

The Political Economy of Reforming the Antidumping Laws

Although economists have long argued for reform of U.S. antidumping (AD) law, the lack of success in their efforts is all too obvious. For example, the changes in U.S. AD law resulting from the Uruguay Round negotiations made it easier for U.S. firms to gain import protection via the AD route, and the number of cases filed with the Department of Commerce has risen consequentially. This note adopts a political economy viewpoint to consider reasons for the failure to achieve AD reform and to suggest means by which the chances of attaining this goal may increase.

The basic standard used by economists in appraising economic policies is whether they bring about a more efficient or less efficient allocation of a country's endowment of productive resources. One type of dumping that economists condemn on efficiency grounds is so-called predatory dumping. In this situation foreign firms sell at prices below their average-costs in a domestic market for the purpose of driving domestic firms out of business and then charging monopoly prices after this is accomplished. Such a practice reduces a nation's economic welfare over the long run. Many economists argue, however, that predatory dumping is better controlled through our anti-trust rather than anti-dumping laws. But there are also many instances in which U.S. firms receive anti-dumping protection from the government that economists believe are bettered handled by adjustment assistance and safeguard measures or by accepting the actions of foreign firms as a part of the normal competitive process that promotes increases in the country's level of income.

To be more successful in their reform efforts, economists must, in my view, recognize more fully that the political process of formulating antidumping policies is

influenced not just by notions of economic efficiency but probably to a greater extent by concepts of economic fairness. Thus, a powerful argument in trying to reform the AD laws is to demonstrate not only that antidumping actions reduce the nation's level of economic welfare but that the administration of the existing law often brings about changes in the distribution of outputs and incomes that are "unfair" as judged by widely-held standards.

Such situations are described by Claude Barfield in his excellent book, *High-Tech Protectionism: the Irrationality of Antidumping Laws* (2003). By showing that granting import protection through the antidumping laws to the steel and the flat-panel display industries, for example, resulted in a net loss of U.S. jobs by raising production costs in a number of other U.S. industries using these products as intermediate inputs, he effectively makes the point that other politically important domestic groups are being unfairly hurt by our antidumping actions. A frequently cited example of the administration of U.S. AD laws being unfair (see, for example, the various essays in *Down in the Dumps: Administration of the Unfair Trade Laws*, (1991) edited by Boltuck and Litan) is the practice by the Department of Commerce (DOC) in calculating the average margin of dumping from actual transactions data of treating transactions where the prices charged by foreign firms are above rather than below the prices of domestic firms as instances where foreign and domestic prices are the same.

The careful and detailed analysis by Lindsey and Ikenson (2002a and 2002b) of actual antidumping cases filed at the Department of Commerce also shows that the administration of U.S. antidumping laws rather than providing "a level playing field" for domestic firms by offsetting unfair trade practices by foreign firms actually often results

in unfair and economically damaging consequences for other domestic industries. The authors were able to obtain the full evidentiary of 18 recent AD cases and demonstrate with actual company data and the computer programs used by DOC that dumping margins would be significantly reduced by removing various unfair and economically distorting practices followed by that agency.

Lindsey and Ikenson do not argue for the abolishment of AD laws but rather for significant reforms aimed at eliminating the unfairness and economic injury resulting from the actual administration of existing laws. A few examples of their 21 reform proposals are the following. (1) Domestic industries petitioning for the imposition of AD duties on foreign products should be required to show credible evidence of the existence of market distortions that enable foreign firms to price their products sold in foreign markets at below average cost or at levels that are below the prices charged in their home markets. These distortions would include, for example, the existence of import duties in the dumpers' home markets that prevent foreign firms from reselling the dumped goods in these markets for less than the dumping firms charge their domestic customers. (2) Grant antidumping duties only if a connection between these distortions and dumping is found. (3) Give foreign firms alleged to be dumping the right to present evidence that the price discrimination is due to normal commercial factors.

The fact that scholars who are politically knowledgeable about the ways of achieving changes in U.S. laws and who are associated with both conservative and liberal Washington-based think-tanks, e.g., Barfield at the American Enterprise Institute, Lindsey and Ikensen at the Cato Institute, and Litan at the Brookings Institution, are now vigorously criticizing U.S. antidumping laws provides some encouragement for actually

achieving AD reform. Academic experts on the subject also are increasingly phrasing their AD critiques in terms more likely to influence policymaking, e.g., Blonigen and Prusa (2003). However, support for reform is very much needed from politically influential business and labor organizations as well as from equity-oriented NGOs. Fortunately, as demonstrated when the President approved safeguard protection for the steel industry, U.S. industries using protected products as intermediate inputs are becoming increasingly aware of the possible unfair injury to them resulting from protection being granted to other domestic industries. The increased use of AD laws by other countries to curtail U.S. exports is also increasing the awareness of American firms of the unfairness associated with the administration of AD laws.

In the idealized economic world in which economists usually begin their theoretical analyses, the first-best international policy for dealing with dumping is to eliminate the economic distortions that make dumping possible, e.g., tariffs, subsidies, and monopoly power, and deal with relevant equity considerations through lump-sum income redistribution. But this combination of policies generally is not politically feasible, and the use of second-best policies is the only realistic option. Consequently, for academic economists seeking achievable AD reform, the most promising approach may be to work toward the elimination of the many current administrative practices that unfairly injure groups not directly involved in the petitioning process but accept that there can be practical circumstances where the equity concerns of petitioners trump overall efficiency objectives.

References

Barfield, Claude (2003), *High-Tech Protectionism: The Irrationality of Antidumping Laws*, Washington, D.C.: AEI Press.

Blonigen, Bruce A. and Thomas J. Prusa (2003), "The Cost of Antidumping: The Devil is in the Details," *Journal of Policy Reform*, 6, 4, 233-245.

Boltuck, Richard and Robert E. Litan, eds., (1991), *Down in the Dumps: Administration of the Unfair Trade Laws*, Washington, D.C.: The Brookings Institution.

Lindsey, Brink and Dan Ikenson (2002), "Reforming the Antidumping Agreement: A Road Map for the WTO Negotiations," *Trade Policy Analysis*, No.21, Washington, D.C.: Cato Institute.