

# Report for Congress

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## **Dumping of Exports and Antidumping Duties: Implications for the U.S. Economy**

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## Summary

Dumping in the United States is the selling of a product by a foreign producer at a price that is below the product's sale price in the country of origin, or at a price that is lower than the cost of production. Under U.S. law such an action is considered an unfair trade practice. If that action is found to cause "material injury" to a competing domestic industry, an antidumping duty equal to the "dumping margin" will be levied against the foreign good.

Until the 1990s antidumping actions were a protectionist device used almost exclusively by a few rich countries: the United States, Canada, Australia, and Europe. In the last decade, however, there has been an explosion of antidumping cases brought by many other nations. Rising use by other nations has also meant that the U.S. itself has become an ever more frequent target of antidumping measures.

From an economic perspective, for dumping to be harmful to the U.S. economy it must be part of a strategy of predatory pricing, aimed at monopoly control of a market. Such predatory behavior is certainly possible, but likely to be relatively rare. The practice of U.S. antidumping policy over the last 25 years has grown to encompass foreign firm pricing behavior that very likely has no predatory intent or effect. Indeed, it is comparable to behavior undertaken legally by domestic firms in the home market every day.

Several economic studies confirm that U.S. antidumping duties can be costly to the overall U.S. economy. Protected domestic producers gain, but consumers and the wider economy lose more. Using trade barriers, like antidumping duties, as preservers of "fairness" in international trade has merit if that trade and the foreign practices that support it undermine longstanding domestic social norms. But dumping is very unlikely to meet this criterion as similar behavior is widely practiced by domestic firms in the home market as well.

Antidumping laws are often politically popular and any significant circumscribing of their use would most likely hinge on finding more generous and equitable ways of dealing directly with those hurt by international trade that are less harmful to the efficient functioning of the economy.

There are also concerns that perpetuation and growth of antidumping initiatives may become a significant impediment to advancing a new round of multilateral trade liberalization.

This report will be updated as events warrant.

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# Dumping of Exports and Antidumping Duties: Implications for the U.S. Economy

## Introduction

Dumping in the United States is the selling of a product by a foreign producer at a price that is below the product's sale price in the country of origin, or at a price that is lower than the cost of production. Under U.S. law such an action is considered an unfair trade practice. If that action is found to cause "material injury" to a competing domestic industry, an antidumping duty equal to the "dumping margin" will be levied against the foreign good. The dumping margin is an estimate of the difference between the actual price and an estimate of a "fair price;" that is, it is a measure of the amount the product's price in the U.S. market would have to rise to offset the "unfair" price advantage.

The United States has been a frequent user of antidumping duties over the last 20 or more years and the use of antidumping remedies abroad has increased greatly over the last decade. This trend runs counter to the U.S.'s otherwise strong support for and leadership in the steady removal of trade barriers in the post-World War II era. Recent congressional action has highlighted the support for antidumping measures among Members of Congress. The Trade Promotion Authority (TPA) bill (HR 3009) recently passed by the Senate was amended to exclude any changes in U.S. antidumping laws, arising from any future trade negotiations, from the expedited ratification process that TPA establishes.

Antidumping would seem to be an area where the goal of economic efficiency has come into conflict with notions of "fairness." On the other hand, some question whether in most circumstances dumping is evidence of unfair economic behavior, but rather a way of shielding domestic industries from the competitive rigors of expanding international trade that is generally condoned by the current rules governing international trade.

This report looks at the economic impact of U.S. antidumping policy. It provides a view of the rising incidence of antidumping actions by and against the United States. It also examines the conceptual economic basis for taking antidumping action against imports. U.S. antidumping practice is appraised relative to that conceptual basis. Evidence on the domestic economic impact of current antidumping measures is presented and arguments for dumping based on the notion of "fairness" are also considered.<sup>1</sup>

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<sup>1</sup> For a discussion of the legal and legislative issues surrounding antidumping and other trade (continued...)

## Prevalence and Proliferation of Antidumping Measures

A 2001 study by the Congressional Budget Office (CBO) examined the level and use of antidumping actions through 1999 by the United States and other countries.<sup>2</sup> That study found that before the Uruguay Round Agreement went into effect in January, 1995, only a few countries used antidumping laws to any great extent, and the United States was the heaviest user by virtually every indicator.<sup>3</sup> Subsequent to 1995 the United States became a less frequent, but still a very heavy user of antidumping actions.

### Prevalence of U.S. Measures

The CBO study examines several indicators of the prevalence of U.S. antidumping measures. One indicator is *measures initiated*. Prior to the Uruguay Round Agreement the U.S. led the world in antidumping cases initiated, averaging over 53 cases per year from 1990 to 1994, or about 25% of the average annual number of cases initiated world-wide. From 1995 to 1999 cases initiated by the United States fell to an average of about 26 per year. This was third after the EU, which initiated an average of 39 cases per year, and South Africa, with an average of 27 case initiations per year.

A second indicator of antidumping use is the number of *measures actually imposed*. Prior to 1995 the U.S. led the world with an average of 23 antidumping measures imposed per year, or about 25% of the average total world-wide. The EU was second in this category with an average of about 21 measures imposed. From 1995 to 1999, by this standard, the United States reduced the number of new antidumping measures imposed to an average of about 16. This put the United States in second place behind the EU, which averaged 21 new measures imposed per year.

The most striking indicator, in CBO's view, of U.S. "dominance" of antidumping action world-wide is the stock of *active measures* in place. At year end 1994 the U.S. had 326 active measures in effect, representing over 30% of all active measures by all countries. In this category the EU was a distant second with 148 active measures. On the first day of 2000 the U.S. reported 267 active measures, a sizable fall, although still accounting for over 26% of the world-wide total of active

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<sup>1</sup> (...continued)

remedy laws see CRS Report RL30461, *Trade Remedy Law Reform in the 107<sup>th</sup> Congress*, by William Cooper. For a discussion of issues surrounding Trade Promotion Authority (formerly called Fast Track) see: CRS Report IB10084, *Trade Promotion (Fast-Track) Authority : Background and Developments in the 107<sup>th</sup> Congress*, by Lenore Sek.

<sup>2</sup> U.S. Congressional Budget Office, *Antidumping Actions in the United States and Around the World: An Update* (Washington: June 2001).

<sup>3</sup> The Uruguay Round Agreement made moderate revisions to antidumping law that could be expected to restrain U.S. antidumping activity somewhat.

antidumping measures, and far more than the 148 active measures reported by the second place EU.<sup>4</sup>

A final indicator of the prevalence of U.S. antidumping activity is a comparison of U.S. cases against other countries with those of other countries cases against the United States. In 1994 the U.S. had 281 antidumping measures against other countries compared with 79 measures against it, or a ratio of 3.6 U.S. measures for every foreign measure. By the end of 1999 the U.S. had 267 measures against other countries compared with 107 against it, or a ratio of 2.5.

The CBO study also assessed the magnitude and duration of antidumping duties. Before the Uruguay Round the U.S. average antidumping duty rate was 56.2%, among the highest for active users. U.S. measures also tended to be long lived, remaining in effect for an average of more than 7 years, with about 20% of its active antidumping measures in effect for 10 or more years. Other country's measures typically had durations of three to four years. After the Uruguay Round the U.S. average duty rate fell to 46.7%, placing it more in the middle of the pack; but the average duration of the duty increased to over eight years, continuing to significantly exceed the average duration of all other countries' antidumping measures.

The CBO study shows that the United States continues to be a very active user of antidumping measures and those measures continue to create a significant and enduring impediment to trade in the targeted products. This is in sharp contrast to the nation's otherwise strong advocacy of free trade.

## **Proliferation World-Wide**

Until the 1990s, antidumping actions were a protectionist device used almost exclusively by a few rich countries: the United States, Canada, Australia, and Europe. In the last decade, however, there has been a proliferation of antidumping actions in numerous developing nations. Very active new users over the last decade include: Mexico, Brazil, Argentina, India, Turkey, and South Africa. A recent study by the Cato Institute documents the spread of antidumping measures from "traditional users" to "non-traditional users" over the last decade. The Cato study observes that in the 1990s, 2,483 antidumping investigations were launched world-wide, representing more than a 50% increase over the already high activity level of the 1980s.<sup>5</sup> In addition, over this period the pattern of use of antidumping measures between traditional users and non-traditional users changed significantly. Of the 1,254 antidumping measures initiated world-wide between 1990 and 1994, only 37% were brought by developing countries. In contrast, of the 1,229 measures initiated between 1995 and 1999, non-traditional users accounted for 59% of the

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<sup>4</sup> The decline in the stock of active cases for the U.S. is primarily due to the improved sunset review provisions for active antidumping measures imposed by the Uruguay Round agreement.

<sup>5</sup> Brink Lindsey and Dan Ikenson. "Coming Home to Roost: Proliferating Antidumping Laws and the Growing Threat to U.S. Exports," *Cato Trade Studies*, no. 14, July 30, 2001.

world-wide total. Notable non-traditional users in this recent period include Venezuela, Peru, Egypt, Israel, Malaysia, and the Philippines

Rising use of antidumping measures by many other nations has also meant that U.S. exports have become an ever more frequent target. Over the last half of the 1990s the U.S. was the third most popular target (behind Japan and China) of antidumping measures worldwide, with 81 investigations by 17 countries, and with duties imposed in 51 of those cases. Antidumping measures in force against the U.S. in this period were up 41% over the number in force over the previous five years. Canada and Mexico remain by far the most frequent users of antidumping measures against the United States, but in recent years many other nations have more frequently taken aim at U.S. exports. Other prominent recent non-traditional users of antidumping measures against the U.S. were Argentina, Brazil, India, South Korea, South Africa, Taiwan, and Venezuela. The most frequently targeted U.S. industries have been chemicals and metals, but plastics, vegetable products, wood pulp and paper, machinery, textiles, and transportation equipment have also been recent targets. As the world's largest exporter, this is a trend that the U.S. may well expect to escalate<sup>6</sup>.

The widening spread of antidumping measures is a perhaps not surprising consequence of the sizable degree of trade liberalization that has occurred across the world economy. For many developing countries, this has in recent years meant having to live with substantial reductions in the level of their trade barriers. While generally beneficial, more open trade will also cause economic disruption and generate political tension. Antidumping measures provide developing countries with an easily exploitable device for ameliorating the problems trade can bring and a device already widely used by the U.S. and other developed economies.

Nevertheless, the proliferation of antidumping action is viewed by trade economists as a disturbing trend, a form of backdoor protectionism that runs counter to the post-World War II trend of reducing barriers to trade. But antidumping is legal under the rules of the World Trade Organization (WTO) and remains politically popular. There is concern of a vicious cycle where "legal" antidumping measures by one country beget (retaliatory or emulatory) antidumping action by other countries. Economic theory and evidence suggest that this may be a costly trend for the U.S. and for the world economy.

## **Economic Conception of Antidumping**

Dumping in standard economic analysis is defined as an international form of price discrimination.<sup>7</sup> That is, dumping is the sale of an exported product for a price that is less than the price charged for the same product in the home market. Such a price difference is not necessarily a cause of economic harm to the importing

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<sup>6</sup> Lindsey and Ikenson, op cit.

<sup>7</sup> The discussion in this section draws extensively from: Joseph E. Stiglitz, "Dumping on Free Trade: The U.S. Import Trade Laws," *Southern Economic Journal*, 1997, vol. 64(2), pp. 402-424.

economy. The low price may well place competitive pressure on domestic import competing industries, but that low price is also a clear benefit to consumers of the imported product, and will also induce efficiency gains in other parts of the economy. On balance, one can most often expect a gain in overall economic well-being from lower priced imports. There are, however, two possible exceptions to this generally positive impact on the importing economy of international price discrimination: *predatory pricing* and *new trade theory effects*.

## **Predatory Pricing**

Predatory pricing is behavior that uses low prices to drive all other producers out of the market, with the ultimate intent of establishing monopoly control. During the period of low prices consumers and the economy would experience an improvement in economic welfare. But once the monopoly power is secured prices can be expected to rise and overall economic welfare reduced.

Moreover, a foreign predator could have an even greater deleterious effect than would a domestic predator. There are two reasons for this. First, the foreign predator stands to capture economic gains that would only be reallocated within the domestic economy with a home based predator. Second, because domestic labor is not internationally mobile, there are likely to be more adjustment problems and more employment mismatches than if the output source had shifted within the domestic market rather than abroad.

Mainstream economic analysis has generally attached a very low probability to the occurrence of a successful predatory pricing strategy. With the prospect of a long and costly period of predation and the likelihood of limited ability to deter subsequent entry by new rivals, the chances for actually earning full monopoly profits and generating an acceptable long-run rate of return from the endeavor seemed remote. However, some recent thinking on the subject has developed possible strategies for deterring entry by potential foreign or domestic competitors that would improve the chances of successful predatory pricing.

Thus while dumping for predatory ends is still likely a rare event, it could occur and it is still an appropriate target for economic policy. But evidence of price differentials across borders, or prices set below average total cost, are not conclusive evidence of dumping for harmful predatory purposes and can certainly be consistent with beneficial competitive behavior. Further, such competitive behavior is more likely to be present in the market place than is predatory behavior.

## **New Trade Theory Effects**

The *new trade theory* or what is also called “strategic” trade theory is a body of relatively recent research that has shifted the focus of trade theory from the exchange of a good between nations to the rivalry between a few firms in international competition. In this environment there can arise a strategic interdependence between firms such that pricing, investment, and output decisions by one firm will strongly affect similar decisions by others in the group. The firm that can move first to exploit sale economies and learning curve advantages can find



itself in position to earn extra-normal returns to the benefit of itself and the wider economy.<sup>8</sup>

In this framework it is theoretically possible for government promotion of the domestic firm to induce behavior of foreign firms that leads to a shifting of profits to the domestic firm and increases national economic well-being. Antidumping actions could help capture these benefits as they work to help the home firm and deter the foreign competitor.

As research has evolved in this area, however, it has also become clear that the desirable outcomes of “strategically” deviating from free trade may be elusive. A positive outcome is highly sensitive to just the right conditions being present in the relevant markets. In practice, accurate identification of a true strategic industry would be difficult and the accrual of sizable returns doubtful. Such policy efforts could do more harm than good. For these reasons most economists would think it unlikely that “new trade theory” effects provide a credible justification for most antidumping actions.

## U.S. Antidumping Practice

U.S. antidumping laws are administered by the Department of Commerce (DOC) and the International Trade Commission (ITC). A dumping case can be initiated by a domestic industry or by the DOC. The DOC determines the existence and degree of dumping, using one of several possible methods for estimating whether the import’s U.S. market price is below an estimate of “fair” price. The ITC determines whether “material injury” has occurred based on consideration of factors such as employment and volume of imports, but what constitutes material injury is not formally specified and the injurious effects of factors other than imports are not systematically disentangled, leaving a good deal of discretion to the ITC in making its determination. If both agencies’ findings are affirmative, the DOC will direct the Customs Service to levy a duty equal to the estimated “dumping margin.” Critics observe that DOC findings are almost always positive, affirming that dumping has occurred. Positive findings of material injury by the ITC are less frequent.

The form and practice of U.S. antidumping policy has changed over the years, moving well away from trying to counter harmful predatory behavior by importers. The original antidumping statute – the Antidumping Act of 1916 – was aimed at the prevention of predatory pricing. Although this law is still in effect, it receives little use. It was effectively superceded by a 1921 law – the Antidumping Act of 1921– which gave much greater scope for the bringing of an antidumping action. Under that act there was no need to establish predatory intent or effect, so that any price discrimination could be grounds for imposing antidumping duties on an import.

However, most economic analysts argue that a series of amendments to U.S. antidumping law during the 1970s facilitated a major increase in the likelihood of

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<sup>8</sup> For an elaboration of “new” or “strategic” trade theory and policy see: Paul Krugman, “Is Free Trade Passe?,” *Journal of Economic Perspectives*, 1987, vol.1, pp.131-144.

achieving a successful antidumping finding. Changes of significance included: use of sales below cost as a measure of dumping, establishment of strict and shortened time limits on cases, a shift of investigation power from the Department of Treasury to the Department of Commerce, and a lowering of the threshold for assessing imports' role in harming a domestic industry. In the years that followed these changes, the level of successful antidumping cases rose substantially.<sup>9</sup>

The key determination in an antidumping case is what constitutes a "normal" price for the imported product. The excess of "normal" price over actual price in the U.S. market establishes the "dumping margin" and becomes the basis for levying the antidumping duty. U.S. antidumping law specifies a hierarchy of methods for determining "normal" price for an alleged dumped import. The first preference would be to establish a *home market index* that measures the price the product sells for in the producer's home market. However, if there are no home market sales or what home sales do occur are less than 5% of sales in the U.S. market, then a *third country index* that measures the product's price in another of the exporter's foreign markets is used. If that can not be done, then a *constructed value index* that estimates the exporter's average total production costs, including some amount of profit, would be used.

In practice, many direct price comparisons are rejected because U.S. rules preclude making comparisons to the producer's home market or third market prices if more than 20% of such sales are deemed to be below total cost. Therefore comparisons are very often based on a "constructed value" index. However, "constructed value" indexes are thought to be subject to some significant measurement problems. For example, in many cases the index is not made from data provided by the foreign producer, but relies instead on "facts available," where such facts are often obtained from the domestic industries' antidumping petition. In addition, constructed value indexes incorporate a somewhat arbitrary measure of a "normal" profit margin into the cost estimate. It is often the case that low profit sales in the home market will be excluded from comparison, thereby inflating the computed profit margin and, in turn, the imputed dumping margin.

Because of these and other problems many economic analysts argue that the U.S. system of determining fair value has a built-in asymmetry that biases it toward a finding that dumping has occurred.<sup>10</sup> Moreover, it is argued that these measures are unlikely to reveal price discrimination and are highly unlikely to discern the presence of predatory pricing. An extensive study was undertaken by the OECD of antidumping cases in Australia, Canada, the European Union, and the United States.<sup>11</sup> That study found that 90% of the cases where imports were determined to be dumped under existing rules would *not* have been questioned as posing a

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<sup>9</sup> See: Thomas J. Prusa, "The Trade Effects of U.S. Anti-Dumping Actions," *NBER Working Paper*, no. 5440, 1996, pp. 3-5

<sup>10</sup> Biases in DOC antidumping determinations are reviewed by Robert Boltuck, and Robert Litan, *Down in the Dumps: Administration of the Unfair Trade Laws*. (Washington D.C.: The Brookings Institution, 1991).

<sup>11</sup> The results of this study are published in: Robert Z. Lawrence, (ed.). *Brookings Trade Forum 1998*. (Washington D.C.: The Brookings Institution, 1998).

predatory threat under these same countries' antitrust (or competition) laws. In other words, the behavior of the importers, if undertaken by a domestic firm, would not have been questioned as predatory or otherwise generally harmful. A more recent study by Brink Lindsey looked at 141 dumping determinations by the DOC between 1995-1998.<sup>12</sup> This study found that the DOC methods were ineffective in identifying price discrimination or harmful predatory behavior. Nor were these methods likely to be a reliable guide to the presence of other unfair practices on the part of foreign sellers, Lindsey concluded. It is also found that overstated profit assumptions in constructed value calculations often biased the process toward finding a positive dumping margin.

As one observer notes, under current U.S. rules imports can be deemed unfairly dumped "even if foreign firms charge higher prices to their export market than they do at home and even if foreign firms earn healthy profits on each and every foreign sale."<sup>13</sup> In general these results raise considerable doubt as to whether most U.S. antidumping determinations are shielding the U.S. economy from economic harm.

## **Other Reasons for Price Differences and Below Cost Sales**

There are many reasons other than predation why prices may differ across national borders and why sales might occur at a price below production cost. Each is rooted in reasonable business practice and none are economically harmful.

Outside of agricultural and commodity markets, modern firms selling differentiated products have some degree of market power, not enough to extract monopoly profits but sufficient to adapt price to differing market conditions from country to country. Because of this the price charged in a less competitive home market may be higher than the price charged in a highly competitive foreign market. Similarly, firms that are new entrants to a market often have a competitive disadvantage relative to established firms. In this circumstance it is not unusual for a new business to offer its product at a lower price in an attempt to offset this disadvantage and gain market share.

Pricing below cost is also often part of a reasonable business practice. Economists have long recognized that a profit maximizing (or loss minimizing) firm will find it prudent to price below average total cost. In times of recession or other market weakness, a price that covers variable cost (e.g., labor, energy, and materials) and only a portion of fixed cost (e.g., plant, equipment, and r&d) is a practice that does not earn profits but will minimize losses until business conditions improve.

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<sup>12</sup> Brink Lindsey, "The U.S. Antidumping Law: Rhetoric versus Reality," *Cato Trade Policy Studies*, no. 14, 1999, pp. 1-36.

<sup>13</sup> Bruce Blonigen, and Thomas Prusa. "Antidumping," *NBER Working Paper*, no. 8398, July 2001, p. 3.

Below cost pricing may also occur with the introduction of a new product. In this case a firm may possess a productive process that presents a steep “learning curve” that promises improved efficiency and lower unit production costs as time passes and the output level increases. In this case the firm will often “forward price” in relation to the expected long run marginal cost, which will be much lower than the current marginal cost. Similar long run pricing behavior can occur when new firms must initially incur large initial investments in physical plant and research and development. Until sufficient market share is secured by these new producers, price will fall below average total cost.

We can also expect in firms that produce multiple products with extensive cost sharing that it will be difficult to allocate costs on a product specific basis. A single product’s price may seem unprofitable if examined in isolation but in the context of the full product line can still contribute to overall profitability. Multi-product firms may also use “loss leaders.” These are products sold at low price to attract customers in the hope that they will also purchase other higher price products from their line.

None of these pricing tactics are necessarily indicative of any predatory intent and are frequently undertaken by domestic sellers to the benefit of consumers and the wider economy. Given the likely rarity of predatory behavior and the relative prevalence of these other reasons for keeping prices low, it can be argued that many U.S. antidumping determinations are actually responding to this benign or beneficial behavior rather than harmful predatory behavior.

## **Effect of Antidumping on U.S. Economic Welfare**

Economic analysis strongly indicates that trade restrictions reduce national economic well-being.<sup>14</sup> Protected industries and the collector of a tariff may gain, but consumers of the protected good and the wider economy typically lose more. Restrictions on imports such as antidumping duties raise the cost of acquiring the targeted product. Because of this, consumers are hurt, and so is the productive efficiency of the economy, since the protected industry is induced to produce more than what is economically optimal. The extra productive resources used to generate this added output comes at the expense of producing other goods that have greater economic value. This inefficiency necessarily lowers the total value of the economy’s output. The damage caused by the restriction (i.e. antidumping duty) will be greater still if the targeted countries retaliate against the restriction and dampen U.S. export sales.

The average antidumping duty imposed by the U.S. between 1980 and 1995 was about 40%, with many cases of duties exceeding 100%. The estimated impact of these duties on trade was also substantial, with targeted imports typically falling 50% to 70% over the first three years of protection.<sup>15</sup> One would expect that such a large

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<sup>14</sup> For a more formal development of this conclusion see: Gregory N. Mankiw, *Principles of Economics* (Fort Worth, TX: The Dryden Press, 1998), pp. 181-184.

<sup>15</sup> Thomas J. Prusa, “The Trade Effects of U.S. Antidumping Actions,” *NBER Working Paper*, no. 5440, 1996, p.12.

market distortion would lead to substantial costs for the U.S. economy, and a number of economic studies confirm this expectation.

The U.S. International Trade Commission published a study in 1995 that evaluated data from all antidumping cases initiated between 1980 and 1993 and assessed the overall impact on the U.S. economy.<sup>16</sup> That study found that antidumping duties caused a net economic loss of about \$1.6 billion per year. Profits and wages in protected industries increased about \$658 million, but unprotected firms and workers lost about \$1.85 billion.

Another study by economist James DeVault looked at data from 30 U.S. antidumping actions between 1987 and 1992 and found that those duties reduced U.S. economic welfare by \$275 million annually.<sup>17</sup> Further, for each \$1.00 protected producers gained from the trade barrier, U.S. consumers lost \$3.20.

Finally a 1999 study by Gallaway (et. al.) focused more closely on the dynamics of foreign product pricing when faced with dumping duties.<sup>18</sup> It was found that when presented with an adverse finding there was a sizable tendency for foreign producers to raise prices to avoid the antidumping duty. This was detrimental to consumers who incurred the higher price, and it also worked to redirect the benefit of potential tariff revenue from the U.S. government to foreign producers. With this effect included, the estimated welfare loss to the U.S. economy was estimated to be in a range of from \$2 billion to \$4 billion annually.

There may well be other welfare reducing effects not directly related to imposing an antidumping duty. The act of initiating an antidumping action – well short of reaching a finding – may have significant effects. Staiger and Wolack, for example, found that even suspended cases where no duty was applied caused a significant reduction of imports and increases of domestic production.<sup>19</sup>

## Dumping and Fairness

Even though economic evidence shows that removing most antidumping duties would likely improve the overall economic well being in the United States, there would also be industries and workers adversely affected by removing this impediment to free trade. Their plight gives rise to concerns about trade with countries that do not play by the same economic and social rules as the United States, whose “unfair” practices can undermine the economic position of U.S. workers.

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<sup>16</sup> U.S. International Trade Commission. “The Economic Effects of Antidumping and Countervailing Duty Orders and Suspensions,” no. 2900, June 1995.

<sup>17</sup> James M. DeVault, “The Welfare Effects of Antidumping Duties,” *Open Economies Review*, vol. 7, 1996, pp. 19-33.

<sup>18</sup> Michael P. Gallaway, Bruce A. Blonigen, and John E. Flynn. “Welfare Costs of U.S. Antidumping and Countervailing Duty Laws,” *Journal of International Economics*, vol.49, 1999, pp. 201-223.

<sup>19</sup> Robert W. Staiger, and Frank A. Wolak. “Measuring Industry-Specific Protection: Antidumping in the United States,” *Brookings Papers: Microeconomics*, 1994, pp. 51-118.

Worse, in this view, they can undermine important social conventions and institutions that frame the terms for acceptable economic competition.

Differences in labor and environmental standards have been prominent concerns in trade policy debates about efficiency versus fairness, but arguments for antidumping measures are also often advanced as a fairness issue, with the implication that dumped products arise out of various unfair business practices. Unless offset, the cost advantages afforded by these different standards and practices, it is argued, will steadily put competing American industries and, most often, low-skilled American workers at a major disadvantage as well as erode established domestic social relations.

On the other hand, a cheaper product, regardless of how it was made cheaper, is an *overall* gain to the importing economy. It is certainly possible for those who gain to compensate those who lose and still be better off. Adequate compensation, in practice, is most often problematic, however. Of course, the loss to the displaced worker in the import competing industry is the same whether caused by “unfair” foreign practices or “state of the art” technological prowess. Yet, the former is often seen to be far less acceptable.<sup>20</sup>

Under what circumstances do the concerns about “fair-trade” represent a valid argument against the welfare raising effects of free trade? In the case of imports there are two possible situations that need to be distinguished. While the economic case argues against restriction in both situations, the degree to which other constraining “social requirements” are met varies.

## **Trade and Domestic Social Norms**

For many people the acceptance of the gains from trade will hinge on whether those gains emerge from a process where all trading parties adhere to social norms of “fair play.” For example, different child labor rules can provide a basis for trade. The United States, with long held restrictions on child labor in its domestic practices, can find it economically beneficial to trade with a country that has a low level or no restriction against child labor.

Lower child labor standards could give a production cost advantage to the foreign producer. If the exports of the low labor standards country compete directly with U.S. industries, the price advantage of those lower standards will encourage a higher level of imports to the United States. These imports will come at the expense of domestic production. U.S. workers in the affected industry will lose jobs. With time these workers may find new jobs but most likely at a lower wage. In the aggregate, both nations are economically better off through this exchange, but the distribution of income has been changed in the United States as the income of the import competing workers falls.

Is this an acceptable outcome, or should trade policy (tariffs, quotas, etc) be used to protect the affected domestic workers from this outcome? While such trade

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<sup>20</sup> The discussion in this section draws extensively on: Dani Rodrik, *Has Globalization Gone too Far*, (Washington, D.C.: Institute for International Economics, 1997).

is certainly an efficient outcome, it is also an outcome that likely violates a prevailing social norm (i.e., domestic adult workers should not have to compete against child labor). If it is unacceptable to have child labor in a purely domestic context, why would it be acceptable to have domestic workers' living standard reduced by competing *indirectly* through trade with countries with more lax child labor laws?

The overriding sentiment in this circumstance is that there is a difference between gains from trade generated by a comparative advantage based on factor endowments or consumer preferences, and trade generated by a comparative advantage based on institutional choices in the exporting country that conflict with the norms of the importing country.

In this circumstance, where trade with a country with different social standards inflicts economic harm on domestic workers, the case can be made that trade liberalization cannot be treated as an end in itself, without regard to how it affects broadly shared values at home. Economic activity occurs in a social and moral context which tells us that there are unacceptable ways of imposing a burden on fellow citizens.

In concept, a trade restriction can be justified in this case to protect the *strongly* held social norm. In practice, however, under the rules of the World Trade Organization (WTO) it would be improper to use trade policy to curtail imports from countries using child labor because WTO rules, while prohibiting trade in products made by prisoners, generally do not allow discrimination on the basis of the *mode* of production. Of course, WTO rules do provide safeguards under the so called "escape clause" mechanism that allows domestic industries to seek relief from damage caused by certain types of import surges. We can imagine an elaboration of the "escape clause" mechanism that could be used for providing relief from damage done by unacceptable modes of foreign production. In its current form, however, WTO rules governing the use of such safeguards provide a very limited scope for using trade restrictions and have been little used by member nations.

Dumping, unlike labor or environmental standards, is not so easy to see as a violation of a domestic social norm. As discussed above, other than the rare case of predatory pricing, there are a variety of business practices that can lead to price differences between markets and pricing below average production cost. Such pricing behavior is often a basic element of competition in the market place that serves efficiency and overall economic well-being, and is widely practiced in the domestic economy. If most dumping is largely reflective of similar behavior on the part of foreign firms, then it is not violating any domestic social norm. In this circumstance pursuing antidumping actions on "fairness" grounds would not appear to be credible.

## Conclusion

It is doubtful that the majority of antidumping actions initiated by the U.S. are countering any harmful predatory pricing by importers. Nor is it likely that the majority of importer behavior targeted by antidumping duties is “unfair” in the sense that it deviates from widely accepted domestic practices. While certainly a benefit to the domestic industries that are protected by antidumping levies, those duties impose a greater and substantial cost on the wider U.S. economy. The enormous proliferation across the globe of antidumping measures of recent years suggests that the economic burden of antidumping on the United States will grow as more U.S. exports are targeted.

It may be that because it is relatively easy to invoke the antidumping laws, they are being used as a surrogate for the less easy to use “escape clause” mechanism to provide domestic industries some safeguard from surging imports. But many economists would argue that it is being overused. And that overuse is not only costly but also, as one economist sees it, “subverts the trade regime, gives safeguards a bad name, and crowds out an effective outlet for legitimate concerns.”<sup>21</sup>

Yet antidumping duties remain a popular political response to the costs that international trade imposes on many domestic industries and workers. This is not surprising given that the benefits of antidumping policies are very focused and accrue to a well defined group, while the cost of these policies is widely dispersed over the population among people with less natural cohesion and a more diluted political voice. Another consideration, however, is that perpetuation and growth of antidumping initiatives may become a significant impediment to advancing a new round of multi-lateral trade liberalization.

In the United States, the pressure to maintain this costly trade barrier might be allayed if workers harmed by international competition were more confident of receiving equitable compensation and other adjustment assistance. Insurance against adverse labor market outcomes has been part of a social bargain in the United States and other countries that has enabled those nations to make fuller use of the wealth creating potential of the market economy, including expanding free international trade. Examination of social insurance policies and practices might be a useful option in addressing the antidumping issue.

From an economic perspective, reform of the antidumping laws might be sensibly directed toward merging them with domestic predatory pricing (i.e. antitrust policy) laws, placing the policy focus on behavior that is clearly economically harmful.<sup>22</sup> Another, option would be for the antidumping injury test to encompass effects on the whole economy, producers and consumers alike.<sup>23</sup>

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<sup>21</sup> See Rodrik, op. cit. P 82.

<sup>22</sup> See: Stiglitz op. cit. P 420.

<sup>23</sup> J. Michael Finger, *Antidumping: How it Works and Who Gets Hurt*, (Ann Arbor, MI: University of Michigan Press, 1993).