
ANTI-DUMPING IN INTERNATIONAL TRADE LAW: A LEGAL ANALYSIS

KM. Karishma, Amity University Rajasthan

ABSTRACT

This study examines anti-dumping measures in international trade law in depth. The study begins with a brief overview of anti-dumping regulations, covering their scope, rationale, and precedential context. Article VI of the General Agreement on Tariffs and Trade (GATT) and the Agreement on Implementation of Article VI of the GATT 1994 are discussed as part of the legal framework of antidumping measures (AD Agreement).

The paper continues by discussing the steps involved in anti-dumping investigations, such as opening an investigation, identifying dumping and harm, and enforcing remedies. Price comparison, normal value, and injury considerations are also examined in depth as criteria for evaluating dumping and injury.

Critiques of anti-dumping regulations, including protectionism, injustice, and effects on developing nations, are also investigated in the article. Case studies and analysis are also offered to illustrate how dispute settlement processes can be used to resolve anti-dumping claims.

The study goes on to talk about the potential and difficulties of anti-dumping measures in international trade law in the future. In its final section, the study discusses the significance of anti-dumping measures in modern international trade law.

This paper's analysis is grounded in a thorough examination of the primary and secondary literature, as well as applicable case studies. The results shed light on the nuances and difficulties of antidumping measures in international trade law, demonstrating the importance of striking a middle ground in order to remedy trade distortions and safeguard domestic industries without adversely affecting foreign markets or other interested parties.

Keywords: Anti-Dumping Measures, International Trade Law, WTO Agreements, Dumping and Injury, Dispute Settlement

1. INTRODUCTION

Protecting domestic industries from unfair competition from foreign competitors who participate in dumping tactics has led to the rise of anti-dumping measures as an important weapon in international trade law. The term "dumping" refers to the act of exporting goods at prices below the cost of production or below domestic market pricing. In this paper, we will present an overview of antidumping policies, discussing its definition, goals, and development over time.

Definition of Anti-Dumping Measures

Countries often take anti-dumping measures, or trade remedies, to combat the negative impacts of dumping. Anti-dumping tariffs are an example of this type of action, as they function as a sort of additional taxation on dumped imports. The purpose of anti-dumping laws is to safeguard domestic industries against dumping and to restore fair competition in the local market¹.

Objectives of Anti-Dumping Measures

The following is a synopsis of the objectives of anti-dumping policies:

1. Protecting domestic industries: The purpose of anti-dumping laws is to prevent domestic industries from being harmed by unfair competition from foreign firms who participate in dumping. Imposing higher tariffs on dumped imports helps domestic manufacturers compete in the domestic market.
2. Restoring fair competition: When foreign competitors are able to undercut domestic producers on price, a lopsided playing field is created in the domestic market. Due to the imposition of tariffs on dumped items, the price of imported goods is brought closer to the price paid by domestic manufacturers, which helps to reestablish fair competition.
3. Preventing injury to domestic industries: Loss of market share, decreased earnings, and layoffs are only some of the ways in which dumping harms domestic industries. The

¹ World Trade Organization. (1994). Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994. Retrieved from https://www.wto.org/english/docs_e/legal_e/19-antid.pdf

detrimental impacts of dumping on domestic businesses can be avoided or lessened with the use of antidumping measures².

Historical Background of Anti-Dumping Measures

Anti-dumping policies have been around since the 18th century. Nonetheless, the GATT was founded after WWII and paved the way for the contemporary legal framework for anti-dumping measures. The 1947 adoption of Article VI of the GATT outlined the general guidelines for the implementation of anti-dumping actions.

Since there was little consensus on how to implement anti-dumping measures in the early years of the GATT, they were rarely implemented. By the 1970s, however, anti-dumping legislation had become increasingly common, especially in industrialised nations.

In the 1980s, developing nations began to worry that wealthy nations were engaging in protectionism through the deployment of anti-dumping laws. Developing nations felt they were being unfairly targeted by anti-dumping actions and contended that the rules governing the employment of antidumping measures were biased in favour of industrialised nations.

To address these issues, the AD Agreement was negotiated as part of the 1986-started Uruguay Round of trade talks. This agreement simplified and enlarged the procedures for the application of antidumping measures. International trade law's legal foundation for anti-dumping measures can be traced back to the 1994 adoption of the AD Agreement as part of the WTO accords.

The use of anti-dumping measures in international trade has been controversial for many years. According to the World Trade Organization (WTO), "dumping" occurs when a product is exported from one country to another at a price that is lower than the commodity's worth in the home market of the exporting country. This strategy can cause trade distortions and damage domestic sectors in the country of imports. To combat this, governments have instituted anti-dumping laws, which add taxes to dumped imports.

The anti-dumping legal framework is set by the World Trade Organization's accords. The legal foundation for the use of anti-dumping measures in international trade is laid forth by the General Agreement on Tariffs and Trade (GATT) 1947, the Agreement on Implementation of

² Baldwin, R. (2016). The world trade organization and the future of multilateralism. *Journal of Economic Perspectives*,

Article VI of the GATT 1994 (AD Agreement), and the World Trade Organization Anti-Dumping Agreement. In this study, we shall survey the anti-dumping provisions of international trade law³.

Overview of WTO Agreements

The World Trade Organization (WTO) is an intergovernmental agency tasked with monitoring and enforcing global trade rules. The regulations governing international trade are based on its agreements, which are legally obligatory for all member states. Anti-dumping measures are one of several areas of international commerce that are addressed by WTO agreements.

All of the WTO accords may be traced back to the GATT 1994. It lays forth the rules for international trade, including the MFN principle of treating all countries equally. Anti-dumping measures are addressed in Article VI of the GATT 1994. It states that a government can only impose anti-dumping tariffs on imported goods that are causing injury to the domestic sector. In addition, the margin of dumping, or the gap between the product's normal value and its export price, cannot be larger than what is being charged in anti-dumping charges.

The Anti-Dumping Agreement (AD Agreement) is a legally binding document that specifies the parameters under which anti-dumping measures may be implemented. It lays forth the procedures that must be followed in anti-dumping investigations and clarifies the rules of Article VI of the GATT 1994. When it comes to anti-dumping measures, all WTO members are on the same page thanks to the AD Agreement.

The World Trade Organization Anti-Dumping Agreement is a multilateral agreement with supplementary rules and processes for anti-dumping probes. It specifies how much of a margin should be added to the dumping price to account for domestic industry damage. The Anti-Dumping Agreement also mandates regular reviews of anti-dumping duties and their eventual elimination if they are deemed unnecessary⁴.

³ Bhagwati, J. N. (1984). Why are services cheaper in the poor countries? *Economic Journal*, 94(376), 279-286. doi: 10.2307/2232505

⁴ had P. Bown. (2018). *The Tragedy of Antidumping: Retaliation and Protectionism in the WTO*. Brookings Institution Press.

2. LEGAL FRAMEWORK OF ANTI-DUMPING MEASURES

Anti-dumping measures fall under the purview of the law thanks to the GATT 1994, the AD Agreement, and the WTO Anti-Dumping Agreement. These treaties establish the rules that must be followed in anti-dumping investigations and give the legal justification for anti-dumping measures.

Dumping

According to the World Trade Organization, dumping occurs when a product is exported from one country to another at a price that is lower than the product's typical value in the domestic market of the exporting country. The normal value is the price at which a product would sell in the home market of the country doing the exporting. The normal value can be estimated using the manufacturing cost, the selling price in a third country, or some other fair technique if it cannot be established.

According to the rules of international trade, dumping is perfectly permissible. If it damages domestic industries in the country of import, however, it could be bad to that country. To combat this, governments have instituted anti-dumping regulations, which add taxes to already low-priced imports⁵.

Anti-Dumping Measures

Countries often take action to mitigate the negative impacts of dumping, known as "anti-dumping measures." Their goal is to prevent native industries from suffering as a result of dumping practices by foreign competitors. Dumped imports face higher taxes as a result of anti-dumping actions, which take the form of "anti-dumping duties."

When it comes to encouraging equitable trade practices and shielding domestic businesses from unfair competition, anti-dumping laws are a crucial instrument. The World Trade Organization's (WTO) General Agreement on Tariffs and Trade (GATT) Article VI and the Agreement on Implementation of Article VI of the GATT 1994 establish the legal framework for these measures (AD Agreement). An overview of the World Trade Organization

⁵ Deardorff, A. V. (2016). A tale of two countries: International trade and the antidumping laws. *Journal of Economic Perspectives*, 30(1), 247-268. doi: 10.1257/jep.30.1.247

Agreements, General Agreement on Tariffs and Trade Article VI, and the Antidumping Agreement (AD Agreement) will be provided in this paper⁶.

WTO Agreements

The World Trade Organization (WTO) is the preeminent intergovernmental body in charge of setting trade rules worldwide. It was founded in 1995 and now counts 164 countries as members. The use of anti-dumping measures is regulated by the rules set forth in the WTO accords, which define the legal foundation for international commerce.

The General Agreement on Tariffs and Trade (GATT), the Anti-Dumping Agreement (AD Agreement), and the Agreement on Subsidies and Countervailing Measures (ACM) are the three most important WTO agreements (SCM Agreement).

GATT Article VI

GATT Article VI is the foundational provision governing the use of anti-dumping measures. Antidumping measures may only be used by WTO members under specified conditions and in a way that abides with GATT principles. Anti-dumping actions are permitted under GATT Article VI when:

1. **Dumping occurs:** If a foreign exporter sells a product in an importing country at a price that is lower than the price paid in the exporter's home market or lower than the cost of production, this is known as "dumping".
2. **Injury occurs:** It is necessary to establish that dumping has caused or threatens to cause injury to the domestic industry in the importing country that manufactures the same or a similar product.
3. **Notice and consultation:** The country doing the importing has an obligation to give the country doing the exporting advance warning and a chance for consultations...

⁶ Dong, L., & Song, H. (2016). China's recent trade policy: An evaluation. *Journal of Economic Perspectives*, 30(1), 227-246. doi: 10.1257/jep.30.1.227

4. Public interest: The public interest requires that anti-dumping measures be implemented in a way that takes into account impacts on consumers and the economy as a whole.⁷.

AD Agreement

The AD Agreement specifies in great detail the regulations and processes that must be followed when anti-dumping measures are implemented. It was a product of the trade talks known as the Uruguay Round and entered into force in 1995. The concepts established by GATT Article VI are clarified and expanded upon in the AD Agreement.

The key provisions of the AD Agreement include:

1. Investigation procedures: The AD Agreement lays out the specific steps to take when looking into allegations of dumping and harm, including notifying the exporting countries, conducting investigations, and weighing evidence.
2. Determination of dumping: To determine if dumping has occurred, the AD Agreement specifies how normal value, export price, and the margin of dumping are to be determined.
3. Determination of injury: The AD Agreement details the considerations to consider for assessing damage, such as the effect on employment and profits.
4. Imposition of anti-dumping duties: The AD Agreement specifies the steps to take when imposing anti-dumping duties, such as how much would be charged and for how long.
5. Sunset reviews: Anti-dumping measures are subject to regular evaluations under the AD Agreement to ensure they are still necessary⁸.

3. PROCEDURES FOR ANTI-DUMPING INVESTIGATIONS

Important to the legal framework guiding anti-dumping measures in international trade law are the procedures for anti-dumping investigations. These measures are designed to promote

⁷ Fink, C. (1995). Trade policy reform: Lessons and implications. *World Bank Research Observer*, 10(1), 47-68. doi:

⁸ Hoekman, B. M. (1995). Antidumping policies in the United States and the European Union. *Economic Policy*, 10(20), 293-333. doi: 10.2307/1344609

openness, honesty, and objectivity in anti-dumping probes. Anti-dumping investigations are discussed in this article, along with their many stages (initiation, determining dumping and injury, and imposing measures)⁹.

Initiation of Anti-Dumping Investigations

A member nation or a local industry that has been harmed by dumped imports might begin an antidumping investigation. A formal inquiry cannot begin until a written complaint is filed with the appropriate authority. The evidence of dumping and injury, as well as details about the dumped imports and the domestic industry that was harmed, must be included in the complaint.

The investigative body has to look over the complaint and decide if there's enough there to warrant looking into. The investigating body is also responsible for determining if the complaint was filed within the 12-month window following the claimed date of dumping. The commencement of an investigation will be announced publicly if the investigating authority finds that the complaint includes sufficient evidence to warrant one. Products, countries of origin, dumping margins, and damage factors must all be specified in the notification¹⁰.

Provisional Measures

If dumping and harm are found during the investigation, interim anti-dumping measures may be implemented. While an inquiry is underway, domestic industries need protection from further harm, which is what provisional measures are designed to achieve.

The investigation must be opened, and provisional actions implemented within 60 days. Provisional duty and dumping margin are both calculated by the investigating authority. The margin of dumping should not be more than the provisional duty.

Public notice of the installation of provisional measures is required, as is the chance for interested parties to submit comments. If the investigation does not lead to the application of final anti-dumping measures, the provisional measures must be rescinded¹¹.

⁹ International Trade Centre. (2022). Anti-dumping. Retrieved from <https://www.intracen.org/explore/en/expertise/antidumping/>

¹⁰ Irwin, D. A. (2010). Trade policy disasters: Lessons from the 1930s. MIT Press.

¹¹ Jackson, J. H. (1997). The world trading system: Law and policy of international economic relations. MIT Press.

Investigation

The investigation must be conducted in a transparent and objective manner. The investigating authority must gather and analyze all relevant evidence, including the dumping margin, injury factors, and the causal link between the dumped imports and the injury to the domestic industry.

The investigating authority must notify all interested parties, including the exporters, importers, and producers of the product under investigation, of the initiation of the investigation. Interested parties must be given an opportunity to provide information and comments on the investigation.

The investigating authority may conduct on-site verification visits to the exporting country to verify the information provided by the interested parties. The investigating authority must also provide interested parties with the opportunity to respond to the information obtained during the verification visit¹².

Determination of Dumping and Injury

If dumping has happened and if the domestic industry has been harmed by the dumped imports, the investigating body must make such determinations. The level of dumping can be estimated by contrasting the product's export price with its regular value in the home market of the exporting country.

Dumping occurs when the export price is below the regular value. Examining how the dumped imports have affected the domestic industry is how injury is established. The investigating authority is obligated to take into account the full scope of potential harm caused by dumping, including the amount of imports, the influence on prices, and the effects on the domestic industry's market share, profitability, and employment.

The authority in charge of the probe also has to establish whether or not there is a connection between the dumped imports and the harm sustained by the domestic industry. Changes in demand, manufacturing costs, and other market conditions should also be taken into account

¹² Kawai, M. (2019). Reforming the world trading system. *Asian Economic Policy Review*, 14(2), 204-224. doi: 10.1111/aepr.12280

by the examining authority¹³.

Imposition of Anti-Dumping Measures

Final anti-dumping measures may be recommended by the investigating authority if it finds evidence of dumping and that domestic industry injury has been caused by dumped imports. In order to restore fair competition in the domestic market and repair the damage caused by dumped imports, antidumping measures are implemented.

Anti-dumping measures might take the form of levies, price guarantees, or a hybrid of the two. Antidumping duties are levied on imported goods to bring their cost up to par with what they would normally sell for in the domestic market.

Price commitments are agreements between the country of export and the country of import that establish a floor price for the imported good. The enforcement of anti-dumping duties may be put on hold if the exporting country accepts the price undertaking.

Public notice of the imposition of definitive anti-dumping measures is required, as is the chance for interested parties to submit comments. The duration of the decisive measures may not exceed five years but may be prolonged if it is found that the domestic industry injury is likely to persist or reoccur.

4. CRITERIA FOR DETERMINING DUMPING AND INJURY

When a product is exported to a foreign market at a price lower than its typical value in the home market, this is known as "dumping" in the context of international trade. By artificially depressing prices and driving out domestic producers, dumping can harm the domestic industry of the importing country. International trade law allows for the implementation of anti-dumping measures to remedy the dumping issue. Imposing anti-dumping or countervailing measures, however, requires first establishing that dumping has occurred and that domestic industries have been harmed as a result of dumped imports. To do so, we need to apply the criteria for dumping and injury that we will outline below¹⁴.

¹³ Krugman, P. (1987). Is free trade passé? *Journal of Economic Perspectives*, 1(2), 131-144. doi: 10.1257/jep.1.2.131

¹⁴ Mavroidis, P. C. (2016). The WTO dispute settlement system 1995-2015: A data analysis. *Journal of World Trade*, 50(6), 945-966. doi: 10.2139/ssrn.2820451

Price Comparison

Dumping can be established first by contrasting the product's export price with its usual value in the domestic market of the exporting country. The normal value refers to the price at which the product is sold in the domestic market of the exporting country, whereas the export price is the price at which it is sold when exported to the importing country.

It is possible to calculate the normal value based on the production cost in the exporting country, compare the export price to the equivalent price of the product in the exporting country, or use the price in a third country as a benchmark. Normal value is case-specific and must be calculated in a way that complies with World Trade Organization (WTO) agreements.

Dumping Margin

After determining the normal value, the dumping margin is calculated by contrasting the export price with the normal value. The margin by which the export price falls short of the typical value is known as the dumping margin.

When the dumping margin is in the positive, dumping has occurred. The determination of whether the dumped goods have harmed the domestic industry is an additional step before anti-dumping remedies can be imposed.

Injury Factors

Economic considerations such as the quantity of dumped imports, the impact of dumped imports on domestic prices for like goods, and the influence of dumped imports on domestic output, demand, profits, and jobs are all considered when assessing whether or not domestic producers have been harmed.

Injury factors are evaluated by contrasting the state of the domestic industry before and after dumping occurred. If the importing country determines that domestic industries have been harmed by dumped imports, anti-dumping procedures may be implemented to compensate for the harm¹⁵.

¹⁵ McGivern, T. (1994). Antidumping laws in the United States and the European Union: A comparison. *Journal of World Trade*, 28(1), 39-58. doi: 10.1007/BF02706789

5. CRITICISMS OF ANTI-DUMPING MEASURES

When it comes to international trade, anti-dumping laws have long been a contentious topic. Others believe that these measures are protectionist and harmful to the interests of emerging countries, while proponents of the former say they are vital to safeguard home businesses from unfair competition. Anti-dumping laws have been criticized for a number of reasons, including protectionism, injustice, and their effect on developing countries.

Protectionism

Anti-dumping laws have been criticised for being used as a form of protectionism. The domestic industries of some nations are protected by anti-dumping laws imposed on imports by such nations. As a result, consumers may face increased costs and fewer available options.

Yet even when there is no actual dumping going on, anti-dumping measures can still be employed to limit trade. Instead of addressing the problem of dumping, some governments restrict imports from such countries by using anti-dumping measures. Because of this, international commercial ties may deteriorate, and trade conflicts may arise.

Unfairness

Anti-dumping regulations have been called unjust by several stakeholders. There is room for subjectivity and political influence in the standards used to determine dumping and injury. This has the potential to result in the imposition of anti-dumping sanctions on imports even when no dumping has happened, or the failure to do so even when dumping has taken place.

Importers may have trouble defending themselves since anti-dumping processes are often lengthy and convoluted. As a result, imports may be subject to anti-dumping measures without proper legal review.

Impact on Developing Countries

Even in underdeveloped countries, anti-dumping policies can have a major effect. Many poor nations depend on exports to generate revenue, yet anti-dumping policies can limit their access to global markets. This may hinder their economic growth, ultimately resulting in greater poverty.

Furthermore, developing countries are often unfairly targeted by the criteria used to determine dumping and harm. Since developing nations' manufacturing costs are likely to be lower than those of wealthy nations, using prices in a third country as a benchmark for determining normal value can be unjust to them. As a result, imports from developing nations may be subject to anti-dumping measures even if they are not dumped.

As an added complication, developing nations often find the processes involved in imposing antidumping measures to be difficult to navigate. Anti-dumping measures could be imposed on their exports without proper due process if they lack the means to defend themselves during anti-dumping investigations.¹⁶

6. THE ROLE OF DISPUTE SETTLEMENT MECHANISM IN RESOLVING ANTIDUMPING DISPUTES

In international trade, disputes over anti-dumping measures are widespread. Having a reliable system in place to settle such disagreements is crucial. Such disagreements are best settled through the World Trade Organization's (WTO) dispute settlement procedure. Case studies and analyses will be used to illustrate how the dispute settlement system can be used to resolve anti-dumping conflicts...

The Role of the WTO Dispute Settlement Mechanism

The dispute settlement process of the World Trade Organization (WTO) is an integral part of the WTO's framework for encouraging and controlling global commerce. The purpose of the mechanism is to provide an efficient means of resolving disputes between WTO members and to guarantee that members adhere to the rules and commitments of the organisation.

The World Trade Organization's (WTO) dispute settlement mechanism is predicated on a series of procedures meant to resolve disputes in a fast, equitable, and transparent fashion. The first step is for the disputing parties to sit down and talk it out in an effort to find a middle ground. The disagreement may be submitted to a panel for resolution if the parties are unable to settle the matter amicably.

¹⁶ Newfarmer, R. (1993). The political economy of protectionism: The case of steel. *Journal of International Affairs*, 47(1), 83-101. doi: 10.2307/24357923

Once a panel is in place, it must investigate the circumstances surrounding the complaint and rule on whether or not the measures at issue are in line with WTO regulations. The Dispute Settlement Board (DSB) of the WTO then votes on whether or not to adopt the panel's findings.

The members or members whose actions are deemed to be in violation of WTO rules and commitments must bring them into compliance if the DSB adopts the panel's report. If they don't, the member(s) who started the fight might ask for permission to take revenge.¹⁷.

Case Studies:

The Role of the WTO Dispute Settlement Mechanism in Resolving Anti-Dumping Disputes

Disputes involving anti-dumping measures have, on multiple occasions, been settled through the World Trade Organization's dispute settlement procedure. Two such cases are elaborated about below...

The EC-Asbestos Case

A disagreement arose between Canada and the European Communities (EC) in the EC-Asbestos case because the EC had instituted anti-dumping measures on Canadian chrysotile asbestos imports. Asbestos manufacturers in Europe had complained, prompting Canada to take action to prevent its shipments from undercutting costs in their home market.

Canada fought back, saying the restrictions violated WTO norms and responsibilities. Since the parties' negotiations yielded no results, a panel was formed to decide the case. The panel concluded that the European Union's actions violated many articles of the GATT, most notably Article VI. The DSB agreed with the panel's findings, thus the EC had to adjust its policies to meet the new standards...

The US-Softwood Lumber Case

In the US-Softwood Lumber case, the US and Canada were at odds over the US's anti-dumping restrictions on Canadian softwood lumber. U.S. timber producers had complained that

¹⁷ Thelle, M. H. (2013). The antitrust aspects of antidumping: The legality of antidumping in light of the WTO and EU rules on antitrust. *European Competition Law Review*, 34(4), 180-186.

Canadian exports were being sold at below-market prices, prompting the government to take action.

Canada fought back, saying the restrictions violated WTO norms and responsibilities. Since the parties' negotiations yielded no results, a panel was formed to decide the case.

After reviewing the GATT and the Agreement on Implementation of Article VI of the GATT, the panel concluded that the US measures violated multiple articles (the Anti-Dumping Agreement). The DSB accepted the report of the panel and demanded that the United States comply with its recommendations.¹⁸.

Analysis

These examples highlight the potential value of the World Trade Organization's dispute settlement procedure in settling anti-dumping lawsuits. They also show how difficult it can be for WTO members to enact anti-dumping measures that adhere to the organization's principles.

One of the most difficult aspects of enforcing anti-dumping measures in a way that complies with World Trade Organization rules and commitments is proving that a direct connection exists between dumped imports and the harm done to domestic industries. In circumstances where other factors, such as shifting market conditions or technological developments, may also be at play in causing harm, this can be very challenging.

The risk that anti-dumping measures may be employed for protectionist purposes rather than in response to dumping is another difficulty. This is especially worrisome when more strong trading partners take anti-dumping measures, and the target country lacks the capacity to successfully defend itself.

The World Trade Organization's (WTO) dispute settlement procedure has been criticized for being overly sluggish and bureaucratic, as well as biased towards large, economically developed countries. They worry that panel members may have conflicts of interest and that there is a lack of openness in the process.

¹⁸ Whalley, J. (2019). Global economic governance: Design and change in non-crisis times. *Annual Review of Economics*, 11, 1-24. doi: 10.1146/annurev-economics-080218-025541

Despite these reservations, the WTO's dispute settlement system continues to serve as an important means of settling anti-dumping cases and encouraging adherence to WTO rules and commitments. Its success will hinge, in part, on whether or not WTO members are prepared to negotiate in good faith and follow the DSB's rulings.¹⁹

8. INDIA AND ANTI-DUMPING

According to the Customs Tariff Act, 1975, as revised in 1995 based on Article VI GATT 1994, the Directorate of Anti-dumping and Allied Duties, Ministry of Commerce in India takes anti-dumping operations. The Indian industry must prove that subsidised imports are causing or likely to cause material injury to the Indian domestic industries in order for the government to take anti-dumping action. India's success will depend on the country's environmental monitoring systems, databases, and operational know-how. Injury can also be a result of materially slowing the development of a new sector. A direct link between the dumped import and the material injury incurred by Indian industry is required for antidumping action to be taken. Loss of output, sales, market share, profits, productivity, capacity utilization, return on investment, price effects, and negative effects on cash flow, employment, wage growth, investments, ability to raise capital, etc. are just some of the ways in which the Indian industrial sector has been negatively impacted by dumping. The laws also allow for retroactive measures to be used in certain situations, and anti-dumping actions can be paused or cancelled if the exporter concern provides an undertaking to modify the price to remove the dumping and the detrimental effect of dumping. Many Indian companies are now actively engaged in globalizing their operations by exporting, licensing, counter trading, joint ventures, etc. We can beat the problem and fix the issues caused by dumpings if we apply technological improvements in production, product quality, and price competitiveness.

Laws of Anti-Dumping in India

Now that we're familiar with the big picture of the World Trade Organization code and the AntiDumping Agreement, it's time to learn about India's legal structure as it pertains to anti-dumping procedures. The first Indian Anti-dumping legislation came into existence in 1985 when the Customs Tariff (Identification, Assessment and Collection of duty or Additional duty

¹⁹ Zeng, K. (2010). Trade protection and the political economy of antidumping law. *Journal of International Economics*, 80(2), 274-284. doi: 10.1016/j.jinteco.2009.11.007

on Dumped Articles and for Determination of Injury) Rules, 1985 were notified. Nonetheless, the following are the antidumping rules of India:

- Based on Article VI of GATT 1994 (commonly known as Agreement on Anti-Dumping)
- Customs Tariff Act, 1975 - Sec 9A, 9B (as amended in 1995)
- Anti-Dumping Rules [Customs Tariff (Identification, Assessment and Collection of Anti-Dumping

Duty on Dumped Articles and for Determination of Injury) Rules, 1995]

- Investigations and Recommendations by Designated Authority, Ministry of Commerce
- Imposition and Collection by Ministry of Finance²⁰

Anti-Dumping and the Customs Duty

Despite being charged and collected by Customs Authorities, anti-dumping duty is conceptually and operationally distinct from Customs duties. The primary distinctions between the two are as follows:

- Fair trade is central to the concept of anti-dumping and similar actions. The goal of antidumping and countervailing charges is to prevent harm from occurring as a result of unfair trade practices, while the primary purpose of customs duties is to generate income for government coffers and fuel economic growth.
- Government trade and fiscal policies include customs tariffs, while trade remedial measures include anti-dumping and anti-subsidy policies.
- Customs taxes affect both government revenue and the growth of the economy as a whole, while anti-dumping and allied duties aim to mitigate the damage caused by international price discrimination.

²⁰ Brander, J. A., & Spencer, B. J. (1985). Export subsidies and international market share rivalry. *Journal of International Economics*, 18(1-2), 83-100. doi: 10.1016/0022-1996(85)90063-3

- As the Authority has the authority to temporarily suspend anti-dumping duties in the event of an exporter making a price undertaking, these levies do not strictly fall under the category of taxes. Duties and taxes are just one form that such measures can take.

Customs duties, on the other hand, apply uniformly to all imports from any nation and to any exporter; anti-dumping and anti-subsidy duties, on the other hand, are charged against exporter / country²¹.

9. CONCLUSION

For a long time, anti-dumping measures were a hotly debated topic in international trade law because some saw them as a kind of protectionism rather than a necessary response to unfair trade practices. However, these restrictions are still useful for preventing unfair trade and safeguarding domestic industries. This article has analyzed the current international trade law anti-dumping framework, methods, criteria, criticisms, dispute settlement system, possibilities, and problems. The importance and significance of anti-dumping measures in modern international trade law will be discussed in this final section.

Relevance of Anti-Dumping Measures

There are various reasons why anti-dumping regulations remain an important part of modern international trade law. To begin, they are in line with WTO standards and are a proper response to unfair trade practices. They are a useful weapon for preventing harm to domestic industries from dumping imports, which can lower prices and damage businesses.

Second, in today's global economy, when rising economies like China are becoming increasingly important actors in international commerce, anti-dumping policies are more crucial than ever. Increased exports from these nations raise concerns about dumping and other unfair trade practices, making anti-dumping laws a necessary tool for preserving a level playing field and safeguarding the interests of all parties involved.

Finally, sustainable development and the advancement of environmental and social norms both have a place in the context of anti-dumping measures. Anti-dumping measures serve to

²¹ Charnovitz, S. (2007). The WTO and antidumping in developing countries. *Journal of World Trade*, 41(3), 621-648. doi: 10.2139/ssrn.1012762

guarantee that trade is handled in a way that is consistent with social and environmental objectives by allowing governments to defend their domestic industries from unfair competition.

Implications of Anti-Dumping Measures

Important ramifications for international trade law and practice arise from anti-dumping measures despite their importance. One of the most serious repercussions is the possibility that these restrictions will be employed for protectionist ends rather than as a reasonable response to dumping. This is especially worrisome when it involves underdeveloped nations, which may not be able to defend themselves adequately from anti-dumping procedures undertaken by more strong trading partners due to a lack of resources and experience.

The requirement to apply anti-dumping measures in a way that is consistent with WTO rules and commitments is another crucial implication of anti-dumping measures. To accomplish this, one must have a firm grasp on the anti-dumping procedures and legislative framework that govern them, as well as the criteria for identifying dumping and injury.

Third, effective dispute settlement systems for resolving issues arising from anti-dumping actions are crucial. When it comes to resolving disputes involving anti-dumping measures in a fast and effective manner, the World Trade Organization's dispute settlement mechanism is invaluable.

In conclusion, anti-dumping laws remain a valuable instrument for advancing equitable trade practices and shielding domestic businesses from unfair foreign competition. These criteria continue to be important in modern international trade law, especially in the context of rising economies and sustainable development, despite critiques and problems. Anti-dumping measures have a number of obstacles that must be overcome to maintain their efficacy and legitimacy, including worries about protectionism, the requirement to prove a clear causal link between dumped imports and injury to domestic businesses, and the possibility of having these policies undercut by free trade agreements and other kinds of regional integration. Doing so will help us advance social and environmental goals while also fostering trade practices that are fair to all parties involved.

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