

## **Synthesis of Nine China Trade Cases**

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***Case 1 (Rare Earths) (AB 2014).*** Involved similar export restrictions as in *Raw Materials*. Defense under Gatt Article XX (protection of environment) not sustained. ***Case 5 (Export of Raw Materials) (AB 2012)*** dealt with export restrictions under GATT Article XI. Precursor of holding against China in the case concerning rare earth minerals.

***Case 2 (China Tires) (AB 2014).*** Dealt with Safeguards Agreement (and Accession Agreement and §421 of U.S. Trade Act.) U.S. is Respondent and won. Usually always lose these cases involving trade remedies.

***Case 3 (Various Products – CVD & A/D) (AB 2014).*** Decided that under Subsidies Code the U.S. *GPX legislation (2012)* that allows countervailing duties as to imports from nonmarket economies (NMEs) is valid. (Also double remedies -- ADD and CVD – a problem). ***Case 7 (Certain Products from China) (AB 2014).*** Decided that a 'State Owned Enterprises' (SOE) is not necessarily a 'Public Body' under Subsidies Code as to allow a finding of subsidies.

***Case 4 (China IPR).*** Dealt with *TRIPS and enforcement of IPR* and involved incorporation of Berne Agreement. China only had a minor loss. Criminal law enforcement standard not too tough. China promptly implemented changes.

***Case 6 (Electronic Payments) (Panel 2012).*** Under the *GATS Agreement (Services Agreement)*. Determined that the contested electronic network for clearing financial transactions (for credit cards) was scheduled as a 'commitment' but China did not violate its obligation.

***Case 8 (Autos) (Panel 2014).*** China's A/D and CVD on autos invalid.

***Case 9 (A/D Methodology) (AB 2017).*** Determined that the U.S. methodology of calculating antidumping by use of 'zeroing' is improper. (Disregarding an import price above the FMV -- by setting it at 0 – rather than using the differential in computing the average export price.)