Anti-dumping
And Safeguard Measures

Anita Regmi and David Skully, Trade Remedy Laws & Agriculture, ERS-USDA Agricultural Outlook, August 2002

Outline

• Definition of Dumping
• Price discrimination
• Selling below production costs (constructed cost)
• Predatory dumping
• Antidumping laws
• Who is hurt by dumping
• Comparison of A/D, CVD, and safeguards
• Safeguards
Defining Dumping

• Article VI of GATT defines dumping as the introduction of a product from one country into the commerce of another at less than its “normal value.” The Antidumping Agreement defines normal value as:
  • The comparable price for the product, in the ordinary course of trade, in the exporting country → price discrimination
  • If such a price is not available, normal value may be computed using a comparable price for the product exported to a third country → price discrimination
  • If this information is not available, the normal value for the product is “constructed” by expenses, and profit → constructed cost test

Price Effects with Price Discrimination

• The price in the importers market is not necessarily lower as a result of price discrimination (depends on elasticities of demand)
• The price in the exporters home market is usually higher
**Constructed Cost Test Dooms Exporters in Cyclical Markets**

- Constructed value is based on the concept of “full cost” that includes fixed and sunk costs for capital and R&D as well as a margin for “normal profit” (e.g. 8% rate of return)

- Exporting firms would be guilty of dumping at least half of the time
- If the selling below cost criterion were applied domestically it would be a rare firm that consistently avoids being in violation of the law

**Instances Where Constructed Cost Test Will not be Relevant**

- Cyclical dumping = low prices for which there is substantial excess production capacity. There are opportunity costs that accompany excess capacity that the firm attempts to minimize

- State Trading dumping = exports of state-owned enterprises in economies whose currencies are not freely convertible. Home market prices can not be compared with export prices. The exporting nation needs to export to acquire hard currency in order to import other goods. The benefits from the imports outweigh any losses on export good.

- Market Expansion dumping = the exporting country is attempting to get its foot in the door and develop some sort of consumer loyalty
Predatory Dumping

- Low price exporting that is geared to driving rivals out of business in order to obtain monopoly power in the importing market
  - The exporter’s losses from supplying goods at the low price must be recouped later at higher prices
  - It is difficult to discern if the firm is pricing aggressively in order to compete with rivals or to drive the rivals out of business
  - The traditional A/D requirements for material injury do not coincide with the “victim” not being able to complete in the long run and having to exit the industry
  - There are other practices besides pricing which can coincide with predation (e.g. foreclosure of required inputs). Anti-dumping does not focus on these practices.
- Predatory pricing is not necessarily an efficient method to monopolize a market. The firm must endure long periods of losses to force competitors out of business, suffer those losses over a large portion of its market, and may not be able to prevent re-entry of competitors when it does raise the price. Mergers and acquisitions may be more efficient

Anti-dumping Laws

- Antidumping investigations involve a two-part test.
  - Demonstrate evidence that dumping exists
    - Establish dumping margin between export price and home price
    - or Establish dumping margin between export price and constructed cost
  - A material injury test that establishes that the dumped product causes or threatens to cause injury retards the establishment of a domestic industry
- These are actions taken under the domestic trade law of the importing country. These rules have to be consistent with the WTO Anti-dumping Agreement
- The actions are initiated against foreign firms not foreign governments
- Like a CVD case the domestic industry for the complainant has to have standing
Who is Hurt by Dumping?

Welfare:
Loss in Producer Surplus = a
Gain in Consumer Surplus= a+b+d+e
Net gain = b+d+e

- Losers are the consumers in the exporters home market
- Importing country gains on net. The only instance where they may loss is if price discrimination drives out import competing firms and the exporter then increases its price in all subsequent periods → predatory dumping

Anti-dumping is still the remedy of choice
Safeguard (emergency) Measures

- A WTO member may restrict imports of a product temporarily (take "safeguard" actions) if its domestic industry is injured or threatened with injury caused by a surge in imports.
  - There is no presumption of guilt on the part of the exporter
  - The injury standard is higher than with CVD/AD
    - Here, the injury has to be serious … with CVD/AD the injury standard is material injury
  - Article XIX of the GATT and the Agreement on Safeguards sets out requirements for safeguard investigations by national authorities:
    - Transparency and following established rules
    - In principle, safeguard measures cannot be targeted at imports from a particular country.
    - The agreement says the exporting country (or exporting countries) can seek compensation through consultations.
Safeguard Measures

• The WTO sets time limits (a “sunset clause”) on all safeguard actions.
  • A safeguard measure should not last more than four years, although this can be extended up to eight years
  • Measures imposed for more than a year must be progressively liberalized.