

THE INTERPRETATION AND APPLICATION OF GATT'S ARTICLE XXIII TO ANTI-DUMPING LAW AND PRACTICE.

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Abstract

The research is divided in seven sections where the problem of the interpretation and applicability of Art XXIII GATT to the Laws and Practices under the Anti-Dumping Agreement is examined. Chapter I identifies the problems, raises the research question and gives an overview of the current state of the matters under observation.

In Chapter II the general theory of interpretation is studied and subsequently applied to Art XXIII specifically, taking into account the meaning, scope, historical evolution and current interpretations of Art XXIII. Chapter III revises the theory of coherent interpretation of Art XXIII in connection with the Anti-Dumping Agreement specifically. The constitutional structure and principles of the WTO are questioned, dissected and supported to decant a handful of fundamental principles which shall inform the rest of the interpretation applied in the research. This chapter takes the interpretation from an abstract perspective to a material view of a coherent interpretation of both Art. XXIII and the Anti-Dumping Agreement.

Chapter IV revises the facts, laws and practices of Anti-Dumping being used as a protectionist measure in disguise both using procedural and substantial arguments which are illustrated in the laws and practices of seven countries. The findings in Chapter IV lead to Chapter V which questions the legitimacy and validity of considering the possible applicability of Art XXIII to the anti-Dumping Agreement as it is currently implemented by the WTO membership. Those reflections lead to the

consideration and mention of Competition as a public good in international trade in Chapter VI, which is a key element for the final findings of this research.

The conclusion of this research is inclined to suggest that in order to keep the legal system of the WTO functional, a stronger economic constitutional approach that allows for the application of art XXIII in situations subversive to the principles of free trade is necessary. The adaptation of a theory of an economic constitution is proposed.