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Antidumping practices under the WTO

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ANTIDUMPING PRACTICES UNDER THE WTO: IS ANTIDUMPING LEGISLATION BECOMING AN ORDINARY MEANS OF PROTECTION?

A Thesis Submitted to

the Economics Department

in partial fulfillment of the requirements for the degree of Master of Arts

by

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Bachelor Degree in Economics

Under the supervision of

Dr. Talaat Abdel Malek

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Dedication

To my dear parents and my beloved sister Wessam

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Abstract

The American University in Cairo

Antidumping Practices Under the WTO:
Is Antidumping Legislation Becoming an Ordinary Means of Protection?

Doaa Mohie Mahmoud
Dr. Talaat Abdel Malek

This research examines whether the current upsurge in antidumping (AD) filings, despite growing claims for trade liberalization, is a significant indication of countries' desire to protect local industries. In doing so, the work will first examine the reasoning behind the filing of AD cases, before and after the GATT/ WTO. Second, the relationships between the number of AD initiations and other economic variables — such as import growth, mean tariff rates and foreign exposure — will be tested.

The results do, in fact, show that countries tend to raise AD cases for protective reasons. Using a panel data model and by analyzing the AD data for the 36 countries that raised cases between 1995 and 2001, significant relationships were found to exist between the number of AD initiations and a country's level of development, the degree of its foreign exposure and its current account position.

In an effort to shed light on the impact of AD legislation on the consumer, two case studies from the steel industry, in Egypt and the U.S., have also be examined. The case studies show that AD legislation may, in fact, work against consumer interests.

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Introduction

The last decade has witnessed a phenomenal growth in the literature relating to dumping in international trade. According to the WTO definition, dumping is a situation of international price discrimination. More specifically, this occurs when the price of products, in an importing country, is less than the price of that same product in the market of the exporting country[1]. It is important to note that the process of identifying price discrimination is more elaborate than the above definition suggests. In most cases, it is necessary to undertake a series of complex analytical steps in order to determine the appropriate price in the market of the exporting country — the normal value. Likewise, similar procedures need to be taken to determine the appropriate price in the market of the importing country — the export price. Prior to that, no meaningful price comparison can take place.

When they were introduced by the GATT/WTO, antidumping (AD) regulations were intended to protect fair competition in international trade. According to the rationale of the WTO Antidumping Agreement, when exporters offer products at lower prices in the importing country they can potentially monopolize the domestic market. Eventually, this position enables them to raise prices. The result negatively impacts both the domestic producers and the domestic consumers. The WTO AD Agreement, therefore, was established to protect member countries from a possible foreign dominance that could take place as a result of dumping-based pricing.

[1] GATT Article IV

According to Finger, antidumping "has about it the aura of a special measure to undo a special problem"[2]. Over the course of time, protection measures have come to be labeled as trade "barriers". Yet despite overall successes in reducing such barriers, AD continues to be used extensively as a protective mechanism. This, of course, corroborates Finger's perspective that antidumping has indeed acquired that "aura" of exceptionality. Nevertheless, it is hard, he argues, "to find the basis for this view in the history of antidumping regulation." In fact, "there is little in that history to suggest that antidumping ever had a scope more particular than protecting home producers from import competition, and there is much to suggest that such protection was its intended scope."

According to Prusa and Skeath, despite the accomplishments of the Uruguay Round in reducing import tariff rates, the "Antidumping Agreement" — created to allow unilateral measures against dumped imports that cause material injury to domestic firms — is being used more often as a classical protective tool than as a remedy to problems that occur over the course of international trading. At the same time, they also pointed that it is being used excessively by an increasingly large number of countries.[3]

Over the past 25 years, antidumping has emerged as the most widespread impediment to trade. While most other instruments of trade protection, such as tariffs, quotas, and voluntary export restraints, have been brought under greater GATT/WTO discipline, AD actions have flourished. Prusa and Blonigen (2001) showed that, since 1980, GATT/WTO members have filed more complaints under AD statute than under all other trade laws combined. Moreover, a greater number of AD duties are now levied in any one year worldwide than were levied in the

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[2] Finger, J. Michael. (1991). The Origins and Evolution of Antidumping Regulation. Working Papers (WPS 783), World Bank.
[3] Prusa, Thomas J. and Skeath, Susan. (2001). The Economic and Strategic Motives for Antidumping Filings. Working Papers (W8424), NBER.

entire 1947-1970 period. The increase in AD is not practiced only by the "traditional" users of AD – Australia, Canada, the EU, New Zealand, and the US. In fact, a growing group of "new" users – the developing countries – has also joined in these practices.

The increase in the AD practices has led to more controversy among economists as to what factors could be behind the upsurge in AD practices and what could be the possible effect of such an increase. This research examines whether or not the current upsurge in AD case initiations is an indication of the countries' desire to protect local industries.

In order to reach this objective the research proceeds as follows. Chapter one presents a historical overview of AD legislation and how it has evolved over time. This allows the study to elaborate on the reasons why AD came to be, how it was modified under the GATT/WTO different rounds, and how the objective of these regulations changed over time. Chapter two examines the possible relationships between the number of AD filings and certain economic factors – such as import growth, mean tariff rate and foreign exposure – that denote countries' desires for protection. Correlation analyses and a panel data model will be established to elaborate on the matter. In chapter three, the research examines the parts in the AD law that negatively affect consumer well-being. Two case studies will be presented to assess the impact of AD filings on consumer interest. The first involves the steel industry in Egypt, as an example of a developing country; and, the second involves the steel industry in the US, an example from the developed world. Finally, conclusions will be drawn in light of the theoretical and empirical data analysis.

Chapter One

Antidumping Evolution

The recent upsurge in AD case filings, and the attention this phenomenon has received, appears to be somewhat of a change in that, not so long ago, antidumping cases were no more than a fraction of what they are today. What were the motives behind this upsurge? It has been argued that countries are now filing more AD cases because of their limited ability, being WTO members, to use tariffs and other import restrictions.

However, it is important to note that AD policies have been used long before the GATT/WTO. AD was, in fact, in use very early in the 20th Century. The first modern AD law was passed in Canada in 1904 with Australia following close behind in 1906. By 1921, the U.S., France, Britain, and most of the British Commonwealth had similar laws on their books. During this period, the tariff was, for most countries, the major instrument for regulating imports, while AD was mainly considered a protection against the possible rise of monopolistic powers that could harm domestic industries. — the early U.S. AD regulations, for example, were, in substance, extensions of antitrust law.

This chapter will analyze the reasons behind the rise in AD practices and how the objectives of AD changed overtime.

A. AD Before the GATT:

1. The Canadian AD Law:

The first AD law started in Canada in 1904 in response to complaints from Canadian steel makers against US steel corporations. Canadian steel makers were pressing for higher tariffs on steel rails. As Canadian railroad began to expand, the US steel corporations, recognizing the opportunity, set out to aggressively sell steel rails to Canadian builders.

Canadian steel makers alleged that their US counterparts were blatantly dumping rails in the Canadian market. W.S. Fielding, the then Canadian minister of finance, analyzed the situation as follows:

> We find… that… countries have adopted that method which has now come to be known as slaughtering, or perhaps the word more frequently used is dumping; that is to say, that the trust or combine, having obtained command and control of its own market and finding that it will have a surplus of goods, sets out to obtain command of a neighboring market, and for the purpose of obtaining control of a neighboring market will put aside all reasonable considerations with regard to the cost or fair price of the goods; the only principle recognized is that the goods must be sold and the market obtained… This dumping then, is an evil and we propose to deal with it. (quoted in Finger 1991)

Mr. Fielding's argument was not particularly novel. The alleged "evil" by foreign companies had, for several centuries, been one of the more common justifications for the necessity of higher tariffs. Dumping, be it real or imagined, had for centuries been the target of numerous domestic interests seeking protection from overly aggressive foreign competition. What was different this time, however, was what Mr. Fielding was proposing as a possible solution. In fact, this was the first time that AD became an instrument of opportunity.

The substance of his proposed AD regulation was summed up in the opening paragraphs of his speech:

> Whenever… the export price or the actual selling price to the importer in Canada of any imported dutiable article… is less than the fair market value thereof… such articles shall… be subject to a special duty of customs equal to the difference between such fair market value and such selling price. (quoted in Finger 1991)

The law was amended in 1907 to extend its scope to all imported articles, not just dutiable articles.

This first antidumping law, like many inventions, was the child of necessity. This necessity, however, was not about keeping "unfair" imports under control — the tariff had done that for centuries. Canada's new law was initiated by a necessity, brought on by politics

of the day, for the government to retain some selectivity over the provision of protection. In Canada, policing the evils of monopoly power (trusts) was never more than the rhetoric of the matter. Finger (1991) showed that there is a wide gap between the rhetoric and regulation in the Canadian AD law. Accordingly, when comparing the speech of the Canadian finance minister above and the substance of the law, Finger argued that one finds that the aim of AD regulation has shifted away from antitrust towards anti-imports. Unlike the Canadian case, the American AD regulation, at the early stages of its development, demonstrated a higher degree of agreement between the rhetoric and the mechanics of the matter. In fact, early US AD regulations were, in substance, extensions of antitrust law.

In the end, however, the strategy of introducing AD actions rather than raising the Canadian tariff appears not to have succeeded in limiting imports. Part of the reason why the Liberal party leadership thought that this measure might be of use, explains Finger (1991),

> is the 'semantic deception' that a tariff is protection while AD is something else. Another part is that the government seemed not to realize how broad an authority it had created... the same "me to" politics that made tariff reform impossible to control soon extended antidumping protection to all the products on which the tariff was already too high.

2. Other Laws:

While the Canadian AD law was a generic response to a specific problem — steel rails in Canada — the 1906, Australian regulation was a generic response to a generalized problem. In the Australian case, AD regulations were a section of law aimed at the generalized problem of controlling monopolies. The law was never applied, however, because it was too complicated.

Within a few years of the passage of AD laws in Canada, Australia and New Zealand, AD laws were also passed in South Africa and Newfoundland. No new AD law was passed

until 1921 which was when Great Britain had enacted its first law. During that same year the US, Australia, and New Zealand passed additional laws, while Canada made a significant revision to its existing regulation.

3. Reasons Behind Early AD Laws:

As Finger points out, there were several reasons behind the increase in AD regulation in 1921:

- German antagonism: Hostility towards Germany, combined with the popular conviction that German enterprises were particularly vicious perpetrators of predatory dumping, was certainly a factor.
- The end of selective tariff revision: The politics of tariff-making no longer allowed tariff revision to be limited to specific products. Once the tariff was opened for revision, a government could not resist what Frank Taussig described as "the procession of persons who appear before tariff committees and plead for…higher duties" This consideration was evident behind the Canadian and US AD laws. It was carried to the extreme by the British government, which wrote an AD law to avoid revising the British tariff.
- The halo-effect of trust busting: Trust busting was in the political air at the end of the nineteenth century and the beginning of the twentieth. This tendency was intensified when directed at a foreign trust.
- High tariffs everywhere: Due to this fact, exporters used to set prices that were less than the home market price by the amount of the tariff. This created the appearance that exporters were always willing to undersell home producers and hence rendering the tariff necessary. Within the politics of the matter, the tariff created the need for even more protection from foreign enterprises.

- The influence of trust: Finally, the trusts themselves may have had some influence over how they were regulated. They themselves would surely prefer antidumping regulation relative to the alternatives — either breaking them up or removing the protection on their imports.

The passage of AD laws at that time did not mean that antidumping immediately became a major instrument of import regulation. In the United States, for example, the tariff remained the dominant instrument. One year after passing the 1921 antidumping bill, the US congress passed an extensive upward revision of tariff rates. However, in Australia, South Africa, and Canada antidumping actions soon became a prominent part of trade controls. Tariff-making by the administration was perhaps carried farther in Canada at that time than in any other country.

B. GATT and AD:

When GATT started it was a provisional agreement to implement the first set of tariff reductions. While the GATT was best known as an agreement to remove trade restrictions, it included a number of provisions that allowed countries to impose new ones. Among them is Article VI that allowed antidumping and countervailing duties. Political reality suggested that any government that attempted to establish or maintain an open import regime had to have at hand some process to manage occasional pressures for exceptional or sector-specific protection. Before AD became increasingly applied to manage occasional pressures under the GATT, there were other protective tools that were in place. This included renegotiations, emergency actions, and negotiated export restrains.

As reciprocal negotiation was the initial GATT method for removing trade restrictions, it is no surprise that renegotiation was the most prominent provision for re-imposing them. The

1974 agreement gave each country an automatic right, in instances of particularly troublesome increases of imports, to introduce a new restriction and afterwards negotiate a compensating agreement with its trading partners[4]. In the 1950s the GATT was amended to add more elaborate renegotiation provisions. Though the details were complex, the renegotiation process, in essence, was straightforward.

1. A country for which import of some product had become particularly troublesome would advise the GATT and the principal exporters of that product that it wanted to renegotiate its previous tariff reduction.
2. If, after a certain number of days, negotiations had not led to an agreement, the country could go ahead and increase the tariff.
3. If the initiating country did so, and at the same time did not provide compensation that the exporters considered satisfactory, then the principal exporters were free to retaliate.
4. Tariff reductions or increases had to apply to imports from all countries[5]

Likewise, the renegotiation clause, Article XIX, of emergency actions on the imports of particular products, helps countries protect their domestic industries. Under this Article:

1. If imports cause or threaten serious injury to domestic producers, the country could take emergency action to restrict those imports.

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[4] The early GATT rounds were collections of bilateral negotiations, but tariff cuts had to be made on a most favored nation basis (i.e. applicable to imports from all GATT members). A renegotiation, however, did not apply to the entire GATT members — only with the country with whom that reduction was initially negotiated, plus any other country enumerated by the GATT as principal suppliers.

[5] Renegotiation procedures are effectively the same now — under the Uruguay Round Agreements — as they were then.

2. If subsequent consultation with exporters did not lead to satisfactory compensation, then the exporters could retaliate.

The GATT specified that country taking emergency action must consult with exporting countries before hand. However, in "critical circumstance" the action was allowed to come initiate the process. In practice, the action came first in the majority of cases. Finger, Francis and Wangchuk (2001) stated that

> During GATT's first decade and a half, countries opening their economies to international competition through the GATT negotiations did avail themselves of *pressure valve* actions. These actions were in large part renegotiations supplemented by emergency actions. Over time, the mix shifted toward a larger proportion of emergency actions.

By 1963, fifteen years after the GATT came into effect, every one of the 29 GATT member countries had undertaken at least one renegotiation. This resulted in a total of 110 renegotiations, almost four per country. By the 1960s formal use of renegotiation and emergency actions began to wane. According to Finger *et al*, this resulted because Actions taken under the escape clause tended to involve amounts of world trade in relatively minor product categories[6]. The renegotiation and emergency action mechanisms were replaced over time by the use of Voluntary Export Restraints (VER). These are negotiations to allow replacement of restrictions that had been negotiated down. Negotiation was also important to prevent a chain reaction of one country following another to restrict its imports. Even though one of GATT's objectives was to reduce the influence of economic power on the determination of trade policy, VERs were frequently used by large countries to control imports from smaller ones. Like the renegotiation, emergency action mechanism was eventually replaced by the use

[6] 1980 statistics show that actions taken under Article XIX covered imports valued at $1.6 billion, while total world trade was at the same time valued at $2000 billion.

of VERs. This, in turn, also gave way to another mechanism — antidumping. According to Finger *et al* (2001), there were several reasons behind this evolution:

- The growing realization in developed countries that a VER was a costly form of protection[7]
- The long term legal pressure of the GATT rules
- The availability of an attractive, GATT legal alternative.

The Uruguay Round agreement on Safeguards explicitly bans further use of VERs and requires the elimination of all such measures now in place.

During the first meetings of the GATT there was a concern among the members that AD laws, if overused, may compromise the objectives of the agreement. However, the drafting committees concluded, without controversy, that AD and countervailing duty provisions were really needed. During GATT's first two decades, AD was a major instrument of policy only in Australia, Canada, and South Africa. On the international scene, it was a minor issue. Though the GATT came into force in 1948, the contracting parties did not access AD until 1958. According to Finger (1991), the resulting tally at that time showed a total of thirty-seven antidumping decrees in force across all GATT member countries as of May 1958 — twenty two of them in South Africa. According to Prusa (1999), despite the long lineage of AD, fewer cases were filed each year during the 1960s. For instances, all GATT members filed only about ten AD petitions per year. The reason behind this is twofold. First, tariffs were higher at the time so industries were less exposed to import competition and fewer industries perceived imports as a threat. Second, the rules for imposing AD duties during this period were difficult

[7] Hufbauer and Elliott found that of the welfare loss placed on the US economy from all forms of protection in place in the early 1990s,over 83% of that loss came from VERs.

to satisfy. The U.S., for instance, did not levy duties in a single AD case during the entire decade of the 1950s. Moreover, there is no exact accounting of worldwide AD activity before 1980. The main obstacle, prior to 1980, was that the GATT did not require countries to report when they initiated AD actions. All things considered, the small number of AD filings, along with difficulties in meeting the AD rules, meant that AD had very little trade impact until the mid-to late 1970s.

AD first became a significant GATT issue during the Kennedy Round of 1964-1967. At that time, considerable concern was expressed about the U.S. antidumping law and the manner with which it was being applied. Despite the intensified opposition from the U.S. Congress, an international code (GATT AD Code of 1968) on antidumping procedures was adopted. This code did, however, lead to major revisions of AD law in Canada and in EU regulations. The Kennedy Code offered much more detailed antidumping rules, definitions, and standards for key concepts such as "dumping", "industry", "injury", and "causation". The 1967 AD code also embodied the diplomatic philosophy of this period by making it obligatory for members to keep others informed of any changes to its antidumping law, and to annually report to the other members how these laws were administered.

1.Tokyo Round:

During the Tokyo Round (1973), a number of issues in the implementation of the GATT AD Code of 1967 had arisen. For example, some modifications had been made to domestic and export prices for the purpose of their comparison. Also, there was a need for a clearer definition of material injury in order to render it more precise in practice. Unlike the Kennedy Round Code, according to pressure from a number of developed countries, the Tokyo Code rendered it unnecessary that "dumped imports be demonstrably the principal cause of

material injury before duties could be used". Moreover, the definition of "less than fair value" sales was broadened to capture not only price discrimination, but also sales below cost. Cost based allegations now account for between one-half and two thirds of US AD cases according to Blonigen and Prusa (2001). On the whole, The Tokyo Round yielded a revised agreement on dumping (Tokyo Code).

These amendments essentially changed the rules of the game. Almost as many cases were filed in the first three years following the Tokyo Round as during the entire decade of the 1970s. Overall, during the 1980s more than 1600 cases were filed worldwide — a filing rate at least twice that of the 1970s (Blonigen *et al* 2001). If the Tokyo Code resolved some issues, it certainly gave rise to others. During the 1980s, the voices of dissatisfaction with the AD laws, their application, and the Tokyo Code, in general, began to mount.

Some writers at that time changed from condemning dumping to condemning AD itself. Finger for example noted that AD became "the fox put in charge of the henhouse: trade restrictions certified by GATT. The fox is clever enough not only to eat the hens, but also to convince the farmer that this is the way things ought to be. AD is ordinary protection with a grand public relation program" (Finger 1991).

The surge of AD usage in the 1980s brought forward a wave of legal and economic analysis of AD methodology. AD arms protection-seeking interests with the emotionally compelling argument that foreigners are behaving unfairly. This can be seen within two points as explained by Finger *et al* (2001). First, the administrative methodology of AD was biased, inclined to find dumping when a fair accounting of pricing, even those below cost, could not. Second, the social justification that AD extended to transactions from outside the national borders has the same discipline that antitrust law and similar regulations applied to internal

transactions. The analysis of the latter point was subject to an extensive review by the Organization for Economic Cooperation and Development (OECD) of AD cases in Australia, Canada, the European Union and the United States. The review showed that 90 percent of the cases of imports, found to be unfair under AD rules, would never have been questioned under competition law — in other words, if used by a domestic enterprise in making a domestic sale. Much less than ten percent of the AD cases would have survived the rigorous standards of evidence that apply under competition law (Finger *et al* 2001). As this mass of criticism came forward, defenders of AD shifted to a more political argument, based on a sense of legitimacy — rules of the game — rather than efficiency. For example, some sources of seller advantage should not be allowed — for example, subsidies or protected home market and other government provided advantages — even if they did not result in consumers being harmed by restraints on competition.

2. Uruguay Round:

By the 1990's AD had become one of the developed countries' major safeguarding instruments. However, until the end of the Uruguay Round, GATT specifications of permitted trade restrictions were of limited relevance to developing countries. Many developing countries had bound only a few of their tariff positions under the GATT. As a result, they could increase these tariffs without violating their GATT obligations. Another factor was that the detailed specifications for many trade restrictions that GATT allowed were provided in the Tokyo Round Codes. However, many developing countries, who were GATT members, chose not to subscribe to the Codes[8].

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[8]Finger, J. Michael. (---). GATT Experience With Safeguards: Making Economic and Political Sense of the Possibilities That the GATT Allows to Restrict Imports. World Bank.

Since the WTO Agreements went into effect in 1995, AD has gained increasing popularity among developing countries. The new Uruguay Round Agreement (URRA) entered into force on January 1 of that same year and, effectively, superseded the Tokyo Code. AD rules became one of the central issues at the Uruguay Round. This Round's agreements brought about significant changes — namely, that all parts of the agreements apply to all members. In other words, a country no longer has the option of signing one agreement while not subscribing to another.

In defining dumping, URRA follows the Tokyo Code. The basic premise is the same in both. However, the Tokyo Code provided little guidance to the national implementing authorities in interpreting things like "ordinary course of trade", in assessing low volume of domestic sales, in constructing values, or in determining the reasonable amount of profit.

If the investigating authorities determine that the export price is higher than the domestic market price, one would expect the inquiry would be left at that. This, however, is not the case in practice as dumping may still be found in cases where the domestic market price is determined to be below the cost of production. The reason for this practice is that if the exporting countries' domestic market prices are below the cost of production then they might not be helpful in providing a fair value comparison.

The above approach can have two consequences. If sales below cost in the exporting countries are excluded, the weighted average of their domestic prices will be higher and may increase the possibility of dumping instances. However, discarding such sales may not leave

enough sales above the cost of production to enable the authorities to determine the domestic sale price. This makes recourse to a constructed price[9] inevitable.

The U.S. AD law provided for the exclusion of below cost foreign market sales as a basis for determining domestic sales price if the sales were made over an *extended period of time*, in *substantial quantities*, and at prices that did not permit recovery of all costs within a reasonable period of time. Consequently, the US Department of Commerce disregarded below cost sales if these constituted 10% or more of the sales under consideration. With regards to interpreting "*extended period of time*" the Department of Commerce would generally disregard below-cost sales if these sales were made in three to six months.

In general, the URRA mirrored the previous US AD law with some modifications. It provides that if prices, which were below unit cost at the time of sale, are above the weighted average of unit costs for the period of investigation, such prices are to be considered sufficient for the recovery of costs within a reasonable period of time. The URRA also clarifies that the extended period of time should normally be one year, but in no case less than six months. The URRA further clarifies when "sales below per unit costs" are construed to have been made in substantial quantities.

As for the comparison between domestic and export prices the URRA stipulates a fair comparison of the two prices. Surprisingly, the idea of "fair comparison" is not expressly stipulated in many national AD laws. If the "fair comparison" requirement is explicitly provided for in the national legislation, it perhaps could explain some of the abuses that take place in the comparison process. A number of adjustments in these prices are allowed "to

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[9] Constructed price is used in price comparison in the investigation of dumping. It is equal to the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

ensure that they are compared at proper level, that the comparison is one of apples to apples." The URRA provides some but not enough guidance in this respect. A significant improvement has been made by the URRA in comparing the domestic sale price and the export price to determine the margin of dumping. The Agreement provides that the dumping margin is to be established by comparing the weighted average of the domestic price with the weighted average of all comparable export prices, or by comparing prices on transaction-to-transaction basis.

The URRA also provides far more detailed rules as to the content of the application for initiating an investigation than its predecessor, the Tokyo Code. Once a preliminary, affirmative decision has been made as to dumping and injury, and if in the judgment of the authorities it is necessary to prevent injury during the investigation period, provisional AD measures may be taken. The URAA makes considerable improvement to the existing legal provisions by stipulating that no provisional measure shall be applied prior to 60 days following the initiation of the investigation. A further improvement consists of a specific requirement that limits provisional measures for as short a period as possible and, in any cases, should not exceed 4 months. The exception can be made upon the request of exporters representing a significant percentage of the trade. In this case the period shall not exceed six months.

Up until 1984, the duration of antidumping duty (ADD) in EU and U.S. was unlimited. In that year, however, the "Sunset" provision was introduced in the EU. This provided that the duty and undertakings shall lapse after five years after the date on which they were introduced or last modified or confirmed. The URRA establishes five years for the duration of ADD since its imposition or review, unless before expiry of the five years, a review determines that the

expiry of ADD would likely lead to a continuation of dumping and injury. Despite this possibility, the establishment of five years as the maximum period ought to be recognized as a significant gain emerging from the URRA.

Although it cannot claim to have plugged all loopholes for the misuse of antidumping, it is obvious that the URRA has enhanced the discipline and made a number of significant improvements. The GATT/WTO AD code has undergone significant revisions in every negotiating Round. Individual countries, especially the US and EU, have frequently amended their AD statutes almost always to make AD protection easier to grant. As an example, the US has amended its AD rules at least a half dozen times over the past 25 years. Blonigen *et al* (2001) stated that,

> imports could now be deemed 'unfair' 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. To politically powerful industries, losing a case is not a sign that the foreign competition is traded fairly; rather it is simply a sign that the law needs changing.

Finger *et al* (2001) quoted Brink Lindsey's arguments that the Uruguay Round Agreement did not change the nature of antidumping practice. Lindsey added, "The evidence against the exporter is mostly constructed (value). If the exporter does not supply data from which the investigating agency can perform the construction, the accusation from the companies seeking protection then becomes the evidence-the facts available."

C. Reasons for the Popularity of AD as a Tool for Protection:

The scale of use of antidumping is larger than those of renegotiations and emergency actions have ever been. In the ten years through 1993, for example, only 30 emergency actions

were notified to GATT — 3 per year as compared with 164 antidumping cases a year.[10] According to Finger, once AD proved itself to be applicable to any case of troublesome imports, it also became attractive for protection seeking industries and governments on the following grounds:

- Under the AD agreement particular exporters could be picked out. GATT/ WTO does not require multilateral application.
- GATT/WTO rules do not require any compensation or renegotiation as in other protective tools.
- Nationally, the injury test for AD action tends to be softer than the injury test for action under the Article of Emergency Actions.
- The rhetoric of foreign unfairness under AD provides a vehicle for building a political case for protection.
- The investigation process in AD tends to curb imports. This is because exporters bear significant legal and administrative costs and importers face the uncertainty of having to pay backdated AD duties, once an investigation is completed.

According to Finger, "the rise of antidumping had nothing to do with the logic of a sensible 'pressure valve' instrument." Finger added that the shift from other measures to antidumping in the US was propelled by the US Congress' desire to regain control over trade policy from the Executive which used to control tariff renegotiations, emergency actions and VERs. By broadening and strengthening the AD law, the Congress could give constituents access to import relief.

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[10] GATT 1993, pp. 16, 26. The tally of antidumping orders is partial according to Finger.

According to Finger (1991), the reasons AD emerged, as a major policy instrument in the EU, were also similar. Slower growth made European governments sensitive to the displacement of domestic production by emerging Asian exporters. In accordance with the Treaty of Rome stipulations, the EU Commission could take AD action while the same was not true of member states. The Commission, with an instinct for demonstrating its usefulness, as an organization — and thereby expanding its area of control — pressed forward with AD action to preempt member state governments from serving industries' increased demand for protection.

To sum up, as Finger (1991) argues, "Antidumping regulation was created by removing from antitrust law the checks and balances that constrain policy to disciplining only competitive practices that compromise society's overall interests. Free of the constraints that rule of law impose on antitrust, antidumping is an instrument that one competitor can use against the other. The only constraint is that the beneficiary interest must be a domestic one and the apparent victim a foreign one". The history of AD shows that the notion underlying contemporary AD — that protection should bring the price of imports up to a level that would cover all local production costs plus a reasonable allowance for profit — seems to be one for the ages. At the current stage of the development of international trade law, AD actions have become a fact of life, and the international community recognizes such actions as the only legitimate tool to combat dumping as defined by, and determined in accordance with, the law. Consequently, without the development of a better theoretical underpinning for dumping, it will be difficult to justify any reform in the law.

Chapter Two

Methodology

A. Research Objective:

As was pointed to in the literature review, the use of antidumping regulation has increased dramatically over the last two decades. The number of countries that have been involved in AD disputes — both in terms of those filing cases and those against whom cases are being filed — has tripled from the 1980s to the 1990s[11]. The increase in AD cases and complaints has sparked a certain curiosity among economists as to the factors behind this upsurge and the potential impact of such an increase. Prusa and Skeath (2001) argued that as the number of cases filed grows, it becomes increasingly difficult to identify the users' point of contention. Similarly, it becomes equally difficult to argue that increased usage merely signals an increase in unfair trade.

This chapter tries to examine whether the current upsurge in AD filings, despite growing claims for trade liberalization, is a significant indication of the countries' desire to protect local industries. To do so, the relationship between the number of AD initiations and other economic variables — such as the import growth, mean tariff rate[12] and foreign exposure — will be tested. Besides, further analysis will examine if certain sectors are more prone to AD action.

The research covers the 36 countries that had initiated AD cases between 1995, the year the WTO was established, and 2001. In accordance with World Bank classification, countries were initially categorized according to their GNP per capita as low, middle, or high-income

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[11]Miranda, Jorge, Torres, Raul A. and Ruiz, Mario. (1998). "The International Use of Antidumping: 1987- 1997." Journal of World Trade, 5, 5-71.

[12] The mean tariff rate is the simple un-weighted average of the effectively applied rates for all products subject to tariffs measured by the World Bank.

countries. However, since the number of low-income countries initiating AD cases is relatively small (only India, Indonesia and Nicaragua), the middle and low income countries are named low-income countries and considered as one. The analysis focuses on the number of AD initiations raised by the local industries rather than the number of accepted AD cases. Raising cases demonstrates a desire to shelter domestic industry. Cases acceptance, on the other hand, is dependent on criteria that is of less relevance to the work at hand.

Following this introduction this chapter begins by analyzing WTO data on AD initiations. A correlation analysis is then carried out between the AD initiations, on the one hand, and import growth, mean tariff rate, and countries' foreign exposure, on the other. This tests the significance of any relationship between the number of AD cases raised and the specified economic factors. Finally, a panel data model is developed to relate the variables denoting the countries' desire for protection and the number of AD initiations.

B. Descriptive Analysis of the Sample:

1. AD Success Ratios

A total of 1847 AD cases were raised between 1995 and 2001. 1069 of those cases were accepted as causing "injury" to domestic industries — a success ratio of 57.9% (for a breakdown of each country's success ratio see Appendices A1 and A2).

The data show that the success ratios for low-income countries exceed those of their high-income counterparts. Because of their need for protection, the majority of the AD cases raised in developing countries are accepted. This may in fact support the claim made by some economists who maintain that investigations are conducted with the aim of proving the validity of AD cases. This, they argue, explains the stronger tendency towards case acceptance in the

developing world. On the other hand, AD investigations in developed countries reject approximately half of the total cases raised. The reason, as mentioned in the CBO study, is that the degree of injury resulting from a given quantity of dumped imports is expected to be less for countries with a higher GNP making it less likely for any given case to pass the material injury standard required for imposing AD measures.

2. Countries' Shares in the Number of Initiations by Their Level of Development:

As seen from the history of AD, before 1995, most of the AD cases initiated were raised by developed countries — namely, Australia US, Canada, and EU. The share of developing countries in the total number of cases raised eventually increased over time. During the period from 1980 to 1989, the developing countries' share of total AD cases raised did not exceed 3% (see table 1 below).

Table 1:

Share of countries of the total number of case initiations, 1980-1989

Reporting country	Total number of cases	% of total cases raised
Australia	488	31.3%
Canada	318	20.4%
EU	285	18.3%
US	398	25.5%
Other developed countries	35	2.2%
Developing countries	34	2.2%
Total number of cases	**1558**	

Source: Finger, J. Michael. (1993). Antidumping: How It Works and Who Gets Hurt. US: University of Michigan Press.

Recently however, AD initiations have become more prevalent amongst developing countries. According to WTO figures, developing countries' share of the total number of cases raised jumped to 56.2% (see Table 2 below). It is important to note that developing countries'

growing share is due to an increase in the number of countries raising cases as well as an increase in the absolute number of cases raised per country.

Table 2:

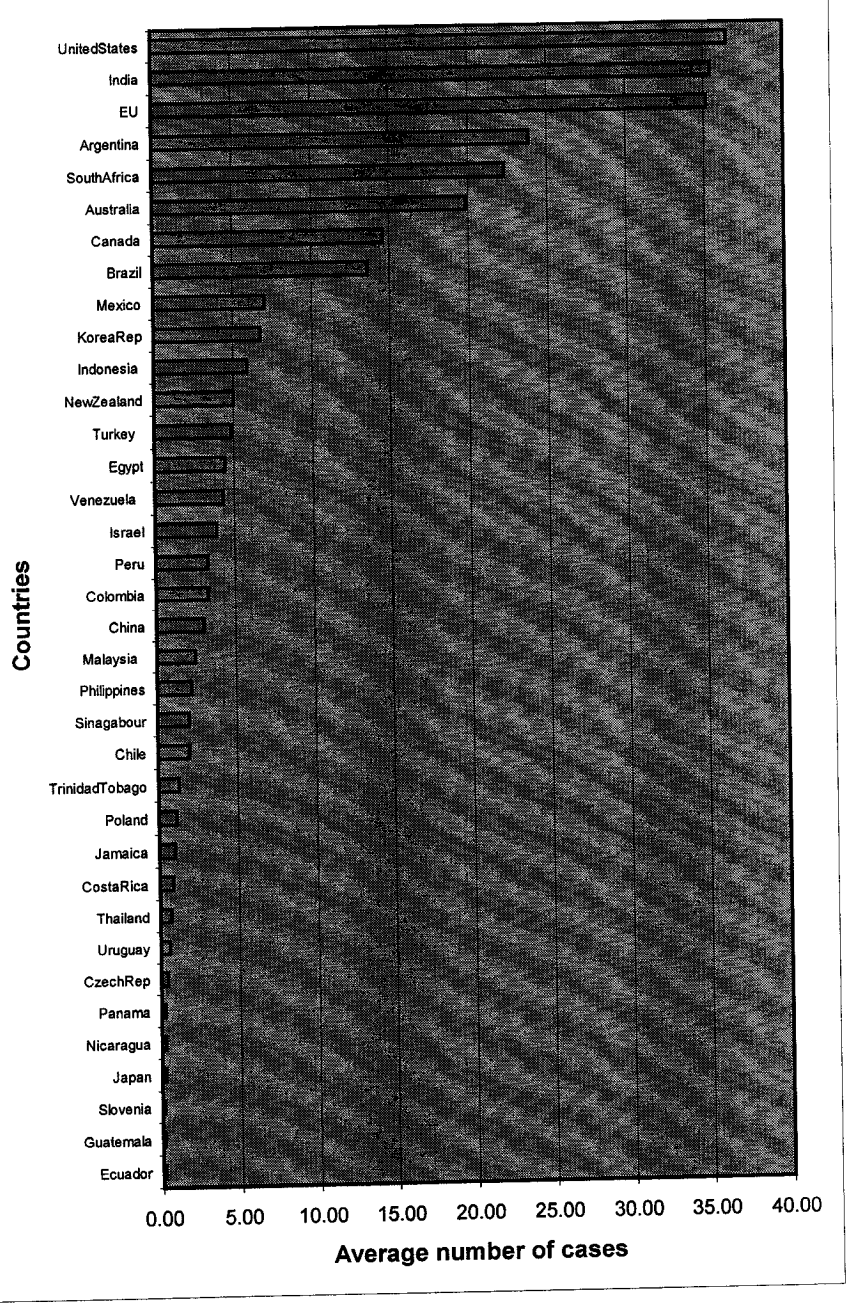
Share of countries of the total number of case initiations, 1995-2001		
Reporting country	**Total number of cases**	**% of total cases raised**
Australia	139	7.5%
Canada	102	5.5%
EU*	246	13.3%
US	255	13.8%
Other developed countries	67	3.6%
Developing countries	1038	56.2%
Total number of cases	**1847.00**	

** According to the WTO annual report, countries included in the EU are: Austria, Belgium, Denmark, Finland France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the UK.*

3. The Rank of Countries According to the Average Number of Initiations:

Chart 1 below shows the ranking of countries by the average number of cases initiated per year, from 1995 to 2001. A low-income country, like India, for example, is now ranked as the second highest country according to average number of case initiations. Using the same criteria, however, the Congressional Budget Office (CBO) had ranked India 12th, from 1991 to 1995. A reverse trend worked to lessen case initiations for high-income countries like Australia who is now ranked 6th, despite having the second highest average number of initiated cases from 1991 to 1995. This suggests that case initiation patterns may have changed following the Uruguay Round where the WTO had effectively sanctioned the use of AD regulation as a protectionism tool.

Chart 1: Ranking of countries by average number of case initiations per year, 1995-2001



Source: WTO data set

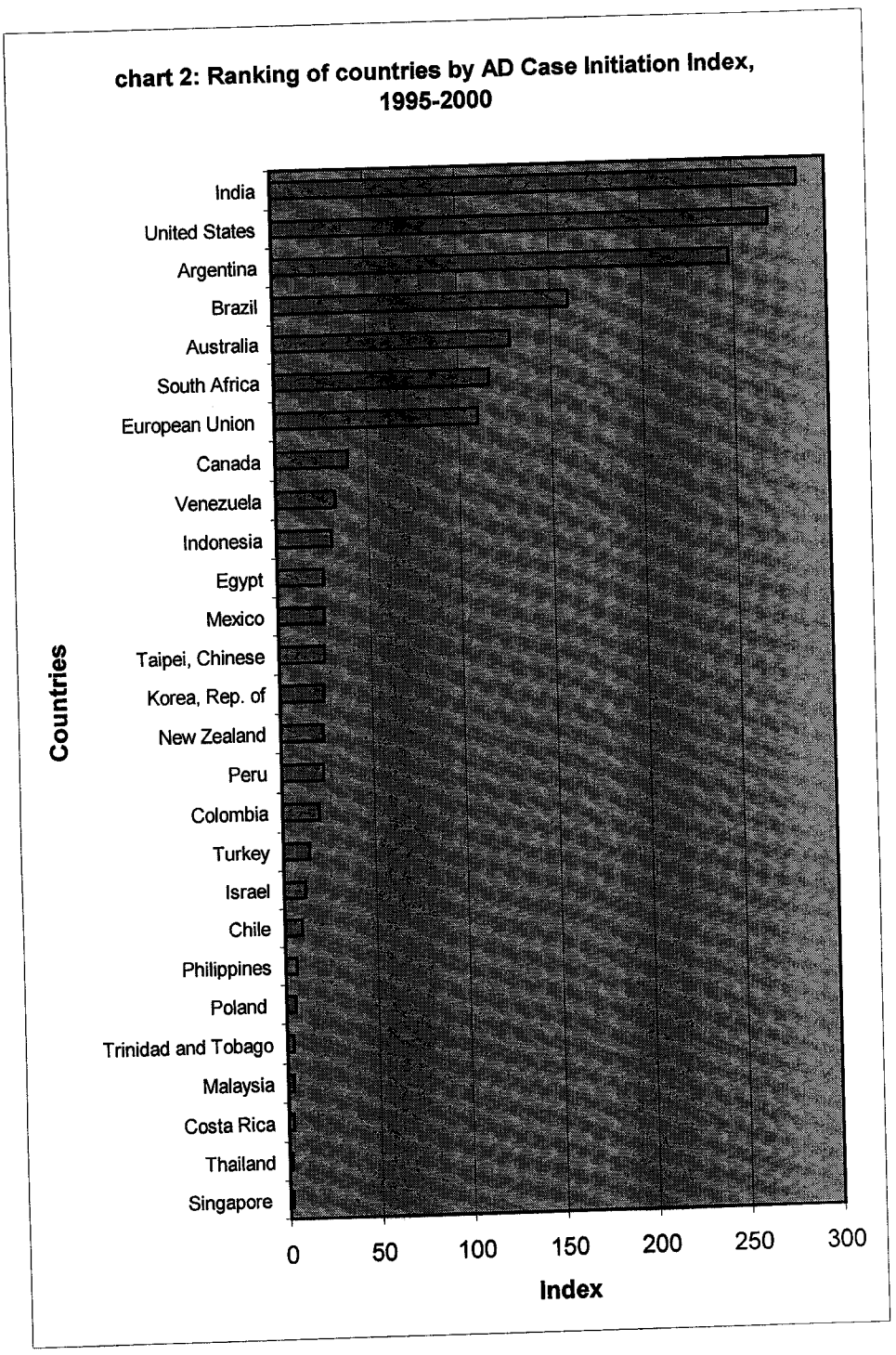
4. AD Case Initiation Index:

Thus far, case initiations have been referred to in absolute terms. The US, for example, has had the highest average number of initiations from 1995 - 2001. However, this does not suggest that the US is a particularly chronic user of the AD mechanism. The US is a comparatively large country, and will have a high level of imports relative to other countries. Not surprisingly, one would expect the US to encounter dumping more frequently than a country which imports less. In order to be able to effectively compare country case initiations, it follows then that the initiations themselves must be indexed to a proxy for country size. To rectify this problem, the CBO developed what has since been referred to the *case initiation index*. The precise functional form of this index depends on the following assumptions regarding the import market and the behavior of the foreign exporting firms:

1. The quantity an exporter will want to export to a given country is roughly proportional to the size of the country's import market, which in turn is roughly proportional to GDP.
2. The number of foreign exporters would be equal to the total quantity of the country's imports divided by the average quantity imported from each firm.
3. From the above two assumptions it follows that the number of exporters is roughly proportional to a country's total imports divided by its GDP.
4. The number of firms engaged in dumping is proportional to the number of firms exporting to the country

Given the above, the case initiation index equals the average number of cases a country, initiated per year, divided by the country's average annual ratio of imports to GDP over the same period.

The CBO had initially applied this index to countries raising AD cases during the period spanning 1991 to 1995. Because of the effectiveness of this index, its application would also be of use to the period under consideration in this study. It is perhaps useful to return to the initial example of the US economy — when ranked according to the AD case initiation index, the US drops to second position following India in terms of AD usage. (refer to chart 2)



a. Data for GDP and import is not complete for 2001. As a result, only data from 1995-2000 is displayed

b. Countries excluded from Chart 2 either showed zero index as they only raised cases in 2001 or they registered a negligible index value

Source: WTO data set
World Bank (World Development Indicators)

5. AD Affected Countries:

Analysis of the AD data showed that, from 1995 to 2001, China was the highest country against which AD cases were raised. China accounts for 13.8% of the cases raised during that period followed by Korea (7.5%) and USA (5.5%).

6. Hypotheses:

In attempting to analyze the relationship between the increased AD practices on the one hand and the economic variables denoting a country's desire for protection on the other, the following hypotheses are developed:

i. *Sectors with high import value are more prone to AD disputes than others*

ii. *The higher the import growth of a country, the more likely it will use AD regulation as a protection mechanism*

iii. *The lower a country's mean tariff rate, the more likely it will use AD regulation as a substitute*

iv. *The higher a country's exposure to international trade, the more likely it will use protective tools which, among others, will include AD legislation*

In order to test the above hypotheses, correlation analyses are carried out to investigate the significance and direction of the relation of AD initiations with the above variables.

C. Correlation Analyses:

Before implementing the correlation analysis for variables in the above mentioned hypotheses, it is important to determine which of the correlation tests — Pearson or Spearman — would best apply to the available data. The Pearson test assumes a normal distribution,

while that of Spearman does not. However, none of the variables tested (AD initiations, import growth, lagged mean tariff rate and lagged exposure) follow a normal distribution. (see Appendix B). For this reason, the Spearman test was used for the correlation analysis.

Hypothesis i

The WTO grouped the products for which AD cases had been raised from 1995 to 2001 into the categories represented in Table 3:

Table 3: The total number of cases initiated for sectors and the percentage of each sector from the total number of initiations, 1995-2001

	Total number of cases	% Of the Total number of cases raised
Base metals and their articles	593	32.1
Chemical products	311	16.9
Plastics and Rubber products	213	11.5
Machinery and electric products	185	10.0
Textile	135	7.3
Papers and fibers	83	4.5
Stone, Ceramic, Glass, Cement, Asbestos	58	3.1
Miscellaneous	41	2.2
Mineral product	38	2.1
Food stuff, Beverages, Tobacco	35	1.9
Vegetable product	27	1.5
Wood and cork products	27	1.5
Live animal products	24	1.3
Optical, Photographic and cinematographic	24	1.3
Human accessories	17	0.9
Vehicle and transportation	17	0.9
Unknown	12	0.7
Leather products	3	0.2
Animal and Vegetable oils	1	0.1
Precious stones and metals	1	0.1
Total	**1845**	**100**

Source: WTO data set

Table 3 above shows that base metals and their articles have the highest total number of cases raised from 1995 to 2001. The above table also shows that AD cases against upstream goods — in other words, goods that are used as inputs in the production — is higher than in other products.

Using the Spearman correlation test, the relation between the number of cases initiated, for the groups of products classified by the WTO, and their level of international imports lagged one year was analyzed. The one-year lag was applied to account for the fact that a country's decision to initiate AD cases is usually based on the level of imports from the previous year. Since data were not complete for the level of imports in 2000 and 2001, the correlation analysis was made for the period from 1995 to 1999[13].

The correlation test showed a significant relation at the level of 1% between the lagged import value of these groups of products and the number of cases initiated for every group over the period under study. The relationship examined was also shown to be positive. This indicates that as the level of imports of these products increases so do their AD cases.

Table 4: Spearman's correlation results[14]

			AD initiations		
			Correlation Coeff.	Sig. level	N[b]
Hyp. ii	The higher the import growth of a country, the more Likely it will use AD regulation as a protection mechanism	Lagged Import growth	0.02	0.77	179
Hyp. iii	The lower a country's mean tariff rate over time, the more likely it will use AD regulation as a substitute	Lagged mean tariff rate	-0.09	0.27	147
Hyp. iv	The higher a country's exposure to international trade, the more likely it will use protective tools among which is AD legislation	Lagged exposure	-0.335[a]	0.00	214

[a] *Correlation is significant at the .01 level (2-tailed).*

[b] *The number of observations differ according to the number of missing data in each of the above variables*

[13] The data for the level of imports is obtained from the International Trade Statistics 1999.

[14] The data used in the analysis of hypotheses ii, iii, iv are for each of the countries raising AD cases overtime unlike the data used for hypothesis i which are for the affected sectors over time.

Hypothesis ii

To test the relationship between a country's desire to protect domestic industries and the raising of AD cases against foreign exporters, the relation between the countries' import growth as measured by $Ln[(M_t/GDP_t)/(M_{t-1}/GDP_{t-1})]_{t-1}$[15] and the number of their AD initiations for the period from, 1995-2001 was tested. The natural logarithm of the value of imports divided by GDP is used instead of the percentage change in the value of imports. This is done in order to smooth the variations and eliminate the trend in the data.

First, the countries' data were analyzed as a whole. As seen from table 4, the Spearman test showed a non-significant, positive relationship between the number of cases raised during that period and import growth in the relevant countries. Second, country data were classified according to each country's level of development — high and low. A correlation analysis was then done for each level. The Spearman test showed that no significant relationship existed between import growth and the number of AD cases initiated, regardless of the development level. In other words, hypothesis ii, in table 4, was not supported by the test's findings.

Hypothesis iii

It was hypothesized that as a country's mean tariff rate decreases, the country will automatically resort to alternative methods of protection. To test the significance of this relationship, a correlation analysis was conducted between the number of AD cases initiated, in a certain year, and the mean value of the tariff rate in the previous year. The analysis showed that no correlation exists between the two (see table 4). Upon analyzing the same relationship

[15] The natural logarithm of the one year lagged ratio of current imports by current GDP divided by lagged imports by lagged GDP.

with respect to a country's level of development, both the low and high-income country tests generated insignificant results.

Hypothesis iv

The correlation analysis showed that there is a significant relationship between the number of cases initiated in a certain year and the country's level of international exposure in the previous year as measured by $[(\text{Export} + \text{import})/\text{GDP}]_{t-1}$[16]. However, unlike what was stipulated in the initial hypothesis, the relationship proved to be negative as seen from table 4. This means that as the level of international exposure increases the number of AD cases initiated tends to decrease. On analyzing the same relationship with respect to the level of development, both low-income and high-income countries showed a negative relationship with a significance level of 1% and 5%, respectively. For fear of retaliation, countries have an implicit agreement not to raise or decrease AD cases against their major trading partners (those with whom they have a high bilateral trade value)[17]. Hence, a higher percentage of the summations of their exports and imports is less likely to be affected by AD law. This explains why countries have a negative relationship between the number of initiated AD cases and the lagged value of exposure.

[16] Lagged ratio of the sum of export and import to GDP.
[17] Congressional Budget Office. (1998). Antidumping Action in the United States and Around the World: an Analysis of International Data. (CBO paper 20515).Washington, DC: U.S.

D. The Model:

1. Background:

Having established the significance and direction of the relation between the number of initiated AD cases and the variables discussed above, it is important to develop a model that could integrate these variables into a framework that would explain the increased use of AD legislation. Since the data sets under study combine time series and cross sections (different countries) a panel data model will be applied. The following is a brief explanation of how this is to be represented:

The basic framework for the panel data model is a regression of the form:

$$Y_{it} = X_{it}\,\beta + Z_i\,\alpha + \varepsilon_{it}$$

- Where Y is the dependent variable for the i^{th} country at time t.
- X_{it} is the set of independent variables excluding the constant term for country i at time t.
- β the parameter estimate of the effect of the variables under study
- Z_i contains a constant term and a set of individual or country specific variables that may be observed or unobserved and do not vary over time.
- α the estimator of the effect of the observed/ unobserved individual specific variables
- ε_{it} is an error term which is normally distributed with expected value equals to zero and variance equals to σ^2 I. The error terms are assumed to be independent across observations.

If Z_i is observed for all countries in the classical regression model above, then the entire model can be treated as an ordinary linear model to which the least squares can be applied.

Often within the model, Z_i is an unobserved individual effect, which is correlated with X_{it}. In this case, the ordinary least squares (OLS) estimator of β will be biased and inconsistent

due to an omitted variable. To handle this situation a group-specific constant term, which embodies all the observable effects, is specified in the regression model. This is known as the *fixed effect* approach. In this instance the model can be presented as follows:

$$Y_{it} = X_{it}\,\beta + \alpha_i + \varepsilon_{it}$$

α_i embodies all the unobservable effects.

The term fixed means that the constant term specified above does not vary over time. The fixed effect formulation of the model assumes that differences across units (countries in our case) can be captured in differences in the constant term. In other words, the difference between units is strictly modeled as parametric shifts of the regression function.

However, if the unobserved individual effect can be assumed to be uncorrelated with the included variables, then the *random effect* approach should be used. According to the random effect approach the model is formulated so that a group-specific random element will be specified. This means modeling the individual specific constant terms as being randomly distributed across cross-sectional units. The model, that will be estimated using the generalized least square (GLS), will be presented as follows:

$$Y_{it} = X_{it}\,\beta + \alpha + u_i + \varepsilon_{it}$$

u_i is the random heterogeneity specific to the i^{th} observation and is constant through time.

Having explained the two possible approaches in panel data modeling, it has yet to be determined which applies on the data set in hand. As explained above, the difference between the two approaches lies in their respective specification of the unobserved individual effects. While the fixed effect considers them as being correlated with the included variables, the

random effect assumes they are not. The Hausman specification test, makes it possible to clarify which specification is the right one. It tests the null hypothesis (H_0) that individual effects are uncorrelated with other regressors in the model. Under H_0, the OLS estimation, within the fixed effect, and the GLS estimation, within the random effect, should not differ systematically. The Hausman test yielded a chi-squared (χ^2) value that could be compared to a critical one, with a degree of freedom equal to the number of estimated, coefficient variables minus one (K-1). If the computed χ^2 is less than the critical one, this means that H_0 is accepted. In other words, this shows that the individual effects are uncorrelated with the variables included in the model. This suggests that the random approach is better suited to estimate the relation.

When the Hausman test was applied, the value of the computed χ^2 was 0.22. The critical value, with three degrees of freedom, was 0.973 which is larger than the test value. Thus, the hypothesis that individual effects are uncorrelated with the other regressors in the model can not be rejected. That is to say, of the two alternatives that have been considered, the random effects model is the better choice.

2. The Random Effect Model Estimation[18]*:*

Equation 1:

Using the random effect approach, the number of AD initiations is regressed against the lagged import growth, the lagged mean tariff rate, and the lagged value of international exposure. A dummy variable is included to account for the level of country development

[18] Estimation is done for the set of countries, as a whole. In other words, developed and developing countries will not be categorized into different groups, as this will decrease the number of observations for each and effectively nullifying the model

according to the World Bank's classification. This variable takes the value of zero for low and middle-income countries and one for those of high income.

The Wald test for the joint effect of the variables was 0.0228 (less than 5%). This showed that the combined effect of the estimated variables is significant as seen from table 5. The variable representing a country's international exposure showed a significant, negative relation at 5%, while the variable accounting for the development level showed a significant, positive relation at 1%. These results mean that as a country's level of exposure increases, it depend less on AD legislation for protection. In the case of higher exposure, this may point that countries may in fact fear potential retaliation of their major trading partners. The dummy variable for development shows a significant positive relation which suggests that developed countries are filing more AD case relative to their developing counterparts.

On the other hand, both the import growth and the lagged mean tariff rate variables turn out to be insignificant (see Table 5). The possible explanation behind the insignificant relation of the import growth variable could be that countries might not decide to impose AD legislation if their import is growing as long as their export values cover that increase in import. Thus the number of AD cases initiated could be related to the current account value of the countries in the previous year.

Equation 2:

The dependent variable is now regressed against the same variables of equation 1 with the exception of import growth, which has been substituted by lagged current account value $(\text{export-import})_{t-1}$. The Wald test showed a significant relation for the combined effect of all the variables at 1%. In other words, the joint significance of the explanatory variables have improved. As seen in Table 5, the lagged exposure variable and the development dummy

variable still show significant relations both at 5%. However, the value of their coefficients decreased relative to their values in equation 1 when the variable for import growth was included. The lagged mean tariff rate variable also became more insignificant than in the previous equation. The lagged current account variable showed a highly significant negative relation (see Table 5). This means that countries tend to raise more AD cases if their current account deficit is high.

Equation 3:

The lagged mean tariff rate turned to be insignificant as seen from the two equations above. Countries may in fact be increasing the usage of AD legislation when the lagged percentage of the tariff revenue of the current government revenue is small, not when the average tariff rate is small. For this reason, the lagged percentage of tariff revenue of current government revenue was included into equation 3 instead of the lagged mean tariff rate.

The Wald test showed a significant combined effect of the variables in the model at 1% level of significance (see Table 5). However, only the lagged current account variable shows a significant relation with a slightly higher value for the coefficient. All other variables that showed significant relationships, in the above equations, showed insignificant relations. Although the lagged percentage of the tariff revenue of the current government revenue is more significant than the lagged mean tariff rate, it still suffers from a low level of significance (see Table 5). It is worth noting that data regarding the tariff revenue of the current government revenue was not available for many countries. This may have affected the results in that regression. On the whole, we can conclude that, given the data available, neither the lagged mean tariff rate nor the lagged percentage of tariff revenue of current government revenue has a significant effect on the number of AD cases raised over the period under study.

Equation 4:

As seen from the different regressions above, the number of AD cases raised in the period from 1995 to 2001 is significantly related to a country's level of international exposure and the value of its current account. However, tariff revenue or the average tariff rate show non-significant results, effectively negating hypothesis iii. The level of development can also explain the increase in the usage of AD legislations. Accordingly, equation 4, estimating the relation of AD initiations to these variables, is represented in Table 5. The equation includes only these variables that significantly explain the current increase in the AD initiations.

Table 5: Estimation results for the random effect modeling

Explanatory variables	Dependent variable: AD initiations							
	Eqn. 1		Eqn. 2		Eqn. 3		Eqn. 4	
	Coeff.	Sig.	Coeff.	Sig.	Coeff.	Sig.	Coeff.	Sig.
Constant	10.96	0.005	9.49	0.002	10.87	0.002	8.47	0.000
Lagged import growth	0.68	0.895						
Lagged mean tariff rate	0.04	0.803	0.01	0.962				
Lagged exposure value	-9.67	0.016	-7.01	0.030	-5.48	0.101	-5.4	0.061
Dummy variable for level of development	12.07	0.008	7.82	0.035	2.25	0.576	6.76	0.043
Lagged current account surplus			-0.11	0.000	-0.14	0.000	-0.12	0.000
Lagged tariff revenue percentage of budget					-22.02	0.383		
Wald test	11.36		38		51.32		53.31	
Prob. > χ^2	0.022		0.000		0.000		0.000	
Number of observations	128		145		154		214	
Number of countries	36		36		30		36	

E. General Limitations of the Data Set:

The data discussed in this research only provides a general overview of various countries' AD policies and their economic impact. Nevertheless, it offers important information that sheds light on important issues in the debate over AD policy. However, a number of qualifications should be kept in mind when analyzing AD statistics.

1. Data Qualifications:

The data set obtained from the GATT/ WTO is not comprehensive. It covers only those countries who are signatories to the GATT/ WTO AD Code. As a consequence, this research has restricted its analysis to countries raising AD cases without addressing countries, who despite being members of the WTO, have chosen not to do the same. To overcome this sample selection bias, in future studies, these countries could be included in bivariate logit or probit models to determine what factors significantly influence antidumping petitions.

2. Arbitrariness of case divisions and Lack of Equivalence of Cases:

When a country brings forth an AD case, more often than not, the complaint is filed against an array of closely related products — for example, various carbon steel products or various stainless steel products — from several different countries. For statistical purposes, the issue often arises of whether such cases should be considered as one case or several. If it is determined that the latter will prevail, how would the cases be divided.

When a case is brought against two or more countries for the same product, the data set treats each as a separate case. On the other hand, when a case is brought against several related products from the same country, the data set follows the lead of the reporting country. In other

words, if the case is reported as one, the data set treats it as such; if it is reported as two or more cases, the data set will also do the same.

The process of dividing the AD activity into cases categorized according to the type of product is somewhat arbitrary. For example, one country might bring a case against several carbon steel products and report it as one case under the product name — "various carbon steel products". Another country may choose to itemize its cases against the same set of products. This would lead to a plurality of cases — one for carbon steel wire rod, one for carbon steel plate, one for carbon steel sheet, etc. — as opposed to one. All else being equal, a country applying a detailed product breakdown will appear to be a larger user of AD laws. This will not affect the results of the model though.

Given the data contained in the GATT/WTO reports, the only way around this problem is to visually inspect individual cases. From there, one can begin to assess the extent to which various countries are more or less prone to detailed case divisions. A more thorough analysis would require going back to the original sources — the published decisions of AD administrative authorities — to determine the Harmonized System[19] product codes for the cases concerned. This, however, would be extremely time consuming.

Further problems arise when one considers the breakdown and comparison of cases according target countries. A case brought by or against a major trading country such as the US or Japan, for example, is likely to entail far more quantities of trade than would a case brought

[19] The Harmonized System is a common product classification code, applied by most of the large trading countries of the world.

by or against a smaller country such as Trinidad and Tobago. Here, the two cases are not equally significant.

3. Beyond the Numbers:

AD laws also have economic consequences beyond those captured by case data. For example, the US steel industry filed a large number of AD cases in the 1980s that effectively overwhelmed the US's AD administrative authorities. This pressured the administration to negotiate quota agreements with the foreign countries in question. Immediately upon implementation of the quotas, the AD cases were promptly withdrawn. While this particular use of AD law was, in effect, a protection measure, it did not register in the data. Many complains are withdrawn before protection decisions are made. In such instances, nothing appears on the reports' lists of active measures taken. Many withdrawals have resulted from negotiations involving trade restraints not represented by the GATT/WTO data. Such cases cannot be distinguished from those that were withdrawn for other reasons — for example, the complaining industry can be told by the administrative authority that the case is weak and has little chance of success.

Furthermore, going through AD investigation can be a costly and time-consuming ordeal for a foreign firm. Therefore, the mere existence of AD policy and the knowledge that domestic industries are ready and willing to file cases, if competition becomes too fierce, can alone cause foreign firms to compete less aggressively.

4. No Two Cases Are Alike:

Finally, cases are likely to differ in terms of the quantity of imports, the type of products, the rate of duty applied, market share, the size of markets for the countries imposing

the duties, and other significant characteristics. Consequently, no two cases have the same economic effect. Any given number of cases or active measures raised by one country cannot have the same economic effect as the same number of cases or measures raised by another.

Chapter Three

Whom Does AD Legislation Protect?

The literature review showed that, as its use increased, AD changed into an ordinary protective mechanism. This also raised questions among many economists regarding whom AD practices actually protect. Could consumer interest be the primary motive? And, if this is indeed the case, how has the increase in AD practices affected consumer well being? That said, studying the literature on the relationship between AD and consumer interests may shed some light on whether the increase has brought benefits to the consumer or whether there are other interest groups that benefit from increased AD practices at the expense of the consumer.

Welfare consequences of a standard *ad valorem* tariff are well known, particularly for the case of perfectly competitive markets. Domestic producers gain at the expense of consumers, causing the creation of deadweight losses. For a small country, the losses outweigh the gains, whereas a tariff by a large country may depress import prices enough to lead to net gains. Since AD trade protection involves an *ad valorem* duty, this analysis is generally applicable.

According to Blonigen and Prusa,(2001) "All but AD's staunchest supporters agree that AD has nothing to do with keeping trade 'fair'. AD… is simply another tool to improve the competitive position of the complainant against other companies. As Stiglitz (1997) argues, "there is essentially no connection between national welfare considerations and AD protection. It is simply a modern form of protection."

Nevertheless, opinions differ regarding whether the AD law is positively or negatively affecting consumer interests. Many arguments against antidumping suggest that when

exporters offer products with lower prices in the importing country, this benefits the consumer only in the short run. Once foreign exporters become better established in the market, they tend to raise the prices. Hence, domestic consumers will be negatively affected. Other economists argue that the AD regulation harms consumer well being in both the long and short terms. Like any protective tool, AD makes the consumer pay higher prices for the products he used to buy for less. Moreover they suggest, AD law is not designed to champion consumer welfare. Its primary purpose is to ensure that domestic producers are protected against foreign competition in spite of the possible adverse effects on the consumer.

A. Antidumping Legislation and Consumers:

There are many aspects of antidumping legislation, such as the definition, "*injury*" detection, "*import cumulation*", and "*path through*" that support the view that AD law prioritizes producer profit over consumer well being.

1. AD Definition and Consumer:

According to Messerlin and Tharakan, the WTO's definition of dumping distinguishes between two types of dumping — that of price and that of cost. The former refers to international price discrimination, excluding sales below cost, while the latter alludes to the practice of international sales at prices below unit cost of production[20]. Price dumping, or the charging of two or more prices for a like product in separate markets, is a phenomenon that is often observed and much analyzed. According to Messerlin and Tharakan, the following conditions are necessary for such dumping to occur. First, the firm concerned should be able to

[20] Messerlin, Patrick A. and Tharakan, P.K. M. (1999). "The Question of Contingent Protection." World Economy.22: 1251-1269.

isolate its home market from foreign ones. This, of course, is crucial if arbitrage is to be avoided. Second, the firm, which is carrying out price dumping, should have sufficient market power in its home market to influence the price. Third, the price elasticity of demand should be higher in the export market than the dumping firm's home market. If these conditions are satisfied, a firm might charge a lower price in the foreign market than at home in an attempt to maximize its profits. And such an act will fall within the scope of the definition of dumping given in Article 2 of the WTO (1994).

Messerlin and Tharakan added that, in international price discrimination, the negative impact on the aggregate economic welfare occurs primarily in the dumping firm's home country. There, consumers pay a price that is kept artificially high. In contrast, their foreign counterparts in the country where products are dumped tend to gain. This is especially true if the process continues on a permanent basis. Non-monopolizing dumping — dumping that is not motivated by the creation of monopoly power — can be entirely consistent with robustly competitive conditions in the importing country's market. In general, economists tend to hold the view that aggregate economic welfare, at the level of the country imposing the duty and at the world level, will decrease due to AD action. The imposition of duties will mean a loss in the aggregate economic welfare because, in the majority of cases, the diminution in the consumer surplus will outweigh the domestic producers' gain from protection. This is not only because the consumers will have to pay a higher price for the imported product, but also because the prices charged by the domestic producers will remain high compared to what they would have been, if there were no duties[21].

[21] Saying so, Messerlin and Tharakan are ignoring the increased government revenue due to the added duties. These government's gains, when added to the producers' gain, may out weigh the consumer's loss.

With regards to cost dumping, Messerlin and Tharakan argue that this where AD laws should be applied. The authors state that if sales below marginal cost are seen as being predatory, then countervailing measures should be taken. Predatory price dumping is low-priced exporting with the intention of driving rivals out of business in order to establish monopoly power in the importing market. In such cases, the consequent welfare loss will not be limited to the importing country alone. The increase in prices subsequent to successful predation and the elimination of competition justifies some kind of public policy response. Studies of countries that are significant users of AD laws, however, showed that only a small proportion of cases fall under the second type of dumping.

2. Injury Determination and "Cumulation":

According to the legislation, an AD case will not prove substantive unless dumping is proved to cause a material injury to the domestic industry. Put differently, the injury specified in the law is confined to the possible negative effects on the domestic producers alone. This does not allow for any negative impact on the consumer. This, indeed, substantiates the claim that consumer welfare is not the object of AD legislation. Not only then does the concept of material injury lend itself to the benefit of domestic producers, but other AD rules, such as "cumulation of imports" which allow for a higher possibility of levying duties, also do the same. Under such concept, imports are not evaluated on a country-by-country basis. However, all like products from all countries under investigation are aggregated and the combined impact on the domestic industry is assessed. According to Bolingen and Prusa (2001), the fact that cumulation raises the probability of an affirmative injury finding is not surprising. What is surprising, though, is that they find that the cumulation effect is super additive. Under

cumulation, the domestic industry has a greater chance of receiving protection by filing against two countries each with 20% of the import market than against a single country with a 40% import market share. The reason for super-additive effect is an open question. Pangariya and Gupta (2000) assumed that, ceteris paribus, as more firms are accused of dumping each will spend less on legal defense knowing that such defense will automatically become available to all foreign firms. This makes them less likely to win the case. On the other hand, If a single larger foreign firm is named, it internalizes all benefits of defense expenditures, and hence spends more to acquit itself. The concept of cumulation, thus, increases the possibility that more foreign exporters will raise their prices — thus, decreasing the possibility that the consumer will find cheaper alternatives to the product in question.

3. Administrative Review and "Pass Through":

A key point that drastically affects the welfare analysis is that AD duties are not static over time. In a process known as an administrative review, dumping margins are recalculated every year using the previous period pricing and/or cost data. With respect to the US case, De Vault (1996b) stated that many foreign firms raise prices and then lower dumping margins in administrative reviews to avoid the AD duty. Thus, by raising prices, foreign firms divert tariff revenue away from the US government to their own revenue. This showed that even when AD duties are reduced, prices for consumers remain high. As such, not only will the importing country's consumer be aversely affected, but its government tariff revenue would also decrease.

One of the issues discussed regarding AD laws and consumer benefits is "*pass-through*". This refers to the passing of the AD duty by the foreign firm onto consumer prices in the protected market. As is the case with other concerns of this nature, the administrative

review process can have a substantial impact on *pass-through* of the AD duty. In the US, for example, AD duties are assessed in retrospect. The initial AD duty is only an estimate, whereas the actual AD duty for a previous period is determined by recalculations during an administrative review and is assessed *ex post*. This means that foreign firms may be able to altogether avoid AD duties by appropriately altering their prices. The administrative review process gives a firm added incentive to raise the foreign price and lower the home price to effectively lower the duty that it faces. It is easy to see why the firm may choose to pass-through the AD duty by 100% or more onto foreign price. In a study of US AD filings, Blonigen and Haynes, showed that as the *ex factory* export price (price as the product leaves the factory) of the foreign firm is used, a firm wishing to eliminate an AD duty may have to allow up to 200% pass-through of the AD duty to the consumers of the protected market[22].

On the other hand, some writers argue that even if AD legislation has negative effects on consumer welfare, it is the overall welfare that matters not a specific interest. In their model of estimation on the EU cases, Veugelers and Vandenbussche, showed that when the foreign firms in the exporting country have cost advantage, it is optimal for the importing government, when its objective includes both producers and consumers, to install an AD duty. This is because the cost advantage enables these firms to export at low prices thus harming the domestic producers. Moreover, foreign producers can easily control prices in the importing countries once they are established — thus harming the domestic consumers. They also added that whenever a duty is imposed, total community welfare increases. In these cases, the duty

[22] A forthcoming study (quoted in Bolingen and Prusa 2001)

revenue and the increase in local producer surplus are high enough to offset the reduction in consumer surplus as a result of AD protection.[23]

Ripple argued that until there is more public recognition of consumer harm resulting from import restrictions, trade politics will often be influenced by protectionist interests. Since consumers are often not aware of the additional costs they are facing due to existing trade restrictions, there is no large-scale, public discontent. The comparatively small amount added to the price of each product might seem insignificant, but the compound costs for all consumers, as well as the economy are notable.[24]

B. Antidumping and Consumer Effect:

The use of AD measures to restrict imports, almost always undermines the national economic interest of the country that imposes them. Still net gains can exist as a result of the free trade. This occurs when the benefits to some domestic interests exceed the costs of imports competition to others. The problem is that almost always the domestic losers, from the imposition of ADD, do not have the same standing in law and in administrative procedures as those who gain — this includes access to the administrative mechanics to petition for the removal of the AD measure when it compromises their economic interests. This shows the tendency of AD legislation to favor the producers.

The imposition of ADD mainly affects consumers of the product in question by raising its price and by also limiting the range of alternative products from which they can choose. Often, the consumer is an industrial user that may need to use imported inputs in his own

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[23] Veugelers, Reinhilde and Vandenbussche, Hylke. (1997). European Anti-dumping Policy and the Profitability of National and International Collusion. CEPR-Research Affiliate, London.
[24] Ripple, Barbara. (2001). "Anti- Dumping Policy Is Anti-Consumer." Consumers' Research Magazine. 84:1-34.

production. More specifically, AD restraints on such products hurt these consumers through increased raw material costs and increased competition from foreign products due to the loss of cost advantage. The shortage created by domestic producers may eventually lead to rationing production among customers. At the same time, the lack of choice within the market can negatively affect the quality and availability of their end product. Layoffs and bankruptcies may also result.

For these reasons it is said that trade is a balancing act. There are winners, and there are losers. That said, the marketplace will, in most cases, allocate resources more efficiently than government intervention through import restraints.

C. Case Studies:

To further clarify the effect of ADD on the consumer of any product, two cases will be analyzed here. The first involves imposing ADD on imported steel in Egypt, as a developing country. The second relates to the same product but in an advance country — in this case USA.

Why steel? As seen in chapter two, base metals (especially iron and steel) had the highest percentage (32%) of AD cases raised in the world from 1995 to 2001. Even before the WTO and before AD measures became widely used, almost one third of the US's AD cases — US was one of the major four players in the field of AD at that period — were against steel importers.

It is predictable that the first battles over imports and unfair trade should arise in the context of steel. For national security and economic reasons, dozens of domestic policies aimed at creating and nurturing steel industries have sprung up around the world. It sometimes seems that every country has decided that a steel industry of its own is essential to building a world-class industrial economy. Of course, it makes little economic sense for every country to have its own steel industry. In a highly competitive world market, the only way for so many countries to sustain their own steel industry has been the extensive use of ADD, other trade barriers, subsidies or private cartels. This has severely distorted both the steel market and the steel industry in the world economy.

The combined result of all these protective measures is that the world produces too much steel. According to Mastel, the continuing stream of new steel mills and expanded facilities coming on-line, in response to government directives not market signals, has

outstripped global demand for steel[25]. The global overcapacity in steel making was over 200 million tons in 1998. Because of this condition the temptation to dump steel in order to dispose of surpluses is high. Moreover, through GATT and the OECD, the industrial countries have reduced tariffs and virtually eliminated quantitative restrictions.

To protect themselves, is why most steel producers initiate AD cases against foreign exporters. However, the situation differs from one country to another. For example, while the use of AD measures did in fact protect steel monopolists in Egypt, it did not succeed in curbing the surge of imports into the US. At the same time, consumers in both countries were harmed.

[25] Mastel, Greg. (1999). "Challenge: The US Steel Industry and Antidumping Law." ESI OP-ED Web Page.

1. The Egyptian steel sector :

Before analyzing the possible effects AD regulations could have on the Egyptian steel sector, it is important to analyze the current status of that sector in the Egyptian economy. Total production of reinforced steel in Egypt was 5,965 million tons in 2002. This forms a surplus of about 2,451 million tons[26]. Despite the surplus, the price of steel increased from L.E. 1,200 per ton to L.E. 1,700 per ton in only three months[27]. This is due primarily to the monopolistic structure of the steel market which is further protected by the government through AD measures.

Although twenty factories are producing steel in Egypt, they do not have equal production capacities. Combined, these factories produce about 6 million tons, 5 million of which are produced by 5 factories alone. The two major steel producers are the Alexandria National Iron and Steel Company (ANSDK) and Al Ezz Steel Rebar. In 1999, Al Ezz acquired a controlling stake in ANSDK, after the latter went through severe financial difficulties. A new entity was formed Ezz El Dekheila (EZDK) holding a market share of approximately 69%.[28]. This dominant position provides it with a near monopoly status.

There are several entry barriers to the steel industry in Egypt. As El Tawil showed (2001), first, quality steel production requires sizable capital. Second, local capacity exceeded consumption in 2000. Moreover, the fact that EZDK — a single market player — has practically 70% of the local market seriously discourages new players from attempting to enter the market.

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[26] Muhammed, 'bdel Naser. (2002). "loghz hadId al-taslIh." Al-'lam Al-Yawm. 15th July: 3.
[27] "azmat al-hadId bayn al-ehtekār wal esteghlal." (2002). Al-Akhbar. 12th July:3.
[28] El Tawil, Heba. (2001). Al Ezz Steel Rebar (ESRS. CA). Cairo: EFG-Hermes.

a. Egypt's Steel Prices and AD:

Due to the liquidity trap, the slump in the construction sector in 2000 meant that the only way for local steel companies to expand was for them to poach sales from their competitors. This was indeed the case, as EZDK's sales leapt by 6% while market consumption actually fell by 10% (El Tawil 2001). EZDK's market share increased not only at the expense of local producers but also at that of the foreign exporters.

In 1998, before its merge with Al Ezz, ANSDK raised an AD case against steel imports from the Ukraine, Latvia, and Romania, who, it claimed, were offering low prices that caused a material injury to ANSDK. The AD authority accepted the case and AD duties were raised against imports from the previously mentioned countries. In 1999, months before the merger, both Al Ezz and ANSDK initiated an AD case against imports from Turkey. Both companies claimed that Turkey's imports caused a decrease in their sales and increased their stocks of inventory. They also accused it of affecting their pricing techniques by forcing them to offer prices that did not cover their costs. This lead to lower profits and financial problems. Again the case was accepted and antidumping duties between 22.6% and 61% are imposed on Turkish steel[29]. These two cases caused a decline in imports by 37% from 700 thousand tons in 1998 to 440 thousand tons in 1999. Imports further declined by 68% (139 thousand tons) in 2000, allowing EZDK to increase its market share (El Tawil 2001).

Local steel prices are subject to fluctuations in the cost of imported raw materials (mainly scrap and oxide pellets) and international rebar whose prices, since August 2000, have ranged between US$205 and US$183. However, as seen above, Egyptian steel producers

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[29] Ministry of Economy and Foreign Trade (1999). "ḳdayā al d'm wal eghraḳ: ḳdeyet waredat hadid al tasleeh dhat mansha' torkya".

operate under a favorable environment and are protected not only by an effective 25% custom duty on imported rebar, but also by the government's effective implementation of antidumping laws and duties.

Steel prices have a tendency to be fairly elastic. However, EZDK's large market share, combined with the fact that the company is a quality steel producer, give it considerable flexibility when setting prices. The difference between EZDK's selling prices per ton and those of its competitors can be as high as 10%, with EZDK's prices normally at the higher end of the market. Generally speaking, EZDK's steel is considerably superior to that of its local competitors and, therefore justify the higher prices. EZDK's rivals would certainly benefit if the company were to raise its steel prices, as this would allow all local steel manufacturers to do the same. However, this causes loss to the steel consumers in the construction sector who have signed contracts according to the existing steel prices and would have to implement prevailing contracts with higher prices than was initially planned for.

b. Egypt's Steel Consumer and AD:

Since Egypt's rebar consumption is mainly in the construction sector, the majority of complaints regarding the high prices are raised by consumers of reinforced steel through the Union of Construction and Building Contractors. Here ADD is cited as being among the reasons that led to the increase in steel prices thus negatively affecting consumers.

Imposing ADD on foreign suppliers gave steel monopolists the chance to increase prices and increase their control of the market. The proponents of AD see it as a necessary measure for preventing foreign firms from harming the consumers. If this is indeed the objective, then AD has clearly failed in that it has done little more than protecting a domestic

monopoly. Mr. Amin Mobarak, Head of the section of Industry and Energy in the Parliament, recommended that ADD be removed to allow for free competition. This would increase the supply and return steel prices to their original level.[30]

Although the ADDs were imposed to remove the injury caused to local steel producers it caused injury to the construction sector which is of no less importance than that of steel. Steel users choose their inputs based on processing characteristics, availability, price and other variables. With AD restrictions, they have no choice but to buy whatever they can get at whatever price is offered. Moreover, there is currently a shortage in the local supply of steel. It would therefore be in the benefit of steel consumers to remove the ADD on imported steel to meet the shortage.

Despite the increase in the cost of construction material, this particular sector can not pass input price increases to their clients since existing contracts cannot be modified. However, on new construction contracts, the increase in steel price will be passed on to the construction sector who will, in turn, pass it on to the end consumer.

On the other hand, other views argue that AD does not have a role in price increases. Mr. Abdel Rahman Fawzy, Head of AD Authority, said that AD duty is not guilty of the sudden increase in prices. It has been imposed since 1998 only on 3 countries — Turkey, Ukraine and Romania — out of the 27 countries that supply Egypt's steel imports.[31]. According to Dr. Botros Ghaly, the Minster of Foreign Trade, the WTO committee approved the results of Egypt's AD cases on steel. That is, the WTO committee approved the causal relationship between the dumped imports and the injury to the domestic industry based on the

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[30] "sûḳ al hadId yafdah akadhIb al-mostaghilIn." (2002). Al-Akhbar. 22nd July: 5.
[31] Sa'd, Ibtisam. (2002). "al-ighrāk barI' min dawamat Irtifā' as'ar al-hadId." Al-Ahram. 17th July: 16.

examination of all relevant evidence before the authorities. It also ensured Egypt's compliance with the WTO antidumping regulations. This allows Egypt to protect such a strategic industry as steel against the injury caused by dumped imports.

The comment here is that the number of countries against whom AD duties was raised is not a justification that ADD was not behind the increase in local prices especially when we know that the share of these three countries of the total steel import was about 46% in 1999 (El Tawil 2001).

c. Conclusion of Egypt's steel case study:

It is obvious from the case of the steel sector in Egypt that the consumer was in fact the primary victim of the imposition of AD measures.

ANSDK, who initiated most of the AD cases, was suffering a severe financial problem even before it accused foreign imports of injury. In 1997, ANSDK embarked on a US$750 million flat steel project. The company financed the venture with US$100 million in equity, while covering the balance with mainly short term debt. However, international steel prices fell in 1998 and then again earlier in 2001, putting pressure on the company's cash flow. This is a main reason behind the company's merge with El Ezz steel to improve its market condition.

So it is obvious as seen above that AD measure was a tool to help the domestic producers regain their market power.

2. US Steel Sector :

Unlike Egypt, the steel sector in US has a long history with dumping. After years of restructuring, the American steel industry in the past two decades has been transformed. The industry had no choice. Highly subsidized and protected foreign producers had taken a huge share of the market, almost always through dumping.[32] In 1998, with Asia and Latin America in recession and with Russia in collapse, US experienced the largest surge of dumped and subsidized steel imports in history. For US steel companies, that was considered a crisis that continued through to 1999 in the form of five major bankruptcies, dramatically reduced prices, reduced capacity utilization, reduced shipments, reduced profits (or outright losses), reduced stock prices, reduced access to capital, and reduced investment plans[33]. The industry faced numerous layoffs, and the US steelworkers continue to suffer from the effects of reductions in the workweek and fewer employee benefits.

Japan is an example of a US trade partner with excess steel capacity and a chronic trade and current account surplus with the rest of the world. It announced publicly that they would sell "Japanese quality steel in the United States at Russian prices." Russian prices were more than $90 per ton below the US cost. This broke the back of the US steel market. The result was a free fall in prices, a record inventory buildup and serious injury to US steel companies and employees.

In the first seven months of 1998, the United States imported 18.2 million net tons of steel mill products, an 18.2 % increase from 1997's record level. There are 300 American companies that produce steel products. Nevertheless, the US has always been the largest net

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[32] Barnette, Hank. (1998). "The Steel Dumping Ground." The Washington Times.
[33] Wilhelm, Paul J. (1999). Recipe for A Successful WTO Seattle Round: Keep AD and Anti-Subsidy Rules Off The Negotiating Agenda. The American Institute for International Steel.

steel importer in the world. In 2001, US imports of steel exceeded exports by 23.5 million metric tons.

a. Steel producers and AD:

The US steel industry has undertaken a dramatic modernization program in the past decade. More than $50 billion has been invested in new plants and equipment. New technology has been implemented, and a new generation of US mills has largely replaced the old ones. US mills had faced competition in the past. While engaging in this rebuilding process, the US steel industry made extensive use of antidumping laws. Almost one third of such cases filed since 1980 have involved steel products. The use of these trade laws had effectively insulated the US industry from foreign competitors during its rebuilding stage.

In 2000, the top executives at US steel producers LTV, Corporation, US Steel, Bethlehem Steel, and the American Institute for International Steel indicated that the US industry plans to file antidumping complaints targeting European and Asian steel producers. Special attention was given to the Ukraine, China, and India which were singled out as the key offenders by the US Department of Commerce (DOC). This new round of antidumping cases was prompted by rising US import levels and falling prices. US steel producers also claim that their domestic market has been affected by steel imports from countries that were not targeted by the last round of dumping complaints two years ago, but whose export to US have since increased as US importers switched to purchasing from countries unaffected by the 1998 dumping orders. For example, import data compiled by the DOC showed that the volume of imports for the first eight months of 2000 increased 177.4% from India and Ukraine, 161.1% from China, 73.6% from Taiwan, and 57.9% from Turkey. According to the DOC, overall steel

imports into US were up nearly 16.9% compared to 1999 and were almost 3% higher than in the same period of the 1998.

In spite of the fact that many raised AD cases were won, there was still a surge in US dumped steel imports. This led the American Administration, in March 2002, to impose higher tariffs rather than apply AD on certain steel imports. While 30 years of trade restraints and subsidies have neither saved jobs nor made big steel producers competitive, trade restraints and subsidies have come at a high cost to American consumers and taxpayers — more than $100 billion. The greater costs may, however, be yet to come

b. Steel Consumers and AD:

Having seen how ADD affected the US steel producers it is now important to look at its effect on consumers. The Consuming Industries Trade Action Coalition (CITAC) claimed that AD restraints on steel imports are harmful to steel consumers, pointing out that steel consumers must compete globally, and must therefore have access to steel that is internationally competitive in both quality and price. Restraints on steel imports led to an increase in the prices of steel between 40% - 75% — thus, raising the material costs of steel users. This would eventually mean that the consuming industries will raise their prices, gradually rendering them less competitive with foreign suppliers.

Those who have been unable to pass the price increase on to their consumers, are now selling their products at a loss. According to a CITAC study, if this situation continues, these small businesses will go out of business.

In the US, for every steelworker there are 59 workers in steel-consuming industries. In fact, a conservative estimate in a CITAC study found that at least 8 jobs would be

lost in steel-consuming industries for every one job saved in steel production as a result of protection[34].

Certain types of steel are not produced in sufficient quantities locally to meet the domestic demand. In such cases, domestic steel users depend on the imported steel. These steel types, however, did not escape from the domestic producers' accusations of dumping thus raising their prices and causing a shortage in their supply.

c. Conclusion of US case study:

The large steel producers in US were threatened by the emergence of the more efficient mini mills in the 1990s. Unable to curb the threat from the small mills, they attempted to eliminate foreign competition. The industry's goal shifted from managing trade to excluding imports. Thus, in the 1990s and until today, big steel producers focused their efforts on making antidumping measures automatic and exclusionary.

The reason behind imposing much restriction on steel imports was always attributed to the US steel industry being a victim of unfair foreign competition. To illustrate, in a recent Wall Street Journal article, Thomas Usher, Chairman and CEO USX Corporation, characterized the steel industry as being "the victim of a perverse system where foreign countries have used market barriers and subsidies to encourage excess capacity and production, which is then dumped in the U.S. — the largest and most open market in the world."[35]

Actually, the US government intervenes in the US steel industry just as foreign governments do. To clarify, currently 80% of steel imports are protected with tariffs through

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[34] Consuming Industries Trade Action Coalition (CITAC). (2002). Trade Restraints Hurt US Manufacturers. (Article 2).
[35] Schavey, Aaron. (2002). "The Myths of the Steel Industry's Arguments for Increased Government Intervention." Heritage Foundation Site. Web Memo#78.

US antidumping laws. Furthermore, in 2001, the US steel industry was the beneficiary of more than $1 billion in subsidies through US loan guarantees. When the involvement of the US government in the US steel industry is highlighted, the industry hardly looks like a victim as Mr. Usher would have everyone believe. Thus, if the US steel sector already receives the same type of protection as the foreign exporters and it still cannot compete, then it would be far better to altogether remove these protective ADDs.

According to Schavey (2002), protecting the steel industry does nothing to help resolve the industry's primary ill — chronic over-production. In 2002, steel manufacturers around the world were producing approximately 40 million more tons of steel than consumers demand. This over production put downward pressure on steel prices and made it difficult for companies to survive and thus seek more protection. As long as governments, including the US government, continue to intervene, the steel industry will continue to be plagued by the same problems of over production. This is because protection allows inefficient firms to survive. Moreover, every effort to protect domestic industry comes at the expense of others and the consumer ultimately pays the bill.

D. Lessons Learned:

ADD does not automatically or necessarily guarantee consumer's benefits. The most that AD measures can do is to provide some protection to the injured domestic industries, provided that the injury is material. Even here, the protection given through ADD alone is not sufficient to lead the protected firms to high levels of efficiency and competitiveness.

There appears to be evidence that AD measures are more likely to harm consumers' interests than to have a neutral let alone beneficial effect.

Conclusion

AD regulations were in use long before the GATT/ WTO. The first AD law was initiated by a necessity, brought on by politics of the day — the government needed to retain some selectivity over the provision of protection. However, the passage of antidumping laws at the beginning did not mean that antidumping immediately became a major instrument of import regulation. The tariff remained the dominant instrument.

While the GATT was best known as an agreement to remove trade restrictions, it also included a number of stipulations that allowed countries to impose certain protective measures. Among such stipulations is Article VI that allowed antidumping. The political reality suggested that any government that attempted to establish or maintain an open import regime had to have, at hand, some process to manage occasional pressures for exceptional, or sector-specific, protection.

Although AD rules can be traced back to 1904, recourse to AD as a trade tool did not increase, in any significant way, until the mid to late 1970s — approximately, two decades after the implementation of the GATT Agreement. The reason is twofold. First, tariffs were sufficiently high at the time. This meant that industries were less exposed to import competition, and fewer industries perceived imports as a threat. Second, the rules for imposing AD duties were difficult to satisfy. For this reason, the GATT/WTO AD code had undergone significant revisions in every round of negotiations. Individual countries, especially the US and EU, had frequently amended their AD statutes to make AD protection easier to grant.

The history of the AD regulation has shown that it is a public policy that serves private interests. It is an instrument that one competitor can use against the other. The only constraint

is that the beneficiary's interest must be a domestic one and the apparent perpetrator a foreign one.

The main objective of this research was to establish whether or not the desire for protection is what urges countries to raise AD cases. Accordingly, it was hypothesized that countries might file more AD cases if they experience high import growth, low mean tariff rate and high international exposure. However, analysis showed that the level of import growth has an insignificant effect on the country's desire to raise AD cases. This holds true for both low and high-income countries. On the other hand, the country's value of current account position was found to be significant in relation to the filing of AD suits. That is to say, as countries' current account deteriorates, they tend to initiate more AD filings. This might explain why countries are inclined to adopt protective techniques not when they experience high import growth but when their high import levels are not offset by high export values.

Much like import growth the mean tariff rate also showed an insignificant impact on the number of AD cases raised. Although the percentage of the tariff revenue out of the current government revenue provided a better explanation of the increase in AD initiations than the lagged mean tariff rate, it still suffered from a low level of significance.

It was also assumed that the higher degree of a country's foreign exposure, the more likely it will raise AD cases. It was found true that foreign exposure has a significant impact on the number of AD filings. However, it did so in a manner opposite to what was initially predicted. In other words, country analysis showed that as the level of international exposure increases, countries – despite their level of development – tend to raise less AD cases. It may highlight the countries' fear of possible retaliation from their major trading partners.

The research also showed that the countries level of development – indicated by a dummy variable—has a significant positive relationship with the number of AD initiations, which suggests that developed countries are filing more AD case relative to their developing counterparts.

On the whole, the empirical analysis showed that from, 1995 to 2001, of all the economic variables identified to represent the countries motives for protection, the current account position, the level of countries' development and the degree of foreign exposure best explain the increase in AD initiations.

Upon assessing the possible impact of AD regulation on the consumers of the affected products AD, like any protective tool, makes the consumer pay higher prices. Moreover, as reiterated by many economists, AD law is not designed to champion consumer welfare. Its primary purpose is to ensure that domestic producers are protected against foreign competition in spite of the possible adverse effects on the consumer.

The two case studies of the steel sector in Egypt and in the US show that the consumers were in fact the primary victims of the imposition of AD measures. AD restraints on steel hurt these consumers through increased raw material costs and increased competition from foreign products. At the same time, the lack of choice within the market can negatively affect the quality and availability of their end products. Layoffs and bankruptcies may also ensue. In other words, AD measures amounted to little more than a tool that helps the domestic producers regain their market power.

From the above findings, it can be deduced that there is a located problem in the policies of the governments seeking AD protection. These governments are biased in their protection decisions to the lobby of producers ignoring any harm that the consumer may incur.

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Appendix A1: AD Success Ratio for High-income Countries

	1995	1996	1997	1998	1999	2000	2001	Totals
High income countries								
Australia	20.0%	5.9%	2.4%	53.8%	25.0%	33.3%	43.5%	22.3%
Canada	63.6%	0.0%	50.0%	125.0%	55.6%	66.7%	76.0%	65.7%
European Community	42.4%	76.0%	56.1%	113.6%	27.7%	128.1%	53.6%	63.0%
Israel	20.0%	0.0%	0.0%	85.7%		0.0%	20.0%	44.4%
Japan							0.0%	50.0%
New Zealand	30.0%	100.0%	0.0%	100.0%	0.0%	10.0%	200.0%	31.4%
Singapore	100.0%							100.0%
Slovenia					0.0%			0.0%
United States	235.7%	50.0%	133.3%	44.4%	51.1%	68.1%	44.6%	66.3%
Total	**77.5%**	**44.3%**	**42.5%**	**74.7%**	**39.0%**	**73.8%**	**50.6%**	**55.4%**

Source: AD initiations and measures from WTO sites

a. *0% means that no cases were accepted in that year. However, cases may have been raised.*

b. *Countries showing more than a 100% in a certain year means that there are more cases accepted in that year than those raised. This is due to the lag that exists between the time when cases are raised and case acceptance.*

c. *Countries showing 100% in a certain year means that the number of accepted cases in that year equals the number of cases initiated although the accepted cases may not be cases raised during that year.*

d. *Countries showing no readings in a certain year means there were no cases initiated or raised*

Appendix A2: AD Success Ratio for Low-income Countries

	1995	1996	1997	1998	1999	2000	2001	Totals
Low-income countries								
Argentina	48.1%	90.9%	73.3%	162.5%	37.5%	35.6%	57.7%	58.1%
Brazil	40.0%	33.3%	18.2%	77.8%	31.3%	81.8%	81.3%	53.7%
Chile	50.0%	0.0%		100.0%		0.0%		42.9%
China						0.0%	0.0%	0.0%
Colombia	25.0%	100.0%	100.0%	0.0%	300.0%	66.7%	0.0%	47.8%
Costa Rica		0.0%	0.0%	0.0%				0.0%
Czech Republic				0.0%	0.0%			33.3%
Ecuador				0.0%				0.0%
Egypt			0.0%	41.7%	260.0%	0.0%	0.0%	58.1%
Guatemala		0.0%						100.0%
Jamaica							0.0%	0.0%
Korea, Rep. Of	0.0%	38.5%	66.7%	266.7%	0.0%	250.0%	0.0%	59.6%
Malaysia	0.0%	100.0%	25.0%	400.0%	50.0%		0.0%	58.8%
Mexico	400.0%	100.0%	116.7%	58.3%	63.6%	100.0%	60.0%	104.1%
Panama				0.0%				0.0%
Peru	100.0%	14.3%	100.0%	0.0%	37.5%	400.0%		56.5%
Philippines	0.0%	200.0%	0.0%	33.3%	33.3%	200.0%		66.7%
Poland			0.0%		0.0%			87.5%
South Africa	0.0%	24.2%	78.3%	34.1%	212.5%	61.9%	83.3%	59.0%
Thailand		0.0%	33.3%				0.0%	60.0%
Trinidad and Tobago		0.0%		50.0%	0.0%	100.0%		55.6%
Turkey			0.0%	0.0%	12.5%	114.3%	14.3%	64.7%
Uruguay						0.0%	0.0%	0.0%
Venezuela	66.7%	0.0%	66.7%	0.0%	114.3%	900.0%	0.0%	76.7%
India	116.7%	9.5%	61.5%	81.5%	33.8%	136.6%	50.7%	62.5%
Indonesia		0.0%	80.0%	25.0%	70.0%	0.0%	75.0%	39.0%
Nicaragua				0.0%				50.0%
Total	**70.9%**	**35.2%**	**59.3%**	**58.1%**	**60.4%**	**91.6%**	**48.3%**	**59.8%**
Total countries	**74.2%**	**38.4%**	**51.0%**	**63.8%**	**50.8%**	**83.6%**	**49.4%**	**57.9%**

Source: AD initiations and measures from WTO sites

a. *0% means that no cases were accepted in that year. However, cases may have been raised.*

b. *Countries showing more than a 100% in a certain year means that there are more cases accepted in that year than those raised. This is due to the lag that exists between the time when cases are raised and case acceptance.*

c. *Countries showing 100% in a certain year means that the number of accepted cases in that year equals the number of cases initiated although the accepted cases may not be cases raised during that year.*

d. *Countries showing no readings in a certain year means there were no cases initiated or raised*

Appendix B: Test for Normality of the Data

	AD Initiations	Lagged Import Growth	Lagged Exposure	Lagged Mean tariff Rate
N	252	179	214	147
Normal test Z value	4.5	1.5	2.5	2.4
[a] Asymp. Sig. (2-tailed)	0.000	0.027	0.000	0.000

a Since the level of significance is less than 5% this means that non of the variables follows a normal distribution