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# ANTI-DUMPING LAWS IN INDIA UNDER THE CUSTOMS TARIFF ACT AND WTO AGREEMENT: A CRITICAL STUDY

**Dr. Irshad Khan**[1]

## I. ABSTRACT

*India's anti-dumping regime raises a question that statutory compliance alone cannot answer: whether legally available protection rests on reliable evidence and rational economic judgment. This paper undertakes a doctrinal and comparative study of Sections 9A to 9C of the Customs Tariff Act, 1975 and the Anti-Dumping Rules, 1995, measured against the WTO Anti-Dumping Agreement. It examines three Supreme Court decisions, namely Reliance Industries Ltd v Designated Authority, Commissioner of Customs, Bangalore v GM Exports and Union of India v Kumho Petrochemicals Co Ltd, which address calculation methodology, treaty-consistent interpretation and the temporal limits of duties respectively. It then tests these principles against the 2026 sunset review of anti-dumping duty on Arylides from China conducted by the Directorate General of Trade Remedies (DGTR). The paper finds that the Indian framework corresponds closely to the treaty structure, but that formal correspondence does not by itself validate individual determinations. In the Arylides review, the pre-tax return used to construct the non-injurious price was described as a statutory requirement although Annexure III to the Rules does not fix that figure. The finding of a negligible downstream impact also depended on the duty rate and cost shares assumed, and an illustrative calculation shows that the estimated impact exceeds one per cent under a higher duty and input share. The paper proposes two reforms. First, legal compliance, evidential reliability and economic justification should be assessed and reported as separate stages. Secondly, disclosure should be clearer and stakeholder participation, including that of downstream users, more structured, with published reasons for any decision to continue a duty. Neither reform requires courts to act as arbiters of trade policy, and neither treats industrial protection as inherently suspect.*

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## II. KEYWORDS

Anti-dumping; WTO law; material injury; sunset review; public interest.

## III. INTRODUCTION AND RESEARCH PROBLEM

Anti-dumping law does not condemn cheap imports as such, nor does it ordinarily penalise a foreign producer merely because domestic manufacturers cannot match its prices. Dumping exists only where the export price falls below normal value, and a remedy becomes available only where that dumping causes material injury to the domestic industry through a demonstrated causal link. Article VI of the GATT 1994, read with the WTO Anti-Dumping Agreement (ADA), therefore establishes a conditional remedy rather than a licence for unrestricted industrial protection.[2]

The difficult question is not whether India may protect domestic production against injurious dumping, but how an investigation justifies that protection in a given case. A dumping calculation, however reliable, is not evidence of injury. Equally, evidence of injury does not show that the chosen duty adequately accounts for manufacturers who purchase the affected input. On this public-interest dimension, Aggarwal cautions that the protection of a domestic industry is not the same as the protection of the wider community.[3]

The research problem may therefore be stated as follows. Indian anti-dumping law closely mirrors the structure of the ADA, yet that formal correspondence does not show whether particular calculations, disclosures, durations and exercises of discretion are independently defensible. This paper examines how far Indian substantive and procedural rules correspond with WTO obligations, and how far their administration reconciles industrial protection with evidentiary fairness and wider economic interests. Its central proposition is conditional: correspondence with the

[2] General Agreement on Tariffs and Trade 1994 (adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 187, art VI (GATT 1994); Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (adopted 15 April 1994, entered into force 1 January 1995) 1868 UNTS 201, arts 1–3 (ADA).

[3] Aradhna Aggarwal, 'Anti-Dumping Law and Practice: An Indian Perspective' (ICRIER Working Paper No 85, April 2002) 53–54.

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statutory text confers legitimacy only where the calculations, disclosure, duration and discretion behind a measure are each defensible on their own terms.

The analysis separates three related but distinct tests: legal compliance, evidential reliability and cost-effectiveness. A measure may satisfy treaty obligations without being the least restrictive option available; conversely, an expected economic benefit cannot cure a determination that is legally defective. This distinction provides the basis on which the paper examines the legislation, three Supreme Court decisions and a recent sunset review, without treating either liberalisation or protection as a self-evidently correct legal position.

### A. Research Objectives

The study pursues the following objectives:

1. To examine the correspondence between Sections 9A to 9C of the Customs Tariff Act, 1975, the Anti-Dumping Rules, 1995 and the corresponding obligations under the ADA;
2. To analyse how the Supreme Court has interpreted and controlled anti-dumping measures in *Reliance Industries*, *GM Exports* and *Kumho Petrochemicals*;
3. To evaluate, through the 2026 Arylides sunset review, whether a determination that is formally compliant is also evidentially reliable and economically justified; and
4. To propose legal and institutional reforms that strengthen reasoning, disclosure and participation without converting courts into decision-makers on trade policy.

### B. Research Questions

The study addresses the following questions, which correspond to the three tests identified in Part 1:

1. **Legal compliance:** To what extent do the Indian statutory and procedural rules on dumping, injury, causation and sunset review conform to the obligations of the ADA?

2. **Evidential reliability:** Do the methods used by the Designated Authority to construct the non-injurious price and to assess the likelihood of recurrence rest on disclosed and verifiable premises?
3. **Cost-effectiveness:** Does the economic-interest assessment adequately test the downstream cost of a duty against alternative assumptions?
4. **Reform:** What legal and institutional changes would allow these three tests to be applied separately and transparently?

### C. Research Methodology

The study is doctrinal and comparative. Its governing tests are drawn from the statutory provisions, the 1995 Rules and the treaty articles. It relies on primary materials publicly available as of 13 October 2026, supplemented by WTO Appellate Body reports and secondary literature. The judicial decisions were selected purposively, each for the distinct issue it addresses: *Reliance Industries* for calculation methodology and the non-injurious price, *GM Exports* for the treaty-consistent construction of the statute, and *Kumho Petrochemicals* for the temporal limits on continuing a duty. Together, they cover the three stages at which an anti-dumping measure is most often contested.

The Arylides sunset review was chosen because it is a recent determination with published non-confidential final findings that engages all three stages: the construction of the non-injurious price, the assessment of downstream economic interest and the decision to continue a duty beyond its original term.[4] It therefore allows the publicly disclosed reasoning to be tested against the governing standards. The study relies on the non-confidential record as published and does not construct a substitute dataset. Nor does it calculate national welfare effects or claim that a single investigation represents all Indian proceedings. Its contribution lies in offering an auditable framework for evaluating such decisions.

[4] Directorate General of Trade Remedies, *Sunset Review Anti-Dumping Investigation concerning Imports of 'Aceto Acetyl Derivatives of Aromatic or Heterocyclic Compounds' or 'Arylides' originating in or exported from China PR*, Final Findings, F No 7/04/2026-DGTR (12 October 2026) (Arylides Final Findings).

### D. Review of Literature

Vermulst separates dumping, injury and procedure, and clarifies doctrinal questions on which economic critique alone cannot pronounce.[5] Aggarwal argues that the public interest should be assessed against defined criteria rather than through open-ended discretion.[6] On the empirical side, Bown and Tovar's product-level study finds that, under political-economy pressure, India partly reversed its tariff liberalisation of the 1990s through anti-dumping and safeguard measures.[7] Bagchi and others link anti-dumping initiations in manufacturing industries to import penetration, industry lobbying and retaliation.[8] These findings point to incentives that warrant scrutiny; they do not show that any particular determination contravened WTO law.

Subramanian analyses the divergent public-interest assessments made by the DGTR and the Ministry of Finance between 2020 and 2022, and links the absence of defined criteria to uncertainty and weak judicial accountability.[9] The gap that remains lies in distinguishing, within a single determination, between calculations that are unlawful, inferences that are unsupported and choices that are economically contestable yet legally permissible. This paper attempts that distinction.

## IV. ANTI-DUMPING LAW IN INDIA: STATUTORY FRAMEWORK AND INSTITUTIONAL PRACTICE

Section 9A (1) of the Customs Tariff Act, 1975 empowers the Central Government, by notification, to impose on an article exported to India at less than its normal value an anti-dumping duty not exceeding the margin of dumping. Normal value is ordinarily based on comparable prices in the domestic market of the exporting country, although the Act permits third-country prices or constructed value in defined circumstances.[10]

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[5] Edwin Vermulst, *The WTO Anti-Dumping Agreement: A Commentary* (OUP 2005).
[6] Aggarwal (n 2) 53–54.
[7] Chad P Bown and Patricia Tovar, 'Trade Liberalization, Antidumping, and Safeguards: Evidence from India's Tariff Reform' (2011) 96 Journal of Development Economics 115, 124.
[8] Sagnik Bagchi and others, 'Anti-Dumping Initiations in Indian Manufacturing Industries' (2015) 16 South Asia Economic Journal 278.
[9] Archana Subramanian, 'The "Public" in the "Public Interest Test": Rethinking the Parameters of the Public Interest Test in India' (2024) 35(1) National Law School of India Review.
[10] Customs Tariff Act 1975, s 9A(1) and Explanation (c).

Section 9A(2) separately permits a provisional duty, based on a provisional estimate of normal value and margin, pending final determination, and requires the duty to be reduced, and any excess refunded, if it exceeds the margin finally determined.[11] Section 9B bars the levy of both countervailing and anti-dumping duty to compensate for the same situation of dumping or export subsidisation, and, for imports from WTO members and specified countries, requires a determination that the imports cause or threaten material injury to the domestic industry.[12]

The dumping margin and the injury margin answer different questions. The former measures the difference between normal value and export price; the latter measures the gap between the domestic industry's non-injurious price and the landed value of the imports. Under Rule 17(1)(b), the Designated Authority's final findings include a recommendation of the amount of duty that would be adequate to remove the injury, with the non-injurious price determined in accordance with Annexure III. That recommendation does not bind the Central Government, which decides whether to impose the duty within three months of the publication of the final findings under Rule 18.[13] Neither margin establishes causation by itself. The lesser-duty approach guards against remedial excess, but it cannot control the level of the non-injurious price benchmark on which it depends.

The 1995 Rules establish an evidentiary process, not a mechanism for processing petitions. Rule 5 requires sufficient evidence of dumping, injury and a causal link before an investigation is initiated. Rules 6 to 8 govern participation, confidentiality and verification, while Rule 11 and Annexure II require an injury analysis that includes non-attribution. Rule 14 requires termination where the evidence is insufficient or where the margin of dumping is de minimis or the volume of imports

[11] ibid s 9A(2).
[12] ibid s 9B(1)(a)–(b).
[13] Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, rr 17(1)(b), 18 and Annexure III (Anti-Dumping Rules).

negligible. Rule 16 requires disclosure of the essential facts before final findings are made, so that interested parties can contest the grounds of the proposed conclusion.[14]

The DGTR, under the Department of Commerce, investigates and recommends; the Central Government, acting through the Ministry of Finance, imposes the duty by notification within the period prescribed by Rule 18. Section 9A(5) provides that a duty ceases to have effect after five years unless it is continued following a review, and its second proviso separately empowers the Government to continue the duty for up to one year pending the outcome of that review.[15] A recommendation, however well founded, creates no enforceable customs liability until an operative notification is issued. The recommendation, any continuation pending review and the final decision to continue a duty are therefore distinct legal acts, each of which requires its own authority.

Appeals lie to the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) under Section 9C.[16] The Finance Act, 2023 amended Section 9C and related provisions with the aim of confining appeals to the Designated Authority's determinations, so that the Ministry of Finance's decision whether to impose a duty would fall outside the Tribunal's appellate jurisdiction. The amendment thus sharpens the boundary between investigative findings and governmental implementation.[17] In August 2025, the CESTAT took the interim view that the amendment had not come into force because Section 134 of the Finance Act, 2023 had not been separately notified. By an interim order dated 22 September 2025, the Delhi High Court stayed that view. The order does not finally resolve whether the CESTAT may hear appeals against Government notifications.[18] Institutional separation therefore requires that each stage of decision-making carry identifiable responsibility; it does not justify assuming that every stage is beyond appeal.

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[14] ibid rr 5–8, 11, 14, 16 and Annexure II.
[15] Customs Tariff Act 1975, s 9A(5); Anti-Dumping Rules, r 23.
[16] Customs Tariff Act 1975, s 9C.
[17] Finance Act 2023, s 134.
[18] *Union of India v Essilorluxottica Asia Pacific Pte Ltd* WP(C) 14723/2025 (Del HC, 22 September 2025) (interim order), paras 11–15.

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## V. WTO ANTI-DUMPING AGREEMENT: SUBSTANTIVE AND PROCEDURAL OBLIGATIONS

Article 2 requires normal value to be established on a defensible basis and compared fairly with the export price. Due allowance must be made for differences that affect price comparability, such as conditions and terms of sale, taxation and levels of trade.[19] Section 9A and Annexure I to the 1995 Rules provide the corresponding Indian machinery.[20] Normal value, including constructed value, must remain legally and analytically distinct from the non-injurious price: the former measures dumping, the latter the remedy needed to remove injury. The formal availability of constructed value does not make every cost assumption reasonable, and the investigating authority must justify the comparison it selects.

Article 3 requires an injury determination based on positive evidence and an objective examination of the volume of dumped imports, their effect on domestic prices and their consequent impact on the domestic industry. Article 3.5 requires the authority to demonstrate that the dumped imports are, through the effects of dumping, causing injury. It also requires the examination of any known factors other than the dumped imports which are injuring the domestic industry at the same time, and provides that injury caused by those other factors must not be attributed to the dumped imports.[21] Annexure II to the 1995 Rules reproduces this discipline.[22] A fall in profits that coincides with a rise in imports does not by itself establish causation. The authority must consider material alternative explanations, such as changes in demand, productivity or competition from non-dumped sources, rather than merely record a decline in indicators.

The Appellate Body has given this obligation concrete content. In *US – Hot-Rolled Steel*, it held that an investigating authority must make an appropriate assessment of the injury caused by other known factors, and must separate and distinguish the

[19] ADA, arts 2.1–2.4.
[20] Anti-Dumping Rules, Annexure I.
[21] ADA, arts 3.1–3.5.
[22] Anti-Dumping Rules, Annexure II.

injurious effects of the dumped imports from those of the other factors. It must also provide a satisfactory explanation of the nature and extent of the injurious effects of those other factors.[23] The holding bears directly on Rule 11 and Annexure II of the Indian Rules. An Indian determination that lists alternative causes without explaining why their effects were not attributed to the dumped imports would, on this standard, fall short of the treaty obligation that the Indian provision implements.

Articles 5, 6 and 12 structure investigative discretion through initiation thresholds, rights of participation, evidentiary rules and the duty to give reasoned public notice. Confidential treatment requires good cause, and non-confidential summaries must be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. Recourse to facts available where a party fails to cooperate is governed by Article 6.8 and Annex II, but neither relieves the authority of the need to assess the reliability of the evidence it uses.[24] India's Rules 7 and 16 must therefore operate together: the protection of commercially sensitive figures should not defeat the disclosure of the reasoning essential to the determination.

The distinction between a binding obligation and a policy preference is important. Article 9.3 caps the duty at the margin of dumping, while Article 9.1 states only that it is desirable for the duty to be less than the margin if a lesser duty would be adequate to remove the injury; the lesser-duty rule is not mandatory in every case.[25] Nor does the ADA establish a full public-interest veto. India's injury-based recommendation and any assessment of economic interest must therefore be evaluated against their own domestic legal baselines, and not presented as though they were WTO entitlements.[26]

Article 11.1 permits a duty to remain in force only as long as, and to the extent, necessary to counteract dumping that is causing injury. Article 11.3 requires termination after five years unless a review determines that expiry would be likely to

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[23] *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, Report of the Appellate Body (24 July 2001) WT/DS184/AB/R, paras 222–28 (*US – Hot-Rolled Steel*).
[24] ADA, arts 5, 6.5, 6.8, 12 and Annex II.
[25] ibid arts 9.1, 9.3.
[26] Subramanian (n 8).

lead to the continuation or recurrence of dumping and injury. That inquiry is prospective; it is not an automatic rehearing of the original injury finding. Article 13 requires independent judicial, arbitral or administrative tribunals for the prompt review of final determinations and reviews.[27] Together, these provisions support review of both the justification for a measure and its legal limits, without requiring a court to substitute its preferred industrial policy.

The leading interpretation of Article 11.3 is the Appellate Body report in *US – Corrosion-Resistant Steel Sunset Review*. The Appellate Body held that 'likely' means 'probable', and not merely possible, and that the authority must undertake a rigorous examination and base its likelihood determination on positive evidence and a sufficient factual foundation. It also cautioned against relying on the mechanistic application of presumptions in place of a case-specific analysis.[28] This standard informs the review contemplated by Section 9A(5) and Rule 23, and provides the benchmark against which the likelihood finding in the Arylides review is assessed in Part 9.

## VI. JUDICIAL INTERPRETATION AND CONTROL OF ANTI-DUMPING MEASURES

In *Reliance Industries Ltd v Designated Authority*, the Supreme Court examined the determination of the non-injurious price in an investigation concerning purified terephthalic acid.[29] Reliance's integrated operations and captive power gave it a cost advantage, which raised the question whether that efficiency should set the benchmark of protection for the industry. The Court's holding has three elements. First, captive electricity was to be valued at its market price rather than at the producer's own cost of generation. Secondly, fixed costs were to be apportioned on the basis of actual production during the period of investigation, rejecting the Designated Authority's use of the best capacity utilisation over the preceding three

[27] ADA, arts 11.1, 11.3, 13.
[28] *United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan*, Report of the Appellate Body (15 December 2003) WT/DS244/AB/R, paras 105, 111, 113, 177–78 (*US – Corrosion-Resistant Steel Sunset Review*).
[29] *Reliance Industries Ltd v Designated Authority* (2006) 10 SCC 368.

years, which spread fixed costs over a higher notional output. Thirdly, the non-injurious price was to be determined for the domestic industry as a whole and not for the individual appellant. The ruling reveals the distributive effect of apparently technical accounting choices: the performance of a single producer could otherwise set the remedial standard for all.

The methodological holding must, however, be read historically. Annexure III, inserted only in 2011, now provides for consideration of the best capacity utilisation over the injury period.[30] *Reliance Industries* cannot therefore be invoked to override that later regulatory text. Its continuing value lies in the principle that methodological choices must be linked to the legal definition of injury, and that no accounting convention should be presumed neutral. The Court also held that Rule 7 confers no unlimited right to withhold costing information and insisted on reasoned disclosure by the Designated Authority, a point that bears directly on the treatment of confidentiality discussed in Part 9.[31]

In *Commissioner of Customs, Bangalore v GM Exports*, decided in 2015 and reported in 2016, the question was whether duty could be demanded for the interval between the expiry of a provisional duty and the notification of the final duty. The Court rejected the levy for that uncovered period and construed the statute consistently with the ADA. At paragraph 23, it explained why treaty obligations govern the interpretation of a statute enacted to implement them, and at paragraph 41 it applied those statutory limits to the levy in issue.[32] The judgment does not, however, authorise executive taxation merely because an international agreement permits a remedy.

*Union of India v Kumho Petrochemicals Co Ltd* concerned the continuation of a duty pending a sunset review. The Court held that the second proviso to Section 9A(5) is an enabling provision, so that the initiation of a review, even if timely, does not automatically extend the duty. Because a notification that has lapsed cannot be revived, the power to continue the duty must be exercised while the original duty

[30] Anti-Dumping Rules, Annexure III, para 4(iii).
[31] *Reliance Industries* (n 28).
[32] *Commissioner of Customs, Bangalore v GM Exports* (2016) 1 SCC 91, paras 23, 41.

remains in force.[33] The Court also treated the date on which the Government decided to initiate the review, and not the date of its publication, as the relevant date for determining whether the review was initiated in time.[34] The decision protects legal certainty over time without suggesting that continued protection can never be justified.

Read together, the three decisions require a reasoned methodology, lawful authority and the timely exercise of power. They reveal no automatic judicial preference for either importers or domestic producers.

## VII. CRITICAL EVALUATION OF INDIA'S ANTI-DUMPING REGIME

The DGTR issued its final findings in the Arylides sunset review on 12 October 2026 and recommended that producer-specific anti-dumping duties on imports from China be continued for a further five years. The recommendation rested on findings of continued dumping, injury to the domestic industry, the exporters' capacity and the likelihood that dumping and injury would recur if the duty expired.[35] A recommendation, however, is not itself the instrument that imposes a continuing obligation. Separately, Notification No 17/2026-Customs (ADD), dated 10 July 2026, had already continued the existing duty up to 13 January 2027, unless revoked, superseded or amended earlier.[36]

The principal concern is legal traceability. Paragraph 131 of the findings describes a pre-tax return of 22 per cent on average capital employed as prescribed by Annexure III. Annexure III, paragraph 4(viii), however, provides for a reasonable return without prescribing that percentage.[37] Administrative practice may justify the use of such a benchmark, but presenting a discretionary figure as a statutory requirement avoids explaining why that return is appropriate for the product concerned. The divergence does not by itself render the resulting duty unlawful. It does, however, raise a question

[33] *Union of India v Kumho Petrochemicals Co Ltd* (2017) 8 SCC 307, paras 31–33, 40.
[34] ibid paras 16–17.
[35] Arylides Final Findings (n 3) paras 127–29, 135–37.
[36] Ministry of Finance (Department of Revenue), Notification No 17/2026-Customs (ADD) (10 July 2026) GSR 612(E), Gazette of India, Extraordinary, Pt II, s 3(i).
[37] Arylides Final Findings (n 3) paras 109, 131; Anti-Dumping Rules, Annexure III, para 4(viii).

that the published reasoning must answer, particularly because the non-injurious price is the benchmark for the removal of injury.

The public-interest analysis presents a different problem. None of the users filed the prescribed economic-interest questionnaire responses. The model applied the lowest duty of 24.79 per cent and estimated downstream cost effects of between 0.17 and 0.45 per cent, based on the applicant's own modelling of the price impact. The DGTR also tested a doubled input-cost share and found effects below one per cent, so it would be inaccurate to say that no sensitivity analysis was performed.[38] That analysis, however, varied only one assumption and does not establish the conclusion it is used to support.

Applying the same multiplication to the model's 18 per cent pigment share in plastics, a doubled Arylides share of 20 per cent of pigment cost and the recommended residual duty of 44.90 per cent yields approximately 1.62 per cent (0.18 × 0.20 × 0.449 × 100).[39] This is a hypothetical figure, not a recorded price increase or a welfare assessment. It assumes that the full duty is passed through those cost shares and that all purchases are sourced at that rate. Its relevance is methodological: a result below one per cent depends on the choice of duty rate and purchasing assumptions, and not simply on the modest share of the input in the final product.

Non-participation therefore limits what can be inferred, since it proves neither serious harm nor harmlessness. Equally, the absence of user evidence does not relieve the applicant of the burden of justifying continued protection. Employment, investment and supply resilience remain legitimate considerations, but the claimed benefits require evidence just as the downstream costs do. A defensible determination would identify which conclusions survive alternative assumptions and which remain conditional.

The same reasoning applies to confidentiality. The protection of firm-level data is legitimate, but readers still need credible ranges, an account of how the calculations were performed and the reasons for rejecting alternatives. As *Reliance Industries*

[38] Arylides Final Findings (n 3) paras 116–17, 132.
[39] Author's calculation, based on Arylides Final Findings (n 3) paras 117, 132, 137.

confirms, Rule 7 does not confer an unlimited right to withhold costing information, and the Designated Authority must disclose the reasons for its conclusions.[40] Review should test whether a conclusion follows from the disclosed premises. It should neither demand public disclosure of every commercially sensitive price nor assume that redacted figures conceal misconduct.[41]

The sunset-review context adds a further distinction between showing that recurrence is likely and justifying the duration and severity of the response. The *US – Corrosion-Resistant Steel Sunset Review* standard requires the likelihood finding to rest on positive evidence rather than presumption,[42] but it does not follow that every existing rate, or the longest permissible extension, is economically preferable. Some technical choices are open to reasonable disagreement. Courts should review authority and reasoning, while the investigating authority should bear responsibility for demonstrating defensibility, guided by published administrative guidance. The overall assessment is therefore qualified. The record supports continued intervention, but neither the statutory reference nor a narrow cost estimate resolves the separate questions of evidential reliability and economic consequence. Formal conformity is a prerequisite of sound administration, not a complete certificate of it.

## VIII. SUGGESTIONS AND RECOMMENDATIONS

First, the DGTR and the Ministry of Finance should adopt a published, two-stage reasoning protocol. The first stage would establish dumping, injury, causation and the legal ceiling on the duty on the basis of the record. The second would set out the public-interest consequences, without allowing industrial-policy preferences to cure defects in the first stage. This separation can be introduced immediately through administrative guidance, although making a substantive public-interest assessment legally binding would require legislative or regulatory amendment.

[40] *Reliance Industries* (n 28).
[41] Anti-Dumping Rules, rr 7, 16; ADA, art 6.5.
[42] *US – Corrosion-Resistant Steel Sunset Review* (n 27) paras 177–78.

Secondly, stakeholder participation should extend to downstream users as a class, and not only to those who pay the duty directly. Targeted outreach to user associations, simplified questionnaires and safeguards for confidential supporting data would lower the barriers to participation. Findings should acknowledge the uncertainty created by non-response and test plausible ranges, rather than present a single estimate with unwarranted confidence.

Thirdly, disclosure guidance should distinguish binding requirements from administrative benchmarks, particularly in relation to assumed returns and the pass-through of costs. Non-confidential summaries should describe the calculations and any competing causal explanations without revealing commercially protected figures.

Finally, sunset findings should justify separately the likelihood of recurrence, the proposed duration and the proposed level of duty. Whether the Government accepts, modifies or rejects a recommendation, it should publish reasons for its decision. Legislation should clarify the appellate coverage of Section 9C where necessary, while preserving substantive constitutional review. Drawing the boundary of institutional discretion in this way would open more decisions to challenge without transferring the economics of investigation wholesale to the courts.

## IX. CONCLUSION

India's anti-dumping framework corresponds closely to the structure of the ADA, but that correspondence does not establish the correctness of every determination. The decisions analysed illustrate the value of lawful process, treaty-consistent construction and limits on the continued levy of duty. The Arylides review shows why economic-interest findings require an evidentiary inquiry separate from that into dumping and injury: plausible protection may coexist with contestable benchmarks and conditional cost estimates. The proper response is neither automatic deference nor unexplained rejection. Decisions should disclose their legal authority, material assumptions and the competing explanations considered. A credible regime protects industries against demonstrated injurious dumping, while leaving the evidentiary basis, severity and duration of the remedy open to substantive challenge. Temporary protection should remain a reasoned remedy, not an entrenched benefit.

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# X. BIBLIOGRAPHY


## A. Primary Sources

### 1. Cases

- *Commissioner of Customs, Bangalore v GM Exports* (2016) 1 SCC 91
- *Reliance Industries Ltd v Designated Authority* (2006) 10 SCC 368
- *Union of India v Essilorluxottica Asia Pacific Pte Ltd* WP(C) 14723/2025 (Del HC, 22 September 2025) (interim order)
- *Union of India v Kumho Petrochemicals Co Ltd* (2017) 8 SCC 307

### 2. WTO Reports

- *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, Report of the Appellate Body (24 July 2001) WT/DS184/AB/R
- *United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan*, Report of the Appellate Body (15 December 2003) WT/DS244/AB/R

### 3. Legislation and Statutory Instruments

- Customs Tariff Act 1975
- Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, Notification No 2/95-Customs (NT) (1 January 1995), as amended Finance Act 2023

### 4. Treaties

- Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (adopted 15 April 1994, entered into force 1 January 1995) 1868 UNTS 201
- General Agreement on Tariffs and Trade 1994 (adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 187

**5. Official Documents**

- Directorate General of Trade Remedies, *Sunset Review Anti-Dumping Investigation concerning Imports of 'Aceto Acetyl Derivatives of Aromatic or Heterocyclic Compounds' or 'Arylides' originating in or exported from China PR*, Final Findings, F No 7/04/2026-DGTR (12 October 2026)
- Ministry of Finance (Department of Revenue), Notification No 17/2026-Customs (ADD) (10 July 2026) GSR 612(E), Gazette of India, Extraordinary, Pt II, s 3(i)

**B. Secondary Sources**

**1. Books**

- Vermulst E, *The WTO Anti-Dumping Agreement: A Commentary* (OUP 2005)

**2. Journal Articles**

- Bagchi S and others, 'Anti-Dumping Initiations in Indian Manufacturing Industries' (2015) 16 South Asia Economic Journal 278
- Bown CP and Tovar P, 'Trade Liberalization, Antidumping, and Safeguards: Evidence from India's Tariff Reform' (2011) 96 Journal of Development Economics 115
- Subramanian A, 'The "Public" in the "Public Interest Test": Rethinking the Parameters of the Public Interest Test in India' (2024) 35(1) National Law School of India Review

**3. Working Papers**

- Aggarwal A, 'Anti-Dumping Law and Practice: An Indian Perspective' (ICRIER Working Paper No 85, April 2002)