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ANTI-DUMPING

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Introduction to trade remedies
Basic Principles

Key principles of WTO

Market Access
- Tariff bindings
- Elimination of quantitative restrictions

Non-discrimination
- Most-favoured-nation treatment
- National treatment
Trade Remedies

- Trade liberalization may be accompanied by:
  - Unfair trade practices
  - Excessive competition from imports
  - Injury to domestic industry

- WTO Members recognize the need for protection
- Specific rules to avoid abuse of trade remedies
Exceptions to basic principles

Exceptions include the three trade remedies:

- Anti-Dumping Duties
- Countervailing Duties
- Safeguards
Overview of trade remedies

- Anti-dumping duties - counterbalance injury caused by dumping
- Countervailing duties – counterbalance injury caused by subsidization
- Safeguard – response to a sudden increase in imports
Trade Remedy Initiations
1995 - 2010

- Anti-dumping: 3,853
- Safeguards: 218
- Countervailing: 254

Total: 4,325
ANTI-DUMPING
NUMBER OF INITIATIONS
1995 – 2010

Total 3,853
ANTI-DUMPING INITIATIONS BY IMPORTING MEMBER 1995 – 2010

Total 3,853

Mexico | Korea | Turkey | Canada | China | So.Afr | Aus | Braz | Arg | EU | US | India
99 | 111 | 146 | 153 | 186 | 212 | 215 | 216 | 284 | 421 | 443 | 637
THE ANTI-DUMPING AGREEMENT
Legal Basis For AD Actions

- Article VI of GATT 1994
  +
- Anti-Dumping Agreement
An example: bicycle problems

- Local bicycle producer in Beijing complains of cheap imports from Italy
- Cannot sell bicycles for as low a price as the imports without taking a loss
- What can the government do to help?
What is “dumping”? 

Normal Value > Export Price

“Price discrimination between two national markets”

*Italians are exporting bicycles to your country at a price lower than what they charge in Italy for the same bicycles
Three Pillars of Anti-Dumping

DUMPING + INJURY + CAUSATION
Imposing AD duties

To impose measures:

- Investigation by national authorities

- Procedural and substantive requirements detailed in the Anti-Dumping Agreement
Determination of dumping

- Need to compare:
  - “normal value” with
  - export price of the product alleged to be dumped
DETERMINING NORMAL VALUE
Normal Value

GENERAL RULE:

The domestic price in the country of export

*Must find the price of bicycles sold in Italy
Like product – bicycle problem

- Local bicycle company sells scooters in the domestic market
- Italian imported product is bicycles
- Can you compare these products to find dumping?
What is a “Like Product”? 

“Identical”

or

“Closely resembling”
Normal Value

- General rule: domestic price in country of export
- Where:
  - There are no sales in ordinary course of trade
  - Domestic sales are insufficient (5% test)
  - China – protocol of accession

One of the two exceptions may be used
Alternatives for Normal Value

Domestic prices in the exporting country

Export price to a third country

Note: no hierarchy between these two

Constructed value in the exporting country
DETERMINING EXPORT PRICE
Export Price

In general: Price paid by importers

*Must find price paid in domestic market for imported Italian bicycles
COMPARISON OF NORMAL VALUE AND EXPORT PRICE
Fair comparison

- Comparison needs to be made between sales:
  - at the same level of trade
    - usually ex-factory level
  - as nearly as possible the same time
Computing the Margin of Dumping

Adjusted Normal Value  \[\rightarrow\]  Adjusted Export Price

\[\Rightarrow\]  Margin of Dumping

Adjusted Export Price
Modalities of Anti-Dumping Duties

- Ad valorem duties - 20% ad valorem
- Specific duties - $10/kg
- Variable duty - NV (POI) - export price of shipment concerned
INJURY
Bicycle Problem - Injury

- You have established that Italian bicycles are being dumped in your country

- But are the dumped imports injuring the domestic industry?
Injury Determinations Examine:

Volume of Dumped Imports + Effect on Prices + Impact on Industry
Price Effects of Dumped Imports

- Examine whether there is:
  - Price undercutting;
  - Price suppression; or
  - Price depression.
Article 3.4 Injury Factors

- Consider the domestic industry:
  - Sales
  - Profits
  - Output
  - Market share
  - Productivity
  - Return on investment
  - Employment
  - Wages
CAUSATION
Causality

Authorities have to show that:

“Dumped imports are, through the effects of dumping, causing injury to the domestic industry....”
Bicycle Problem - Causality

- It seems obvious that your domestic pasta industry is being injured:
  - Factories closing
  - Lost sales
  - Revenues and profits are sinking
You discover in your investigation that the domestic plants are not very productive.
You also discover there has been a drop in demand in the domestic market.
Is dumping causing the injury?
Causality

- Injury caused by other factors not to be attributed to dumped imports
- Examples of “other factors”:
  - The volume and price of other imported goods
  - Contraction in demand
  - Developments in technology
  - Productivity of domestic producers
Threat of Injury

No current injury but it is likely to occur......

Factors to consider:

- Rate of increase of dumped imports
- Increase in capacity of the exporter
- Price effects of dumped imports
- Inventories of the exporter / importer
PROCEDURAL ASPECTS OF INVESTIGATION
Procedural Rules

- Anti-Dumping Agreement includes detailed procedural rules to ensure all interested parties have notice of investigation and are able to submit evidence and to ensure the remedy is not abused.
Duration of Anti-Dumping Measures

- Principle: “only for as long as, and to the extent necessary, to counteract injurious practice”
- Concrete time limit: 5 years (subject to review)