

Antidumping

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Abstract

The growth of trade liberalization in the past century provided convenient conditions for particularities in firms' behavior engaged in the international trade to occur. One of the consequences of imperfect competition is the appearance of the situation when a firm charges a lower price in the export market than in the home market. The phenomenon of dumping occurs. What is dumping more precisely? What is the economics behind this feature? Is it just an economic tale or can be proven as a business practice? When it is so, how does this phenomenon affect the international trade? Should dumping be considered as a fair or unfair business practice? Which are the forms of antidumping policy? Is antidumping policy really necessary or is its main purpose to provide a shelter to firms that seem to be uncompetitive in international trade?

In this article I discuss the myth of dumping by providing economical background enclosed in a legal framework. The main idea of this paper is to draw parallels between the effects that dumping on one side and antidumping policy on the other side has.

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1. Introduction

The past century has been marked by the enormous growth of industry, which is the matter of several factors, including the international trade. The necessary condition was multilateral trade liberalization. Therefore, the antidumping¹ law was already practiced before 1947 between liberated countries, such as Canada, the US and Australia. The 1947 GATT² Agreement certainly represented a turning point towards trade liberalization by significant reduction of trade barriers. After this event the protectionism became an important issue of governments' policies also in the EU. In recent years the use of protectionist policies has grown considerably. Antidumping has become one of the prevalent instruments for enforcing new import restrictions.

The reminder of this paper is organized as follows. I begin with a review of the traditional theory of dumping treated by Viner (1923) relating to the concepts of the modern theory. Then follow the opinions of some economists concerning the beneficial effects of dumping. This part is interesting because it actually emphasizes how one party can take advantages of AD mechanism. The third section provides an overall review of AD mechanism. The first part presents the AD laws divided chronologically into pre- and post-Tokyo Round period. After the review of AD actions the following text captures the general idea of the whole process. The procedure follows two main steps. In the first place, the assumption of dumping has to be established. Firms file petitions mainly because of the presence of dumping or even the threat of it. They require protection under the shelter of Commission's AD laws. This protectionist policy is justified by the idea that dumping should be viewed as unfair competition. Therefore, the second step of AD policy aims at eliminating the injury, mainly defined as the extent of foreign price undercutting. Three results of antidumping investigation are possible, i.e. affirmative or negative decision or settling of voluntarily restrained exports (VER).

This paper considers the determinants of the antidumping pre- and post-investigation period. It is shown that economic factors influence the outcome of investigation, as well as political and other factors presented in remaining text. I conclude this section by providing some of the main effects that AD policy gains.

¹ In the following text I will use a contraction AD that stands for antidumping.

² GATT is a contraction for the General Agreement on Tariffs and Trade.

2. Dumping

Firms use different techniques to penetrate either domestic or foreign market. In international trade enterprises therefore export products willing to capture markets abroad, to mitigate competition or even further to pursue the competitive firms to withdraw. The phenomenon of dumping occurs in international trade when an enterprise supplies its products at very low prices, i.e. at the price, which is considered to be beneath its fair value³. The discussion of characterizing the concept of fair and unfair business practice concerning the concept of normal value is the subject of the chapter 2.

2.1. Theory of Dumping - “Fair” and “Unfair” Business Practice

The analyzing of dumping is not only a concern of international economic community but is defined by the international law. Concerning definitions as given, the authority puts effort in analyzing the effects by applying those definitions to a set of circumstances or a particular AD action. Detailed provisions regarding the definitions of dumping were passed in the Uruguay Round Agreement on Antidumping, formally called the Agreement on Implementation of Article VI of the GATT 1994⁴. Actions undertaken by the Members through domestic institutions have to be in accordance with this Agreement. Although both subsidy and dumping may be unfair business practices, the latter refers to practices of the foreign firms performing an unfair business engaged in the international trade and must not be confused with an act of receiving subsidies when selling abroad.

The definitions of dumping used in the WTO’s Antidumping Agreement are as follows⁵:

Article 2.1

A product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for like product when destined for consumption in the exporting country.

³ DeVault, J.M. (1993)

⁴ Tharakan, P. K. M. (2000)

⁵ Kerr, W.A. (2001)

Article 2.2

When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of sales in the domestic market of the exporting country, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

The article 2.1 is the definition of dumping preferred by WTO and is often considered as the “**price-discrimination**” definition⁶. A country may impose AD duties if a foreign firm charges in the importer’s market prices for its products that are lower than prices in its domestic market. The essence of the traditional theory of dumping is the monopolistic price discrimination between national markets. The vast majority of authors followed Viner’s (1923) classic treatment of dumping. The essential question is, what under the term “unfair” business practice should be understood. The price discrimination affected by unequal demand curves is identified as normal profit-orientated business practice in domestic market competition and is not treated as an illegal under circumstances when an enterprise faces a higher price elasticity of demand abroad than at home. Ethier (1982) develops an alternative model to traditional theory of dumping in which he interprets dumping as an integral part of the relationship between domestic factor markets and international commodity markets. In his model of modern concept of dumping, explained on the instance of the steel market, he emphasizes that efficient modern theory in comparison to traditional theory should abandon the price discrimination and monopoly involving a factor of uncertainty and sluggish adjustment determined by the patterns of demand in national markets⁷.

The second definition of the Agreement on Antidumping was passed to clarify the query – why a business practice concerning price-discrimination should be declared unfair when performed internationally compared to general accepted price-discrimination practiced domestically. Whenever the price-discrimination cannot be applied, Antidumping Agreement provides additional definitions. The first test refers to the “**third-market test**”. It suggests that *when no domestic market for a product exists, dumping can be deemed to be taking place*

⁶ The sale of airline tickets can explain this definition. Customers paying the full price on airlines may complain. The complaint is not that discount prices should be abounded, but that customers should be allowed to avail themselves of it. Of course, this is the opposite of dumping complaint. As firms engaging in price discrimination do so voluntarily, it seems unlikely that they would lobby for it to be declared unfair.

⁷ Ethier, W. J. (1982)

when an exporting firm is selling at a lower price in one export market than in another export market – the firm is practicing price discrimination⁸. It is understood to be a fair business practice if the foreign firm faces different demand curves at home and foreign markets. The second test refers to the situation, when the foreign firm provides products at prices lower as the firm's average production costs, including a normal rate of return. This criterion is called also a “**selling-below-cost**” criterion⁹.

The situation when a firm chooses a pricing strategy that does not maximize profits in the short run, but is willing to give up those profits and even make losses on the expectations of long term monopoly profits is called “**predatory pricing**”. Haberler (1937) states: “*This aggressive form of dumping is the specter often used to frighten public opinion into imposing tariffs.*” He emphasizes that the basic conditions for dumping are, concerning the traditional theory of dumping, monopoly and protection. The WTO's Antidumping Agreement states that the “price-discrimination” and “selling-below-cost” definition should not be used together in dumping determinations. The situation may be a necessary condition for predatory pricing to occur, but it does not represent a sufficient condition. Actually, is selling at lower prices the sign of firms' efficiency? When a foreign enterprise is selling at lower prices, but not below its costs, we cannot consider this as an unfair practice. It simply means the affirmation of the presence of competition. A pricing strategy that combines both definitions is therefore not necessarily using predatory pricing. A price-discriminating monopolist may be losing money contemporary in the home and in the importing market but instead of preying upon competitors it is only pricing to minimize its losses. However, the general opinion of the international community does not pay much attention to the problem of predatory pricing. The reason is that it is not an efficient method for monopolizing a market¹⁰.

2.2. Export Price in Comparison to Normal Value

This chapter provides some answers to the question of detecting discrepancy between home market price and export price. The determination of dumping is based on the comparison between the price at which a firm exports in the importing country and the price, which is considered a normal value of a product. The Agreement effort is in ensuring of the proper comparison between the normal value and foreign price, i.e. the export price. In order to justify the provisions, the comparison of the sales must be made as close as possible to the same time and at the same level of trade, i.e. the stage of transaction. Apart from all these, we

⁸ Kerr, W.A. (2001)

⁹ For better understanding of this definition see also the chapter 2.2.

¹⁰ See the chapter 6 - Appendix.

need to examine the conversion of currencies, when a firm sells to the national market that is not in the same economic community.

The generally accepted concept of dumping is explained with the situation when a firm is charging in foreign market the price for a product, which is beneath its normal value. What factors determine the normal value and how it should be explained? Broadly speaking, it is the normal value of the comparable sale price of the like product in the exporting country in the ordinary course of trade. Sometimes it is impossible to detect the sale price of like product, because in the importing country there may not exist such a product or the sales do not permit proper comparison. The reason is the particular market situation or low volume of the sales in the domestic market of the exporting country. Examples are strict government rules on prices, which are then no longer based on market conditions, but are influenced by political and social circumstances. I assume the producer's price p^p , the consumer's price p and the price of a dumped product p^d . The definition of the normal value refers to the producer's price, which involves the average costs plus administrative, selling, and general costs including the normal rate of return. The price of a dumped product per unit is normally lower than the equation of the normal price per unit: $p(q)^d < p(q)^n = p(q)^p + t(q) + s(q)$, where $t(q)$ transport costs per unit and $s(q)$ government subsidies. When there are no free trade conditions, than $s(q)$ is negative and stands for trade barriers (such as duties or other taxes). But the actual relationship between the normal value and dumped price is also determined by the height of the transport costs and other trade costs, such as taxes, that a firm must pay to enter the market¹¹.

2.3. Welfare Effects after Opening of Trade

Some of the economists criticize the general belief, accepted by the international community, represented by GATT, who considers dumping as an unfair competition. The majority of economists think that this phenomenon actually stimulates competition¹². The explanation is that dumping is beneficial and is not concerned as a problem with which a domestic country has to deal. Dumping has two common effects: First, the low prices of the imported products may harm the domestic industry producing similar products. Temporarily it increases the welfare of the consumers and industrial users of dumped products. An enterprise selling abroad at lower prices forces firms to produce efficiently if they do not want to

¹¹ For further explanation see also Brandon and Krugman (1983). They also consider the situation when the possibility to produce as near as possible to the market is given to a firm. In this case each firm would try to produce also in a foreign market and the concern of dumping replace foreign direct investments.

¹² On this point see Khoman, S. (1998) and Kerr, W.A. (2001)

confront the losses or to be withdrawn from the market. This kind of dumping should be restricted only when it is damaging to the welfare of the importing country. If foreign prices are as low as those of the withdrawn domestic firms selling like product, then dumping may threaten domestic industry indirectly. Such situations are undesirable because foreign firms in this outcome may raise prices above former competitive level, which decreases the welfare. This may happen when there are the barriers that prevent re-entering of foreign and domestic firms the market of the importing country.

However, the interests why enterprises take part in the international trade differ. It is not necessary that trade is established because of common reasons of neoclassical theory, that either economies of scale or cost differences determine trade. Brander and Krugman developed the model¹³, which provides possible explanations of two not well-interpreted phenomena in neoclassical theory that is intra-industry and dumping. Such trade is called “reciprocal dumping”. They provided the generalization of the Cournot model, with a presumption that each firm has a non-zero expectation concerning the response of other firms to its own output. The condition of welfare after opening of trade was besides the concern of trade barriers determined also by transport costs. If firms can earn positive profits, the opening of trade will increase welfare if transport costs were low. In the case of high transport costs, the opening of trade may cause welfare to decline because the increased waste due to transport costs determined the pro-competitive effect. In the free entry Cournot model, opening of trade certainly increases welfare. The important element of the model is that firms have a segmented markets perception. Throughout the model is assumed that a firm produces in home market. But when a possibility of producing as near as possible to the markets is given to a firm under the assumed equality of production costs, firms will try to save their transport costs. If they could do that, than they would produce in both markets. In this case the model of reciprocal dumping would be replaced with a model of two-way FDI.

¹³ Brander and Krugman (1983)

3. Antidumping

An AD petition is a petition to the government to consider a request for protection. The use of AD duties has in the last decades become one of the most important trade instruments in many countries. The essence of AD laws has been the subject of intense and rather chaotic debates because of its strong perception of protection and anticompetitive effects. While other instruments of trade regulations, such as VER¹⁴, tariffs and quotas, have been brought under WTO's control, the use of AD provisions grown significantly. Since 1980, WTO Members have filed more complaints under the AD statute than under all other trade laws combined. In any year of the past two decades there were more AD duties worldwide levied than in the entire period of 1947-1970¹⁵. This fact certainly shows that antidumping was rarely used trade law until the mid-1970s and after this period, due to the fact that countries increasingly felt the need to offer protection to import competing countries. After 1990s antidumping became the developed countries' principal safeguard instrument.

3.1. The Chronological Overview of Use of Antidumping Laws

In the beginning of 20th Century Canada (1904), New Zealand (1905), Australia (1906) and the USA (1916) were among the first countries to adopt AD laws. The presence of the fear that foreign firms might drive out the domestic rivals by setting prices at low predatory levels, motivated the international community to supplement the early laws of Australia and the USA¹⁶, mainly addressed concerns of monopolization. The idea that a type of predatory dumping might reduce welfare was the reason why the Congress passed the Antidumping Act in 1916¹⁷. It was passed to provide the conscription of the duties, formed especially against the problem of predatory-pricing. After this Act only such dumping was concerned to be unfair. These laws defined as unfair any price-discrimination in which the U.S. price of a foreign product was below the foreign price and sanctioned the foreign firms charging prices, which were beneath their average costs of production. The routine use of the AD laws in the U.S. is reflected in the extreme desire of safeguarding the domestic interests.

After the year 1921 the threat of monopolization has become less relevant as an argument in defense of AD policy. In 1947 GATT enclosed AD rules based on national AD

¹⁴ VER – Voluntary Export Restraints

¹⁵ On this point see Blonigen (1999)

¹⁶ Especially the US Sherman Antitrust Act (1890)

¹⁷ DeVault, J.M. (1993)

laws, especially of the USA and their intention to bring national AD actions under control. The agreement gave each country an automatic right to renegotiate its reductions after three years (Article XXVII). However, the GATT's main effect in the last two decades seemed to be the establishment of the general antidumping system rather than to give new signatory countries an excuse to set up their own. European Union adopted at its foundation in 1957 AD rules by abolishing AD actions between member countries. By 1963 every one of the 29 GATT Members who had bound tariff reductions under the GATT had undertaken at least one renegotiation – in total 110 renegotiations. The existing national AD laws were harmonized after the 1967 GATT Antidumping Code came into force.

During the 1970s and 1980s antidumping became the leading matter of the international community, as it steadily replaced the importance of other common concepts of trade barriers. It has been disputed that antidumping provides a “safety valve”¹⁸ that has smoothed the progress of international consensus about general trade liberalization, as major concern of WTO. The Tokyo Round (1975-79) was the turning point in AD law. Especially two provisions were important – the definition of “less than fair value” (LTVF) was expanded to enclose also sales below costs and not only price discrimination, and the Kennedy Round Code, which required the recognition of dumped imports as the principal cause of material injury. After these provisions, cost-based AD petitions became the dominant feature of the US AD law.

WTO possesses probably the most extensive database with statistics on the use of AD policy, as it receives semi-annual reports from all member states. Miranda et al have published WTO data for the period of 1987-97. Since the Uruguay Round (1995-99), developing countries have initiated 559 cases and developed countries 463 cases. Transition economies have reported: 4 cases by Poland, 2 by Czech Republic and 1 by Slovenia. The EU and US have initiated the largest number of cases. The reason is that these two are the world's largest importers. Together with Canada and Australia they have accounted for around 90% of all cases between 1969 and 1993. It is interesting that Japan has never initiated the use of AD policy. The transition economies are the ones with the highest intensity of AD cases against them¹⁹. The main user industries are primary metals, principally steel (25% of all investigations in the period 1987-97), chemicals (17%), electrical and other machinery (14%) and plastics (11%). The main users of AD policy are therefore the capital- and R&D intensive sectors, which basically produce intermediate goods.

¹⁸ On this point see Finger (2001)

¹⁹ On this point see Finger (2001) – Table 5.

3.2. The Process and Effects of Antidumping

The spread of antidumping practice since the 1980s has initiated a process of economic and lawful analysis of the methodology of antidumping. Modern theory of dumping implicates that domestic firms use antidumping in order to become a strategic shelter from foreign competitors. Antidumping usage as safeguard policy to provide protection of domestic industry induced an argument that foreign firms were behaving unfairly. The administrative methodology was considered to be biased, tending to find a case of dumping when even a fair accounting would not. The other point of concern refers to the social justification. Under analysis by the OECD of the AD cases in Australia, Canada, the EU and the US was established that round 90% of the instances of import sales found to be unfair under AD rules would never have been questioned under competition law used by a domestic firm in making a domestic sale. The remaining 10% of cases would have survived much more rigorous standards of evidence that applies under competition law²⁰. Because of such arguments the explanation of AD policy is based on more political argument, formed on the principals of the legitimacy instead on the efficiency rules of the game.

3.2.1. Antidumping Petition Filing

The investigation program of antidumping requires the determination of three elements, that is, existence of dumping, margin of dumping and existence of injury. AD cases begin only in the situation when an interested domestic party files a petition. The fundamental issue is the determination of the party who files for AD protection and time when the protection desired to be provided. The reasons are similar to any other trade protection cases. The important matter is also here the price-cost efficiency of the process, thus a comparison between the expected success of the petition and its benefits if successful and the costs of the petition, including free-rider concerns.

Factors that Affect the Pre-Investigation Process of Petition Filing

The usually agreed primary determinants of petition filings are **import penetration, domestic industry employment and capital stock/intensity of the industry**²¹. The practice of two US agencies, USDOC and USITC²² suggests that factors that affect the likelihood of a successful injury determination, and import penetration and domestic industry employment are statistically evident variables used by the USITC for the injury determination. Among the

²⁰ OECD Economics Department (1996), pp. 18.

²¹ Finger (1981), Herander and Schwartz (1984), Feinberg and Hirsch (1989), Blonigen (2000) and others have estimated determinants of US antidumping filings by 3-4 digit SIC industry for time periods between 1958-92.

²² On this point see the next chapter - Antidumping Investigation.

factors that influence the petition filing are not domestic industry profitability and concentration.

Some of the studies examine the influence of macroeconomic variables, such as **GDP** and **effect of the exchange rates**, on petition filing. Feinberg (1989) researches the effect of exchange rate movements on US AD filings for the period of 1982-87. He comes to a conclusion that US dollar depreciation instantly lowers the price of the foreign firm's exports to the US in the foreign firm's own currency, which is the price used by the USDOC to determine dumping. Prusa (2000) concludes that US dollar depreciation in fact decreases import penetration (c.p.) making an injury determination more likely. He states that the effect of the exchange rates on AD petition filing depends on which decision, dumping or injury is more important. Prusa also finds that declines in GDP lead to increased AD activity. Furusawa and Prusa (1996) develop the model of reciprocal dumping, where only one country from two has AD law. They show that in the case when specific market conditions lead to greater competition in the export market, the AD duties are not levied. Otherwise, the country with AD provisions might not compensate its losses with the benefit of AD protection. This indicates that also **domestic export activity** might influence the petition filing.

3.2.2. Antidumping Investigation

In general, the process of AD investigation involves two questions: First, if **“unfair pricing”** was practiced and second, if the dumped import caused (or threatened) material **injury**. Possible are three outcomes of the AD investigation: First, affirmative decision that AD duty is levied, second, settled cases and third, negative decisions. The AD duty is only imposed when the case receives an affirmative final injury determination²³. Material injury determination involves researching of the volume and increase of the dumped imports concerning their effects on domestic prices and producers. The WTO/GATT rules do not specify injury precisely, leaving the subject to national authorities. The reasons are that the competition of imports de facto hurts some of the competitors and that for imposing an AD investigations is already a slight proof of injury sufficient. Nevertheless, it is hard to differ between the injury caused by introducing dumped products and injury affected by other factors. In the US AD law it is sufficient to show that dumping is just a case, not that is the cause²⁴. In the US, the determination of dumping and injury are settled on by two separate agencies, the US Department of Commerce (USDOC) and US International Trade Commission (USITC). The USITC test of injury is affirmative in half of the cases, while the

²³ Prusa, T. J. (1999)

²⁴ Niels, G. (2000)

USDOC almost always confirms dumping. Kaplan (1991) offered a description of the USITC's making of decisions whether a firm should be accused of practicing dumping or not. In the first place it should be considered that agency's discretion is supreme. There exists no such method to define the cause of material injury; it is often not clear whether it is because of dumping or because of other factors. Common practice is that cases are not explained due to regard of formal economic analysis. Normally the USITC comments decisions using the tables and charts to confirm profits and decline in employment, but they seldom assume the causality between them and increased imports. It seems that there is no such considerable effort to separate the injurious effects of dumped imports from other causes.

When the import is considered to be dumped, the agency applies a dumping margin. The calculated dumping margin is normally based on a comparison of the export price defined either with the exporter's home market price or its production costs. Lindsay (1999) points out that comparisons have almost never been made. Virtually all the cases are based on indicators of what the home market price might be. Lindsey's findings set up that the Uruguay Round Agreement did not change the nature of antidumping usage. The evidence against the exporter was **constructed value**. If the exporter would not cooperate and supply data²⁵ from which the investigation agency could perform the construction, the accusation from the companies seeking protection then would become the "facts available" confirmation. A foreign firm would need an incentive to cooperate in an investigation. This incentive has in practice been proved by the potential use of the domestic firm's allegations, called "**best information available**" under GATT rules, about foreign firm's dumping margin. If the exporter would not cooperate then he would face the possibility of very high duties. The critique towards this principle points out that in the pre-WTO US system dumping margin was, referred to the "best information available", much higher than calculated rates.²⁶ In fact, it is also not necessary that foreign firms dump or hide information when they not choose to cooperate. At last, supporters in the US noted that the Department of Commerce had not always used BIA so that was unfair to allege that such margins were simply a means to force high tariffs onto innocent foreign firms. Complaints led to the reform in the Uruguay Round, which stated that Department of Commerce no longer used BIA but instead "**facts available**". The concept of "facts available" remained a significant threat. The margins, which ranged from 46% to 64%

²⁵ With the assumption that costs are normally privately-held information of a firm.

²⁶ On this point see Moore, M. O. (2001)

for Brazil, 53% for Japan and 109% to 163% for Slovakia, caused significantly lowered imports from the targeted countries²⁷.

Factors that Determine an Antidumping Investigation

There have been several studies analyzing the factors that affect the decision-making process of AD investigation²⁸. Most of the studies have been made for the US cases, but Tharakan (1991) and others found that similar factors influenced also the EU cases, even more; it is shown that the EU Commission is even more disposed than the USITC to non-economic determinants. The results can be summarized as follows:

Elections. Studies have proved that elections in USITC influence outcomes. Voting records on the ITC resulted in different treatment of the cases and changed the outcomes of investigations. It was suggested that candidates for commissioners with free-trade interests should not be nominated for the ITC.

Influence of economic factors. Although authors came to slightly different conclusions it was obvious that the probability of an affirmative decision was mainly influenced by the larger volumes of imports and losses either in profit or output.

Political pressure. Moore (1992), DeVault (1993) and Hansen and Prusa (1996,1997) all came to a conclusion that ITC treated better industries producing products in the districts of oversight members. Hansen and Prusa found that contributions to the oversight members also improved an industry's chances, which suggested that political pressure was generated not just by employment concerns, but also by re-election financing concerns. They also found that the US towards the EU was biased towards rejecting. On the other side cases against Japan and non-market economies often resulted in duties.

The particular nature of the injury investigation. The USITC first determine whether there is an injury and then the role of imports. Only the industries that show negative profits are considered to be protected. Hansen and Prusa (1993) found that industries that received protection were under-performing for reasons other than imports.

The steel industry has a better position. Studies showed that the US steel cases were up to 30% more likely to receive protection as non-steel cases. The reason was due to either experiences that steel industry has become from filing lot of petitions or successful incorporation of the steel industry into AD statues.

²⁷ Moore, M. O. (2001)

²⁸ On one hand studies such as Anderson (1993), Moore (1992) and DeVault (1993) constructed by relatively small data of cases, 50-60, and on the other hand studies from Finger, Hall, Nelson (1982), Hansen and Prusa (1996, 1997) and Tharakan (1991) providing more aggregated data, from 300 to 400 cases.

3.2.3. The Effects of Antidumping

What are the actual effects of AD investigations and furthermore duties on trade? The proportion of trade affected by duties might be relatively small, about 2% in the EU²⁹. As mentioned, AD investigation can provide affirmative decision, settled case or negative decision. The latter causes so called the “**harassment effect**”. Stager and Wolak (1994) found that imports felt dramatically during the investigation period, regardless of the case’s final outcome. Settled cases of AD petitions were often resolved with some type of voluntary export restraint agreement, which usually involved explicit quantity restrictions but often did not raise import prices. For example, in the last decade up to a quarter of industrial exports from the former Soviet-Union to the EU were subject to duties. The threat of AD actions may also induce exporters to agree to an undertaking voluntary export restraint (VER).

The important issue of AD studies is that also only the presence of AD law can cause changes in the firm’s behavior. The presence of AD laws causes a “**chilling effect**”³⁰ on imports. Decline in imports takes place because of the relative high probability and the amount of a duty. The proportion of the affirmative outcomes of AD investigations in the period 1987-97 was more than 60% for the US, Canada and the EU³¹ and average ad valorem AD duties was up to 40%, which was higher than the present level of most regular import tariffs.

The presence of AD law might cause price effects. The ex-post effect would be, when a foreign firm is able to avoid AD duties completely by appropriately altering of its prices in case when actual duty for previous period is taxed ex-post. The foreign firm has ex-ante expectations towards decisions of Commission in the case of high uncertainty of a decision-making process. The firm’s behavior may be influenced by the threat and uncertainty of the application of AD measures. Dumping may actually increase as exporters try to raise their share in anticipation of VER or other decisions³².

Welfare effects

The investigation process providing AD protection, as well as the administration and procedures for recalculating AD duties affect welfare and market outcomes. The duties levied after the affirmative test of the case are not necessary the primary cause of the changes in welfare. AD laws are in many cases demanded to protect the domestic interests. This suggests

²⁹ Niels, G. (2000)

³⁰ Niels, G. (2000)

³¹ Miranda et al. (1998)

³² Anderson (1993)

that foreign firms who want to introduce their products at low prices threaten domestic firms. Producers gain in the case of ad valorem duties but at the expense of lower consumer surpluses and deadweight losses. In the case of a small country it is shown that the losses overcome the profits, yet in the case of a large country duties may lower import prices enough to cause profits³³.

The studies point out two main approaches of examination of welfare changes because of AD activity. The first one³⁴ is focused on the benefits that domestic producers accumulate. Examination's concern is whether non-steel US AD petitions in the 1980s led to positive abnormal stock returns for the petitioning firms. They prove significant effects on petitioner's stock returns from affirmative decisions and find out that also only the threats of dumping were considered. Another approach³⁵ uses computable partial and general equilibrium models implied by the dumping margins to examine the welfare effects. The examination comprehends all US antidumping and countervailing case across the period 1980-88. They examine each case individually with partial equilibrium model to evaluate the import revenue loss to the US domestic industry because of the dumping margin calculated by the USDOC. They conclude that injury of dumped imports is in the large majority of cases small. These studies prove that overall welfare effects depend on the expansion of dumping in the first place. If dumping causes relatively small losses in domestic industry, then also the effects of AD decisions are appropriately small. On the other hand USITC and Gallaway et al. (1999) refer to the examination as ambiguous. They focus on the examination of aggregate welfare effects using a general equilibrium model. The key issue is that duties are not static over time. The USDOC recalculated dumping margins³⁶ in a process of administrative review concerning data from previous period. DeVault shows that many foreign firms raise prices and after that successfully lower dumping margins to avoid duty. By raising prices they switch the profit of the US economy from duties onto their account. Galaway et al. (1999) show in their model that the estimated welfare loss to the US economy from the ad valorem duties is \$209 million annually. However, the estimated welfare loss of the overall administrative review process varied from \$2-4 billion annually. This estimation made the US AD and CVD trade protection as one of the costliest US trade protection programs.

³³ DeVault (1996)

³⁴ Hartigan et al. (1989)

³⁵ DeVault (1996), Morkre and Kelly (1998)

³⁶ Blonigen and Prusa (2001)

4. Concluding Remarks

There is no doubt that AD policy flourishes. However, the fairness of this policy may be questionable. Dumping may be harmful for domestic producers as a form of unfair competition. But we must not forget that domestic consumers and producers that involve foreign products in further production actually benefit from lower prices. It seems that antidumping enforcement is as unfair for foreign firms and domestic consumers as dumping is a threat for domestic producers of like products. When it so, then why AD policy is still in prosperity?

For the great majority of public community antidumping seems to be the best solution to protect domestic industry from unfair foreigners. Even though opinions, because of high costs of investigation procedures, about the efficiency of AD policy differ, we should consider the possibility that other mechanisms, such as safeguard policy are not desirable. They transparently show that domestic industry is less competitive. And this fact is always hard to admit. Competition and AD policy both address the price-discrimination and below-cost pricing. The main difference is that the latter protects domestic industry from unfair politics of foreign firms, while competition policy actually protects competition. The concept of antidumping considers the principal of fairness, while competition policy considers the economic efficiency. As explained in this paper, a firm is not necessary dumping when it charges lower prices. Distinction between these two is not always detectable, because of different objectives. In general, it can be said that AD policy is more concerned about the effects that so called unfair practices have on welfare and they do not seem to pay a lot of attention to the problem of market concentration, market power and influence of dominant firms and other economic features.

Speaking of antidumping as politics, it is clear that it is bias to protectionism and does not support the policy of free trade. It seems to be more concerned with negative impacts of trade than with the benefits that trade brings. In fact, AD policy treats the both parties equally, domestic producers that would be harmed by import restrictions and those who would benefit from them. The major concern of this policy is the injury test. It points out the impacts on prices, outputs, profits, employment, etc. that unfair foreign pricing would cause. The question of ethics seems to be left out.

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6. Appendix

In this part of my article I will suggest some of the reasons why predatory pricing is not considered to be an effective strategy to enter a new market. I discuss this topic in appendix, because I think it might be interesting for a reader but it does not really correspond with the context of my article.

If we suppose that there are more firms interested in entering market, then the market power of the firms is more important than just the amount of them. On one hand, I suppose a firm or number of firms combined together, for example in a merger or cartel, which have a small market share in domestic market. It is not very possible that they would be strong enough to sell products at the foreign markets beneath their production price long enough to withdrawn the established firm or firms. They need to compensate their short-run losses with the profits they made at the home market. On the other hand, I take an example of a firm or firms merged in a cartel, which are dominant at home, market and want to enter a new market. It might happen that an entrant or entrants will be efficient in their strategy of very low prices and the established firms will exit the foreign market. Soon it will happen that a new comer will have to cover up losses that he produced, while trying to withdraw old-firms. The entrant (-s) will raise prices to take advantages of its dominant position, which enables him to gain high monopoly profits. Firms will use these profits for different purposes and one of them is to compensate losses. But high profits will attract other firms to enter the market. The other firms might use such kind of a tactic, which is setting very low prices to withdrawn established firms. After doing that they would also need to compensate their losses with raising their prices. We see that such a 'vicious' cycle might appear, the profits that former 'preyers' have made, after withdrawing the established firms will not last long enough to cover up the losses and to strengthen their position in a new market. The new entrants will have the same interests of persuading the former 'preyers' to exit the market. It is said that predatory pricing is not an effective strategy in normal market conditions. Of course, when market conditions change than such a strategy could be taken as a concern. Political decisions may create such strategy as an effective one, because of the several reasons; because of government subsidies, lobbying, patents, protectionist laws and other forms of trade barriers that aggravate the entrance for the new comers.

McGee (1958) states that if a firm's intention is to monopolize a market, it is rational to do it through acquisitions and mergers instead of using predatory pricing. It is suspected that in the case of predatory pricing becoming the only criterion for dumping, this situation would be an event of small probability and it would cease to be concerned. Very few cases of

predatory pricing have ever been proven. Empiric investigations show that the major users of AD actions are actually the economies that are relatively more prone to foreign direct investment (FDI)³⁷.

³⁷ Kerr, W.A. (2001)