

Trade Remedies

Laws of Dumping,
Subsidies and
Safeguards in China

By Thomas W. Huang

KLUWER LAW INTERNATIONAL

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PREFACE AND ACKNOWLEDGMENTS

This is a book written by a practitioner primarily for practitioners, trade officials, trade policymakers and academia in international trade law. Because of this purpose and also because of my own training and background, the book is inevitably analytical, and frequently critical, with largely positivist propensity. However, this should not be viewed as my endorsement for the desirability or sufficiency of such an approach. On the contrary, where it is possible, I try to go beyond legalistic exposition by synthesizing my observations. Obviously, it is for me to try and for readers to judge whether I have been successful in this endeavor.

The development of trade-related laws and practices in China is interesting for the reason that it is one of the most robust areas of legal development in China since it adopted the so-called 'open-door' policies in the beginning of the 80s. Particularly, after China's accession to the World Trade Organization in 2002, the areas of import relief as practiced in China have become important to legal practitioners, since the commercial interests of their clients, such as transnational corporations or governments, are profoundly at stake. Because of the highly specialized nature of the field and because of the lack of reliable materials to professionals outside of China, this book is an attempt to fill the void.

The development of trade-related practice in China is also interesting for another reason. The legal development for the last twenty years in China presents a fascinating phenomenon for the case study of legal development in general. The trade-related areas of laws present a fertile ground for observations on at least four levels. When the reform started approximately twenty years ago, legal reform was put in the agenda as one of the areas that China almost had to start from scratch. The status of the legal profession was barely rehabilitated from being previously treated as the 'target of a dictatorship' (*zhuanzheng duixiang*, in other words, the enemies of the people). Law schools, after being dormant for fifteen years or so, began to open their doors to train future practitioners by the few lawyers resurrected from oblivion. The entire legal education began more or less like a 'learning-by-doing' process. Some of the very basic laws and the court system were also hastily put in place. However, once the legal reform started, there is no turning back from the development – the internal logic of the legal system seems to acquire a life of its own, driving further development beyond the rudimentary infrastructure. The demand from other political and economic forces also compel the legal system to further differentiate and grow. In the areas of trade law, the impetus for development comes from added directions due to their transnational reach and international dimensions. Very much like trade itself, it is inherently impossible for trade practice to develop merely internally and autonomously. Throughout this book, readers will find ample examples of influence of the international regulatory regime on China's trade practice, despite views and efforts to put a wedge between them. The study of the development of trade-related legal

development therefore is an examination of the interplay among all these forces. Through these interacting, rapid and substantial developments in trade law, one sees the best hope for the future rule of law in China.

Although I have spent most of my professional career as a legal practitioner, in finishing this book, many academics who have shaped my interests in trade law and the study of legal development come immediately to my mind. A. A. Fatouros first introduced me to the fascinating field of international economic law before it became fashionable; Charles D. Kelso showed me what rigorous legal analysis requires; Jerry Cohen induced and supported me to engage in the study of Asian and comparative law in general; Henry Steiner and Arthur von Mehren illustrated what teachers' calling means. Of course, there are others who directly or indirectly helped shape my interests in other areas of intellectual pursuit and the study of law in general, and to mention all of them is obviously impossible. There is also constant goodwill and encouragement from friends like Bill Alford, Bill Jones and John Mo, just to name a few. As to the sometimes tedious work of editing and research, I would like to thank Weimin Lu of the Taipei Bar for his research and assistance when he worked as an assistant at one of my former firms. I would also like to mention Sheila Gravina and Meara Androphy, as well as the editorial team at the Kluwer for their hard work. Jacques Weiner and Petros Mavroidis of *Journal of World Trade* commented on my earlier draft for and permitted me to draw on an article which previously appeared in the *Journal* and forms the basis for Chapter 9. Last but not least, my gratitude goes to Vivian, Charlotte and Andrew, members of my household, for their tolerance and understanding for my becoming occasionally 'no fun' in the course of this writing. To whom this book is affectionately dedicated.

March 1, 2003
Boston, Mass.

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