

CLIENT ALERT

Landmark EU Court Ruling Annuls Anti-Dumping Measures For Lack of Injury Causation

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In a landmark decision concerning the methodology used to establish injury causation in EU trade remedy investigations, the EU's General Court yesterday annulled anti-dumping measures that had been imposed on EU imports of bed linen from Pakistan since 2003. In Case T-199/04, the Court accepted the arguments brought on behalf of the largest Pakistani exporting producer of cotton-type bed linen, Gul Ahmed Textile Mills Ltd., by the head of Crowell & Moring's EU international trade practice, Laurent Ruessmann.

The General Court annulled Regulation (EC) No 397/2004 as far as Gul Ahmed is concerned on the grounds of a failure to establish properly a causal link between the imports subject to the investigation and injury suffered by the EU industry. More specifically, the General Court agreed with Gul Ahmed that the Council made an error of law by failing to examine whether the abolition of previous anti-dumping duties on bed linen imports from Pakistan, and the implementation of tariff preferences in favour of Pakistan at the start of 2002, had the effect of breaking any causal link between injury suffered by the EU industry and the imports from Pakistan.

The failure of the EU institutions to examine all 'known factors other than the dumped imports which at the same time are injuring the Community industry', in accordance with the Basic Anti-dumping Regulation, meant that the injurious effects of the targeted imports would not be correctly separated and distinguished from the injurious effects of those other known factors. As a result, the EU institutions could not conclude that the injury attributed to the targeted imports was actually caused by those imports, rather than by other factors, thus calling into question the basis for imposition of the anti-dumping measures.

Overall, the decision is remarkable as only the third time the EU courts have annulled trade remedy measures due to a failure to establish properly injury causation. In terms of substance, the ruling serves to highlight and clarify the obligations of the Community institutions to perform a concrete analysis of the nature and importance of factors known to be causing injury, and to separate the injurious effects of other known factors from the impact of the targeted imports.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Daniel Cannistra

Partner – Washington, D.C.

Phone: +1 202.624.2902

Email: dcannistra@crowell.com

Elena Klonitskaya

Counsel – Brussels

Phone: +32.2.214.2893

Email: eklonitskaya@crowell.com