from rigorous essential-facts disclosure, reasoned causation narratives that isolate other factors, and time-bounded review cycles that match the statute's design and the WTO's expectation of objective assessment.

For Indian administrators and advocates, several implications emerge. First, Geneva risk now concentrates around the quality of reasons and the discipline of comparison methods rather than only around headline outcomes; notices must reveal how the authority evaluated facts in an unbiased and objective manner within the composite standard of "DSU Article 11" and "ADA Article 17.6". Second, the United States' compliance pivot shows that when a methodology is repeatedly condemned, incremental tinkering will not suffice; structural fixes to formulas and assessment practices are often necessary, as evidenced by the cessation of zeroing in reviews and the revised importer-specific assessment instructions. Third, the UK's practice suggests that an open public file, well-timed Statements of Essential Facts, and a published portal of procedural steps generate predictability, reduce litigation surprises, and enhance stakeholder engagement, even when ministerial decision-making introduces a policy overlay via the economic interest test. Finally, the Appellate Body impasse and the spread of MPIA-style arbitration increase the value of calibrated forum choices and of settlement-oriented consultations, particularly for LDC-linked disputes like where mutually agreed solutions and domestic reconsiderations can deliver outcomes without prolonged adjudication. For India's DGTR and counsel, the path forward is to entrench process discipline that withstands "Article 17.6" scrutiny, refine fair-comparison practice consistent with "Article 2.4.2" and contemporary jurisprudence on differential pricing and adverse facts, and maintain review calendars that avoid interregna or lapses proscribed by the Supreme Court's reading of "Section 9A". This synthesis supports a trade-remedy ecosystem that is both more predictable for businesses and more resilient in Geneva.⁷¹

Suggestions

Framed against the doctrinal and institutional patterns traced in this comparative analysis, the following practice-level proposals aim to make Indian investigations and litigation more predictable and WTO-consistent without diluting statutory objectives.⁷²

- Within "Section 9A of the Customs Tariff Act, 1975" and the 1995 Rules, institutionalize an essential-facts template that pairs each injury indicator with the specific evidentiary exhibit and the authority's inference path. The template should explicitly record volume, price effects, and profit metrics while explaining how non-dumping factors were isolated in the "Article 3" analysis. Each adjustment to normal value or export price should be footnoted to the party's submission or verification memo, with an explanation of how "Article 2.4" fair comparison was preserved. This record architecture anticipates "DSU Article 11" review and reduces reversal risk by making the authority's objectivity visible.⁷³

⁶⁷ Bruce Wilson, "Compliance by WTO Members with Adverse WTO Dispute Settlement Rulings: The Record to Date", 10 *Journal of International Economic Law* 397 (2007).

⁶⁸ *Supra* note 21.

⁶⁹ *Supra* note 2.

⁷⁰ *Supra* note 52.

⁷¹ United States - Measures Relating to Zeroing and Sunset Reviews: Article 21.5 Appellate Body Report, available at: https://www.wto.org/english/tratop_e/dispu_e/322abrw_e.pdf (last visited on October 28, 2025).

⁷² Aradhna Aggarwal, "Macroeconomic Determinants of Antidumping", 32 *World Development* 123 (2004).

⁷³ *Supra* note 3.

- Adopt a published comparison-method protocol that defaults to weighted-average-to-weighted-average for investigations and offset-inclusive review calculations, with clear gates for any departure. The protocol should state that negative comparison results are retained in the margin calculation, reflecting the jurisprudence against zeroing and the logic of “Article 2.4.2”. Where a differential pricing or WA-T rationale is considered, require a contemporaneous memorandum demonstrating why the facts justify an exception and how the use remains circumscribed. This codified discipline limits ad hoc shifts and aligns practice with the post-2012 compliance landscape observed in the United States.⁷⁴
- Build a statutory-calendar dashboard that counts backward from the five-year expiry date in “Section 9A (5)” to enforce initiation and completion milestones for sunset reviews. The dashboard should flag the last safe dates for essential-facts disclosure and final findings to avoid interregna that invite legal challenge. Where delays risk a lapse, require a senior-level variance memo explaining mitigation steps consistent with the Supreme Court’s holdings in “*Commissioner of Customs, Bangalore v. G.M. Exports*”⁷⁵, and “*Union of India v. Kumho Petrochemicals Co Ltd*”⁷⁶. This managerial tooling transforms timekeeping from an informal practice into a compliance-critical control.⁷⁷
- Standardize non-confidential summaries with meaningful ranges and narrative coherence so that cooperating and opposing parties can test the authority’s reasoning in real time. Require that every figure withheld under confidentiality be paired with a range and that each assertion of injury be supported by a narrative that a non-insider can follow to the conclusion. Publish a checklist that the case team must complete before issuing the Statement of Essential Facts. This transparency mimics the TRA’s public-file approach and mitigates due-process critiques at the WTO.⁷⁸
- Establish a Geneva-readiness review for measures likely to trigger consultations, with cross-functional participation from DGTR, the line ministry, and India’s WTO legal team. The review should pre-screen comparison methods, sampling decisions, and causation narratives against the current jurisprudence under “Article 2.4”, “Article 2.4.2”, and “Article 3”. Where weaknesses are found, adjust the impending final findings or undertake a reconsideration consistent with the 1995 Rules to avoid escalation. This early warning discipline treats consultations as an opportunity to resolve, not merely to defend.⁷⁹
- For investigations affecting LDC exporters or highly concentrated supplier bases, include a dedicated section on market share, substitutability, and downstream sensitivity to ensure proportionate remedies. This section should assess whether de minimis margins or negligible import thresholds apply and whether undertakings could address injury with less trade restrictiveness. Where evidence supports termination or a lighter remedy, make the reasoning explicit to reduce Geneva exposure and signal good-faith application of the Agreement. The experience of shows how calibrated transparency can defuse disputes.⁸⁰
- Publish a DGTR methodological compendium that consolidates accepted practices on constructed value, level-of-trade adjustments, currency conversion, and facts available. Each entry should cite the rule, describe the default approach, and flag the narrow circumstances that justify deviation, with illustrative, anonymized examples. Update the compendium annually to reflect developments in WTO case law and domestic judgments. This living guidance mirrors the UK TRA’s culture of open guidance and improves predictability for parties.⁸¹
- Create an appellate-record discipline that anticipates “Article 17.6” fact-law separation by clearly demarcating factual findings, legal interpretations, and discretionary judgments. Train case teams to articulate why an interpretation is one of several permissible readings where ambiguity exists, and to show that facts were evaluated in an unbiased manner. This structuring helps panels see the authority’s objectivity and reduces the risk of a “de novo” perception. It also equips counsel to defend measures under the composite standard applied in recent WTO reports.⁸²
- Build an internal compliance memory by cataloguing all mutually agreed solutions and post-consultation modifications, with a short note on what practice change each episode implied. Circulate this digest across case teams so that lessons migrate from one product to the next. Where the change pertains to methodology, ensure the compendium and training materials are updated in the same quarter. Institutionalizing learning avoids repeated exposure on the same fault lines.⁸³
- For disputes involving UK measures or exporters, prepare for MPIA-routed appeals by aligning submissions to the MPIA’s procedural expectations and timelines. Track TRA and ministerial decision-making patterns, including the economic interest test, to anticipate litigation points and settlement windows. Consider the optics and substance of third-party interventions by the UK in other disputes when framing

⁷⁴ *Supra* note 7.

⁷⁵ *Supra* note 21.

⁷⁶ *Supra* note 2.

⁷⁷ *Commissioner of Customs, Bangalore v. G.M. Exports and Others*, available at: <https://www.casemine.com/judgement/in/5790b393e561097e45a4e414> (last visited on October 27, 2025).

⁷⁸ *Certain Excavators From China - Trade Remedies Service*, available at: <https://www.trade-remedies.service.gov.uk/public/case/AD0047/> (last visited on October 26, 2025).

⁷⁹ *Supra* note 8.

⁸⁰ *Supra* note 9.

⁸¹ *Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)*, available at: https://wto.org/english/tratop_e/dispu_e/dsu_e.htm (last visited on October 25, 2025).

⁸² *Supra* note 12.

⁸³ *Supra* note 13.

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