

## World Trade Organization

**Topic A: Anti-dumping measures to promote fair trade between member states**

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### **INTRODUCTION**

The term “Dumping” is used when a company exports a product at a price lower than the price it normally charges on its own home market, or at a price that is lower than production costs at the home market. Under the World Trade Organization Agreement “dumping” is not prohibited unless it causes or threatens to cause material injury to a domestic industry in the importing country.

Opinions differ regarding “dumping” as a practice of unfair trade, but many governments are allowed to take action against “dumping” in order to defend their domestic industries. The WTO agreement does not pass judgement. Its focus is on how governments can or cannot react to “dumping”.

“Dumping” represents an issue because it leads to the erosion and in some cases the disappearance of industries in markets where it’s occurring for reasons unrelated to the relative competitiveness of those industries . Put most simply, “dumping” enables less efficient firms to prevail over more efficient firms in international competition. Competitive outcomes are determined by market distortions, that is, the factors that make “dumping” possible, rather than the relative competitiveness of individual producers.

On the other side, according to WTO, “dumping” has become an issue because the measures used to sanction it have been misused as a cover for a protectionist agenda.

The WTO agreement allows governments to act against dumping where there is genuine “material” injury to the competing domestic industry. In order to do that the government has to be able to show that dumping is taking place, calculate the extent of dumping [how much lower the export price is compared to the exporter’s home market price], and

show that the dumping is causing injury or threatening to do so.

Permitting dumping to occur without any regulation could endanger the political consensus which supports the current liberal multilateral trading system. Friction arising out of dumping can become particularly acute when dumping injures or destroys industries regarded as vital to national economic well-being and national security.

According to the WTO database the major countries involved in this issue are Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Egypt, El Salvador, European Union, Honduras, India, Indonesia, Israel, Japan, Republic of Korea, Malaysia, Mexico, Morocco, New Zealand, Pakistan, Paraguay, Peru, Philippines, Russian Federation, Kingdom of Saudi Arabia, South Africa, Thailand, Trinidad and Tobago, Turkey, Ukraine, United States of America, Uruguay and Vietnam.

A detailed interaction of countries regarding anti-dumping measures can be found in the Global Antidumping Database [GAD] by Chad Bown at the World Bank Trade and International Integration development research website.

Dumping statistics up to 2016 based on initiations based on sectors

[WTO: [https://www.wto.org/english/tratop\\_e/adp\\_e/AD\\_InitiationsBySector.pdf](https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsBySector.pdf)]

## **HISTORICAL BACKGROUND**

Britain in 1870 had the world's manufacturing output, it was at the top over any other nation, its industries boasted the lowest costs and the most advanced production technologies, and its banks and shipping firms dominated world commerce. Britain's prosperity and commercial dominance appeared to validate the philosophy of the Free Trade movement that, after a series of intense political battles, had in the 1840s succeeded in clearing away most of Britain's import restrictions. In retrospect, however, it is evident that Britain's success prior to 1870 was attributable, in substantial part, simply to the fact that the country had industrialized before any other nation. Beginning in the 1870s, and growing in intensity thereafter, the rapidly growing manufacturing industries of Germany and the United States mounted a commercial assault on traditional British markets.

Both the United States and Germany were protectionist. In 1880 both national markets were surrounded by high tariff walls. These two countries, organized and sophisticated anticompetitive industrial combinations for the purpose of reducing competition, increase their industrial power.

The origins of antidumping laws date back to 1904 when Canada was the first country to adopt laws that allowed for special duties on "under valued goods", where the duty would be calculated as the difference between the price in Canada and the price at which goods were sold in the exporter's own market. The impetus was competitive pressures on the Canadian steel industry from cheap imported U.S. steel, while similar pressures in the agriculture machinery industry from the U.S. firm International Harvester led Australia (1906) to quickly follow with a similar law.

The broader context for the origin of these laws was the public response to the large monopolies and cartels that had arisen in the late 19th and 20th centuries in a number of Western developed countries, particularly in the U.S. Beginning with the Sherman Antitrust Act of 1890 and followed by other refinements, including the Clayton Act of 1914 and the Robinson Patman Act of 1936, the U.S. made illegal many business practices that harmed or limited market competition.

When the GATT was negotiated in 1947, Article VI provided that contracting parties could use antidumping duties to offset dumping that caused material injury. In subsequent rounds of multilateral trade negotiations, the contracting parties have adopted and refined a succession of antidumping codes that prescribe detailed procedural and methodological rules for the application of antidumping duties. [Howell and Ballantine, 1997: ] The GATT was negotiated during eight rounds which ended in 1994

#### Current Relevance[a][b]

Nowadays these unfair trade practices are still taking place around the world. As there is no fair competitiveness between enterprises and dumping, it could end with the national industries as all the external "cheap" products take the lead, but most important could cause the end of the GATT and the open markets between the countries.

According to Howell, the most active users of the antidumping measures have been countries with liberalized trade regimes that are also members of the GATT such as Canada, Australia, the European Union and the United States. A case that exemplifies this situation is the one that took place in 2016 between two members of the WTO: China and the European Union, where the WTO was investigating the Chinese steel imports to the Europeans.

In regards to this case, China was selling steel at unrealistic low prices compared to other countries that also produced the metal, a fact that instantly attracted the attention of the E.U. and the WTO; as it seemed suspicious that Chinese steel prices were constantly below the average of the expected cost. Even though the Europeans did not complain that much about the low prices, there was a proposal of reviewing China's prices under the WTO rules, even doubting about whether China should have been given the WTO status or not, because they were not obeying the rules.

On the other hand, China, as the producer and consumer of half of the world's steel, also gave its opinion, saying that the real problem was that Europe's economy was weak. Moreover, China has a problem about the excess capacity in the steel industry and they were trying to rationalize it but dumping it is not the right way to solve it.

Another important case that is worth being studied is the one about the Indian Shrimp Industry. This took place around the year 2003 in the United States where the Ad Hoc Shrimp Trade Action Committee (ASTAC) filed an anti-dumping petition against six countries: Brazil, China, Ecuador, India, Thailand and Vietnam, they were alleging that those countries dumped the shrimps in the American market; and on January 2004 the US Department of Commerce officially announced that there would be investigations against the six countries.

After doing the correspondent research they found out that 74% of shrimp imports in the US market were from these six countries, they also found that the imports have increased in the two previous years by around 200 million lbs; while the average unit value dropped from \$6.08 to \$3.30 [Bhattacharyya, 2004]. All these facts seemed suspicious to the eyes of the US, but India responded with a very smart argument, saying that the shrimps produced in India can not be compared with the ones produced in the US because they were different types of shrimps, so the prices can not be similar, and they also claimed that the cost of production was considerably lower in India than in the US, where

the fishing has a "capital intense activity" [Bhattacharyya, 2004]. After this, the exports of shrimps between India and the US almost stop and India started to diversify its market to other countries.

Apart from those specific cases, and undoubted proof that the presence of the dumping problem is still so relevant is that only in this year, 2018, there have been already four complaints on regard of the implementation of anti-dumping measures, this complaints have been promoted by Vietnam against the United States on Fish Fillets; by Australia against Canada on the Governing sales of wine; by the United Arab Emirates against Pakistan on the biaxially oriented polypropylene film and the last by the Republic of Korea against the United States on certain products and the use of facts available. As it can be seen, dumping is an actual real problem that causes tension between countries and obstructs the fair trade. The facts do nothing but prove just how much this still happens and how there's not enough attention on it.

In the next table, there's the data of the number of investigations that each country has initiated in search for dumping and those that have been implemented and revoked for the WTO during 2016

Anti-Dumping Initiatives, By Sector 2014-2016

HS Section	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
All products	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	17
01 Live animals and products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02 Meat and edible meat offal	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
03 Fish and aquatic invertebrates, live or killed	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04 Dairy produce; birds' eggs, whether or not prepared	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
05 Edible vegetables or similar parts of plants, whether or not prepared	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
06 Live trees or other woody perennials, whether or not grafted or budded	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
07 Cereals in primary forms	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
08 Other agricultural products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
09 Mineral products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10 Products of the chemical or allied industries	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11 Textiles, fabrics and articles, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12 Timber, wood and articles, articles and forest products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13 Mineral fuels, oils and mineral products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14 Metals, articles and accessories, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15 Stones, glass and articles, articles and forest products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16 Plastics, articles and accessories, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
17 Rubber, articles and accessories, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18 Iron, steel and articles, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
19 Base metals and articles, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
20 Precious metals, trawls and articles, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21 Chemicals, trawls and articles, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
22 Pearls, precious stones and trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
23 Iron, steel and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
24 Machinery and trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
25 Transport, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
26 Electrical, trawls and articles, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
27 Instruments, trawls and articles, trawls and articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
28 Miscellaneous manufactured articles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	17

Note: All actions notified to the WTO that are taken at the level of a customs union (European Union, Eurasian Economic Union, Southern African Customs Union, Gulf Cooperation Council) are counted one time each.

[WTO, World Tariffs Profiles 2017]

Country/Territory	Measures taken as importer				
	From 1 January to 31 December 2016			As of 31 December 2016	
	Investigations initiated	Final measures		Final measures in effect	
		Implemented	Withdrawn/ Revoked	Number of measures	HS sub-headings
Algeria					
Argentina	25	1	2	83	105
Armenia					
Australia	17	5	5	55	61
Austria					
Bangladesh					
Belarus					
Belgium					
Bosnia and Herzegovina					
Botswana					
Brazil	11	13	6	156	99
Bulgaria					
Canada	14	3	2	61	73
Chile	1	1		1	4
China	5	11	6	95	53
Colombia	1	1	1	17	21
Costa Rica	1		1		
Czech Republic					
Denmark					
Dominican Republic	1			2	3
Egypt	14	4	1	10	10
El Salvador	1				
European Union	14	8	2	115	157
Finland					
France					
Georgia					
Germany					
Greece					
Hong Kong, China					
Hungary					
India	69	37	15	248	349
Indonesia	7			32	32
Iran					
Israel	1	1		1	1
Italy					
Japan	1	2		6	3
Kazakhstan					
Kenya					
Korea, Republic of	4	3	8	27	27

Country/Territory	Measures taken as importer				
	From 1 January to 31 December 2018			As of 31 December 2018	
	Investigations initiated	Final measures		Final measures in effect	
Implemented		Withdrawn/ Revoked	Number of measures	HS sub-headings	
Lesotho					
Malaysia		5	1	21	16
Mexico	6	12	3	64	73
Moldova, Republic of					
Morocco	4			7	13
Namibia					
Netherlands					
New Zealand			1	7	3
Norway					
Oman					
Pakistan	24	2	10	21	7
Paraguay	1				
Peru		1		9	64
Philippines	1			1	1
Poland					
Portugal					
Qatar					
Romania					
Russian Federation	1	4		19	62
Saudi Arabia, Kingdom of					
Serbia					
Singapore					
Slovak Republic					
South Africa			4	28	20
Spain					
Sri Lanka					
Swaziland					
Sweden					
Switzerland					
Chinese Taipei	8			6	24
Thailand	10	9		49	95
Trinidad and Tobago		1		1	4
Tunisia					
Turkey	17	15	2	156	232
Ukraine	1	2		16	16
United Arab Emirates					
United Kingdom					
United States of America	37	36	6	287	363
Uruguay				1	1
Venezuela, Bolivarian Republic of					
Viet Nam	3			4	7

## **INTERNATIONAL ACTIONS**

The European Union uses trade defense instruments when there's harm by dumping, they developed The European Commission and one of its jobs is to investigate when there's allegations of dumping by exporting producers that aren't part of the European Union, it also can initiate an investigation on it's own if it has concerns, also it applies measures like a minimum import price and price undertakings according to the case.

Chinese antidumping actions proceed simultaneously through two different state agencies: the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the State Economic and Trade Commission (SETC). MOFTEC is responsible for determining whether imported merchandise is being, or is likely to be, sold in China at less than its normal value or, in other words, whether imported merchandise is being sold at "dumped" prices. SETC is responsible for determining whether dumped imports are currently causing or threatening to cause material injury to a domestic Chinese industry or to materially retard the establishment of such an industry. An antidumping duty order may not be issued unless both dumping and injury are found.

The United States developed their own commission, The United States International Trade Commission (USITC) this is an independent, Federal agency that deals with the duty of investigation when there's suspicion or complaints about matters of trade. The agency investigates when there's proof of effects on dumping and or subsidiaries imports on the domestic industries and conducts global safeguard investigations. The agency helps to facilitates a rules-based international trading system and also to serves as a Federal resource where trade data and other trade policy-related information are gathered and analyzed.

The Brazilian AD Law and the Brazilian SCM Law establish that, after a final decision regarding the imposition of anti-dumping duties or countervailing measures, three kinds of reviews are possible. These reviews take the form of an investigation, sometimes in an abbreviated form. The 'expiry review' has the aim of checking whether duties should remain in effect after the expiry period of five years. The 'mid-term review' is aimed at modifying duties, whether because of a 'misunderstanding' in the original procedure or because the situation has changed. The 'newcomer review' changes duties payable by exporters who were not exporting to Brazil during the investigated period and hence deserve

an individual duty. These reviews take place upon request by the complainant in an original case, by another interested party or ex officio, depending on the case.

India requested a stand-by arrangement from the International Monetary Fund in August of 1991. Among the conditions for the arrangement was that India had to implement major structural reforms, including trade liberalization, financial sector reform and tax reform. Since the start of the recent financial crisis and global recession through 2009 India has filed 11 new safeguard cases (broadly targeting all exporters) and 5 new China-specific safeguard cases. The scope of protection seems to be somewhat broader than in its use of antidumping as only about half of these 15 new safeguard cases are in the chemical-related sectors.

## **UN ACTIONS**

UNCTAD is an intergovernmental permanent body established by the United Nations General Assembly in the year 1964. Their headquarters are located in Geneva, Switzerland, and have other offices both in New York and Addis Ababa, they work mostly with the governments to help them reach the Sustainable Development Goals, they also work next to the WTO in some topics.

The Chief Executive Board, also known as the CEB serves as the main instrument that the executive heads use to help them coordinate their actions and policies. The CEB has meetings twice a year under the chairmanship of the UN Secretary-General and also delivers reports of its activities to the Economic and Social Council [ECOSOC].

Every spring there's a meeting that is held within the ECOSOC so that with the participation of various Senior officials that are from the Bretton Woods institutions, the WTO and the UN Conference on Trade and Development [UNCTAD], so together they maintain a dialogue on specific issues such as Financing for Development through roundtables as well as informal talks.

There's also a substantive session of ECOSOC that is held every year in Geneva. The WTO also participates in the High Level Segment of this important session. In these meetings they assess the best ways to reach the implementation of the UN Millennium Development Goals and how to make it possible.

## **POINTS TO DISCUSS**

- Economic Impact
  - Economic repercussions at a local and global level
  - Rules of negotiation
- International Impact
  - How it affects in the negotiation of trade agreements between countries
  - Anti-dumping measures and their implications
- Treaties
  - Indicate if it is necessary to make a treaty to stop the practice of "Dumping"
  - Treaties already applied to reduce the problem, are they really solving something?
  - What has been the effectiveness of the treaties?

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