

THE STRATEGIC USE OF ANTI-DUMPING IN INTERNATIONAL TRADE

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Anti-dumping duties are the internationally acceptable countermeasure to injurious dumping. The various procedures that have to be followed when bringing an anti-dumping action are contained in the Uruguay Round Anti-dumping Agreement (URRA), which forms part of the Multilateral Trade Agreement signed in 1994, and which falls under the supervision of the World Trade Organisation (WTO). Dumping, which will explained in more detail in section 1 of this paper, is when a product is “introduced into the commerce of another country at less than its normal value”, and it is considered to be an unfair trade practice (GATT Secretariat 1994:168). If it can be shown that an exporter is dumping and that the said dumping is causing material injury to the relevant import-competing industry, then an anti-dumping duty is imposed on the dumped product. The purpose of anti-dumping is therefore to counter the *unfair* trading practice known as “injurious dumping”.

It is alleged in this paper that sometimes, anti-dumping is being used as more than just a countermeasure to injurious dumping. It would seem that in some cases, anti-dumping is being used to restrain the most aggressive sources of import competition. In such instances, the imposition of anti-dumping duties would be nothing else but protection against free and fair trade. In other words, anti-dumping duties can and in some cases are being imposed on imports that are being *fairly* traded.

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This allegation implies that it should be possible to cheat on the Anti-dumping Agreement. Unfortunately, the Anti-dumping Agreement does provide opportunities to manipulate the results of investigations as will be explained in more detail in section 2. For example it is possible under certain circumstances to manipulate what is known as the determination-of-dumping calculation to ensure a positive dumping result (Bekker 2004). The purpose of this paper is to try to make economic sense of this type of cheating and explain the economic rationale behind the resultant protectionism.

According to conventional economic wisdom such protection is a problem (see section 3). Free and fair international trade will be mutually beneficial to all participants over the long run. Attempts to restrict imports may have short-term economic benefits for certain parties, but will have long-term negative effects on global economic growth and global economic welfare (Salvatore 2001:261; Smith 1926:219-226). A problem that concerns economists is that protectionism spawns retaliation which can be detrimental to international trade and therefore to economic welfare. So, cheating on an international agreement like the Anti-dumping Agreement does not seem to make economic sense.

According to the data included in section 4.2, anti-dumping measures are concentrated in a relatively small number of sectors, for example the base metals, chemical, plastics and rubber and the machinery and electrical equipment sectors (see tables 5 & 6). A possible implication is that the tendency to cheat on the anti-dumping agreement may be concentrated in certain industries and that the import-competing industries in these industries are being protected against competitive rather than dumped imports (see section 4.3). It will be argued in section 4 that it is possible to make economic sense of such a strategy. Adam Smith (1926:226-227) argued that certain sensitive and strategic industries would probably need protection from imports even if this protection was at the cost of economic welfare. The conclusion reached in this paper is that the economic rationale behind a large proportion of anti-dumping investigations may not be that exporters are dumping, but that certain strategic industries should be protected. Therefore the focus of economic research and of the current multilateral trade negotiations should be more on the strategic industries affected and not so much on anti-dumping.

This paper will be organised as follows: a brief explanation of dumping and anti-dumping will be provided in section 1. In section 2 the protectionist nature of anti-dumping as well as a number of ways in which it is possible to cheat on the Anti-dumping Agreement will be explained. The chilling effect of anti-dumping measures on international trade will be discussed in section 3. In the next section, it will be argued with the help of elementary game theory, that sometimes cheating on the Anti-dumping Agreement does make economic sense. Economic data will be provided in the next section to illustrate that certain industries are being protected more than others by anti-dumping measures and it will then be argued further in section 4.3, that anti-dumping is sometimes being used to protect certain strategic industries, for example the iron and steel industry, against competitive, not dumped imports. The paper concludes with the assertion that what needs to be researched by economists more than anti-dumping, is whether or not certain sensitive and strategic industries should be protected.

1 Dumping and anti-dumping

In the context of GATT, the word “dumping” has a very specific meaning. According to the 1994 Uruguay Round Anti-dumping Agreement (URAA), dumping is when a product is “introduced into the commerce of another country at less than its normal value”, and the normal value is “the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country” (GATT Secretariat 1994:168). In other words and very simply put, the consumers in the importing country are paying a cheaper price for the goods than the consumers in the country where the goods are manufactured. Consumers in the importing country may well benefit by having access to cheaper products, but these low prices could cause problems for the competitive industry in the importing country.

Dumping could be the result of a number of strategies, for example price discrimination, subsidies, selling at below cost or excess capacity. While the subsidization of exports could be seen as a special case of dumping, it is clear from the agreements that the signatories to

GATT saw dumping and subsidization as two separate problems to be addressed by two separate measures (GATT Secretariat 1994:168, 264, 485-558).² An applicant applies to have an anti-dumping duty imposed on a product that is being dumped. A countervailing duty, on the other hand, “shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly, or indirectly, upon the manufacture, production or export of any merchandise” (GATT Secretariat 1994:494). In other words, countervailing actions are targeted at products that are being subsidised by government. It seems to be implicitly assumed that such an exporter would be dumping because of the subsidy, so there is no need to show or determine dumping during the investigation. In an anti-dumping action it must be shown that the exporter is dumping. The potential to manipulate the results of a dumping investigation is therefore peculiar to anti-dumping actions.

The practical test for dumping is whether or not there is a price difference between the normal value and the export price. If, after making due allowance “for differences which affect price comparability, ...”, the export price is less than the normal value, then the exporter is dumping (GATT Secretariat 1994:170-171). If this difference between the two prices, known as the dumping margin, is less than 2% expressed as a percentage of the export price, then the dumping margin is insignificant. In such a case the anti-dumping investigation is immediately terminated.

A problem occurs when there is no reliable normal value against which to compare the export price. It then becomes more difficult to determine whether or not dumping is taking place. For example, if a country produces a certain product for export only, there are no sales of that product in the domestic market of the exporter and so there is no normal value. However, the URAA does provide for such eventualities. If a proper comparison between

²Article XVI of GATT deals specifically with subsidies, while the problem of dumping is explained in Article VI of GATT. There are two additional and separate agreements which form part of the WTO Agreement, one dealing with dumping and anti-dumping measures, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 which specifically “governs the application of Article VI of GATT 1994 in so far as action is taken under anti-dumping legislation or regulations”; the other dealing with subsidies and countervailing measures, the Agreement on Subsidies

the normal value and the export price cannot be made, one of two methods can be used as an alternative. A normal value can be constructed using the cost of production of like products produced in the exporting country as a basis for the constructed normal value (GATT Secretariat 1994:168-172). The other method, which is not often used, is to compare the export price of the product which is allegedly being dumped "... with a comparable price of the like product when exported to an appropriate third country..." (GATT Secretariat 1994:168; Hindley 1988:448; Messerlin 1991:47). However, these methods assume that the prices used to determine the normal value are themselves determined by market forces.

In the case of non-market economy (NME) countries or countries in transition another method, known as the analogue method in the EU and the surrogate method in the US, is used. Prices in such countries could be distorted in various ways, for example by subsidies, controls or import restrictions, and are still regarded as being unreliable. In such cases, an analogue country's cost structure is used to determine the normal value in anti-dumping actions against NMEs (Ehrenhaft 1990:302; Meuser 1979:797-798). In other words, the cost structure of a third economy which is a market economy and which is as similar as possible to the exporting country, is to be used to determine the normal value against which the exporting price could be compared (Ehrenhaft 1990:305; Corr 1997:81; Horlick & Oliver 1989:14-18; Horlick & Shuman 1984:808,819; Messerlin 1991:47; Olechowski 1993:173). Numerous allegations have been made that the analogue method has been used to capture the dumping margin. In addition, the use of this method to determine normal values makes it difficult for a non-market economy exporter to prove that it is not dumping and places exporters from such countries at a disadvantage during anti-dumping investigations.

Even though Article VI of GATT (1947 as amended) states that dumping is to be condemned, the anti-dumping agreement merely provides an acceptable mechanism that may be used against injurious dumping. The agreement does not regard dumping as illegal, nor does the agreement suggest that anti-dumping duties should be mandatory. In addition, the procedure that must be followed in an anti-dumping investigation was ostensibly

and Countervailing Measures (GATT Secretariat 1994: 168,264).

designed so that anti-dumping duties would only be imposed on exporters guilty of injurious dumping. However, it has been alleged that many anti-dumping measures have been imposed unfairly on exporters that were not dumping, and that the procedures followed in some anti-dumping investigations have not been consistent with the spirit of the anti-dumping agreement (Corr 1997:82; Stegemann 1991:376-377). As Stegemann (1991:376-377) put it, some parties have managed to “to stretch the rules or take advantage of a loophole”. In other words, anti-dumping duties are being used as protection against legitimate imports, not only against dumped products. Some economists call this protectionist use of anti-dumping part of the new protectionism (Corr 1997:82; Hindley 1991:38-39; Horlick 1993:7; Palmetier 1993).

2 The new protectionism

In general, economists argue that anti-dumping measures are protectionist and should be used with discretion. The various signatories of GATT negotiated and agreed to the right to impose anti-dumping measures against injurious dumping under certain conditions. Unfortunately, the way in which some anti-dumping actions are conducted does not always reflect the spirit of the Agreement. However, anti-dumping actions that are in blatant violation of the Agreement are usually rejected during the investigative process. In addition, obvious contraventions of the Agreement can usually be dealt with within the existing structures. The main weapon currently available to “punish” errant users of anti-dumping (and other measures) is to take offenders to dispute. Unfortunately the Dispute Settlement process is lengthy, expensive and the outcomes uncertain. There is also no guarantee that the recommendations of the Dispute Settlement Body (DSB) will be acted upon because decisions of the DSB are not binding on members of the WTO.

There are also numerous loopholes in the Agreement which allow for the manipulation of the results of investigations. This can lead to the strategic and protectionist use of anti-dumping against exporters that have a comparative rather than an artificial advantage over import-competing industries. Some of these existing loopholes are of a purely legal nature, others are more practical. It is alleged that it is one of the latter type, the calculation

involved in order to establish whether or not the accused exporter is or is not dumping, known as “the determination of dumping”, that is often used to manipulate the results of an anti-dumping investigation (Corr 1997; Finger 1995; Horlick & Shea 1995; Hindley 1988; Kaplan 1988; Kufour 1998; Olechowski 1993; Palmeter 1995; Vermulst 1987; Waer 1993; White 1997). When referring to the Tokyo Round Anti-dumping Code, Rowat (1990:9) suggested that “.. it is the area of substantive methodology in the calculation of dumping where the protectionist tilt is most apparent and important.” The changes in the URAA did not really reduce this protectionist tilt (Hoekman & Mavroidis 1996:27; Martin 1999:902-925).

The results of this calculation, known as the dumping margin, can be manipulated and thereby captured (Bekker 2004). It is relatively easy to capture the dumping margin once doubt has been cast on the prices of sales in the domestic market of the exporter, because proxy values are then used for the normal values. In such cases, either the constructed value or the analogue method are usually used to determine normal values. Both these methods can be used to ignore any cost advantages that exporters may have over import-competing industries (Grimwade 1996:100). In this way successful anti-dumping actions can be brought against exporters that have a genuine comparative advantage thereby reducing the pro-competitive effect of imports (Smith 1994:50,52). And so the import-competing industries gain at the expense of consumers in the importing country and producers in the exporting country.

The reason why the dumping margin is so important in an anti-dumping investigation is twofold. A negative or *de minimis* dumping result means that there is no or insignificant dumping and under these circumstances the case is dismissed. It would therefore be to an applicant’s advantage to ensure that the result of the determination-of-dumping calculation is positive and large enough so that the anti-dumping investigation can continue. The size of the dumping margin also limits the size of any anti-dumping duty that may be imposed - another reason why an applicant would like to ensure as big a dumping margin as possible.

Although such manipulation may not necessarily be in contravention of the Agreement in a

legal sense, it is contrary to the spirit of the Uruguay Round Anti-dumping Agreement because it is cheating on the agreement. A danger of cheating is that it invites retaliation. And a retaliatory attitude between international trading partners could be detrimental to international trade (see section 3).

According to Stegemann (1991:393) anti-dumping rules in some countries seem to be designed to protect the interests of the complainants. Moreover, it is not just the ability to manipulate the results of investigations that can provide protection. The harassment effect³ and the ability to keep anti-dumping measures in force while responding to disputes and appealing judgements, can achieve the same outcome. In some cases it almost seems as if the applicants and the investigative authorities are doing everything in their power to find some or other loophole to impose an anti-dumping duty and thereafter to keep the protection in place. Moreover, if it is no longer possible to make use of anti-dumping measures, then the import-competing industry might switch to some other form of protection, for example countervailing duties or safeguards. The latest spate of safeguards by the US against steel imports is a case in point.

The protectionist nature of anti-dumping and other barriers to free trade has elicited concern from economists, and this concern is based on more than just theory. The tariff war of the 1920s and early 1930s precipitated the collapse of international trade which added to the economic disaster known as the Great Depression. The retaliatory tariff impositions that took place during the tariff war were part of the futile attempts to protect the economies of the US, Europe and South America from the post-WWI⁴ recession (Deardorff 1995:60; Finger 1993:16-17; Kenen 2000:213-215). The US Congress played a large part in the

³ According to the harassment effect, the mere lodging of anti-dumping applications could distort trade between countries and between products (product shifting) (Anderson 1993:101-104). Potential importers could be discouraged from importing products if they know that certain import-competing industries are prepared to lodge anti-dumping applications (Anderson 1993:101; Finger & Murray 1993:248). The mere lodging of an application could also have a harassment effect on exporters. If exporters know that the import-competing industry is prepared to initiate anti-dumping actions this knowledge could influence the exporters's actions. In fact just the existence of anti-dumping laws could have a harassment effect (Belderbos 1997:432).

increasing protectionism that resulted in the decrease in international trade. It was as a result of what happened during and before the Great Depression that the US and its trading partners negotiated tariff reductions and ultimately signed the GATT (Kenen 2000:213-215). The lesson from this period is that excessive retaliatory protectionism chokes international trade.

Even though the number of anti-dumping initiations have decreased slightly during the last few years (see table 1), more and more countries have been using mainly anti-dumping measures since the early 1990s to protect their industries from cheap, ostensibly dumped, imports (Bekker 2004:31; Miranda *et al* 1998; Stevenson 2005; WTO 2004g). Economists have expressed concern about the possible chilling effect on international trade of such protectionist tendencies (Cunnane & Stanbrook 1983:3; Finger 1993:24-25, 64-66; Krishna 1997:10; Stegemann 1991:380-381). They argue that the protection provided by anti-dumping results in market prices increasing and foreign competition decreasing. Many countries' representatives have also expressed concern about the misuse of anti-dumping measures and a number have initiated negotiations on how to clarify and improve the Anti-dumping Agreement (Negotiating Group on Rules 2002a; 2002b; 2002c; UNCTAD 2001). However, the Anti-dumping Agreement is already very complex. More rules or more complicated rules could create more loopholes which could increase the potential to manipulate the results of an anti-dumping investigation instead of making it more difficult to cheat.

An added problem is that if the affected exporters are situated in developing or non-market economy countries (or countries in transition), then the protectionism of anti-dumping duties in their potential export markets could impact on the ability of these countries to export. Many developing countries rely on export-oriented trade strategies to promote economic development and growth. It seems that these countries must sometimes do more than encourage exports of the products in which they have a comparative advantage - they have to concentrate on sectors that have weak political influence in importing countries (Eymann and Schuknecht 1993:238). However, since the formation of the World Trade Organiza-

⁴ World War I, 1914-1918.

(WTO), many developing countries like India, Argentina and Brazil have become prolific users of anti-dumping themselves (Bekker 2004:31; Finger 1998:10; Stevenson 2002:2; WTO 2004d). In fact, developing countries, which were the main targets of anti-dumping actions for quite a while, are now among the principle users of anti-dumping (see table 1). A worrying aspect of this trend is that China, the main target of anti-dumping actions since the early nineties (see table 2) and which is still treated as a non-market economy, only recently began to make use of anti-dumping measures, most of which were imposed against products in the chemical sector (WTO 2005c). Many countries see China as a potential export market for their products. China is a huge economy and according to Hu and Khan (1997:1), it is one country that has experienced consistent average real economic growth since 1978. China wants to export its products in order to maintain its economic growth and this country is currently being targeted with anti-dumping actions. If China chooses the route of retaliation, the number of anti-dumping actions could escalate.

Developing countries as a group, have also become a force to be reckoned within the WTO negotiating forums. For example, developing countries (the G20) were instrumental in the deadlock that occurred during the 2003 Ministerial Conference in Cancún, Mexico (BRIDGES weekly trade news digest 2003:2-4). It is hoped that the increased potential of developing countries to retaliate with their own anti-dumping investigations and the greater influence that developing countries currently have in the WTO, may contribute to a reduction in the use and misuse of anti-dumping actions (see section 4.1). However, there is also the danger of a tit-for-tat retaliation which would result in an ever increasing use of anti-dumping measures as protection (Finger 1993:viii-ix).

Table 1 Trade remedy cases initiated 1980-2003

	Anti-dumping cases by Industrial Countries *	Anti-dumping cases by Developing Countries**	Total Anti-dumping Cases	Total Countervailing Cases	Total Safeguard Cases
1980	133	0	133	14	6
1981	134	0	134	23	8
1982	267	0	267	153***	8
1983	206	0	206	35	5
1984	202	0	202	61	7
1985	199	0	199	43	4
1986	248	5	253	33	7
1987	151	23	174	13	...
1988	149	47	196	5	...
1989	97	14	111
1990	82	14	96
1991	134	41	175	...	5
1992	198	39	237	...	3
1993	207	38	245	...	3
1994	164	83	247	...	0
1995	73	84	157	10	2
1996	73	151	224	7	5
1997	117	126	243	16	3
1998	80	176	256	25	11
1999	158	197	355	41	14
2000	125	169	294	18	26
2001	156	210	366	27	53
2002	78	233	311	9	132
2003	72	138	210	15	13

Notes: * Industrial countries: Australia, Canada, EC member countries, Japan, New Zealand and the US.

** Developing countries, including countries in transition: Argentina, Brazil, Bulgaria, Chile, China P.R., Chinese Taipei, Colombia, Costa Rica, Czech Republic, Ecuador, Egypt, Guatemala, India, Indonesia, Israel, Jamaica, Korea Rep of, Malaysia, Mexico, Nicaragua, Panama, Peru, Philippines, Poland, Singapore, Slovenia, South Africa, Thailand, Trinidad & Tobago, Turkey, Uruguay and Venezuela

*** Of the 153 countervailing cases that were initiated in 1982, 145 were initiated by the US.

... Data not available

Data may still be updated by the WTO, especially for 2003.

Sources: Finger 1991:178; 1998:26; Finger & Schuknecht 1999:52; Kempton & Stevenson 1999, 2000; Krishna 1997:4; Stevenson 2001, 2002, 2003; WTO 2004d; WTO 2004j

Table 2 The ten countries most targeted with anti-dumping investigations initiated, 1987-2003

Year	China	Korea Rep of	US	Japan	Chinese Taipei	Brazil	Germany	India	Thailand	Indonesia
87	1	8	18	19	6	5	7	0	0	0
88	5	12	10	18	8	6	4	0	2	0
89	4	6	8	10	6	7	2	1	2	1
90	12	11	18	13	11	7	6	8	7	3
91	16	12	16	18	10	7	8	3	4	2
92	31	25	26	14	15	18	17	9	10	5
93	45	17	30	11	11	23	10	5	5	5
94	39	8	14	7	5	9	8	10	11	8
95	20	14	12	5	4	8	7	3	8	7
96	43	11	21	6	9	10	9	11	9	7
97	33	15	15	12	16	5	13	8	5	9
98	28	24	15	13	10	6	8	12	2	5
99	40	34	14	22	22	13	12	13	19	20
00	43	22	13	9	16	9	5	10	13	13
01	53	23	15	13	19	13	9	12	16	18
02	51	23	12	13	16	4	7	16	12	12
03	45	16	18	13	11	3	4	13	7	8
Tot	509	281	275	216	195	153	136	134	132	123

Notes: Each investigation reported covers one product from one country.

Anti-dumping actions against the EC are usually brought and reflected against individual countries eg Germany, UK and Spain (Kempton *et al* 1999). If the EC countries were looked at as one category namely “the EC and its member states”, then the EC would be the most frequent target of anti-dumping investigations (Kempton & Stevenson 1999).

Sources: Kempton *et al* 1999; Kempton & Stevenson 2000; Miranda *et al* 1998:10, WTO 2004c

3 The possible effects of cheating on the anti-dumping agreement

The question this paper is attempting to answer is why, when it seems so obvious that over the long-run free and fair trade is beneficial to all concerned, countries would choose to cheat on the international agreement and impose anti-dumping duties on what seem to be legitimate imports. Such use of anti-dumping duties doesn't seem to make economic sense from a free market or a neoclassical economic perspective.

According to neoclassical economic theory [the Heckscher-Ohlin (H-O) model], international trade should result in a win-win situation for trading partners. Although the H-O model has limiting assumptions, it illustrates the economic postulate - first articulated by Adam Smith and later expanded on by David Ricardo - that countries will improve their economic welfare if they specialise in the production of those products in which they have a comparative advantage and are able to export their surplus production without restriction (Salvatore 2001:131). In other words, free international trade will increase the global economic pie to the benefit of all participating countries - a win-win situation.

3.1 *The possible chilling effect of anti-dumping on international trade*

A slight adaption of the H-O model can be used to illustrate why economists are concerned about the possible chilling effect of anti-dumping measures on international trade.

In figure 1⁵ countries A and B are trading partners. It is assumed that as a result of free trade between these two countries both countries have gained and that consumption is at a level illustrated by indifference curve II (fig 1a). Then the import-competing industry in country A succeeds in getting an anti-dumping duty imposed on imports from B by cheating on the anti-dumping agreement. In other words, B has a genuine comparative advantage over A in

⁵In the adaption of the H-O model, the figures are swopped around to show how protectionism can cause countries to end up at a lower level of economic activity, depicted by indifference curve I. The usual depiction of the H-O model firstly explains the scenario depicted in figure 1b, a situation of autarky and therefore of no trade, and then proceeds to explain how international trade results in both trading partners

the production of this product, but because of the anti-dumping duty that has been imposed, country A's import-competing industry is now protected against imports from B. The production in A is no longer efficient which means country A will now consume at a level shown by the lower indifference curve I, see figure 1b. B can no longer export its surplus which means that economic activity in country B will also be reduced.

Figure 1 The chilling effect of anti-dumping measures on international trade

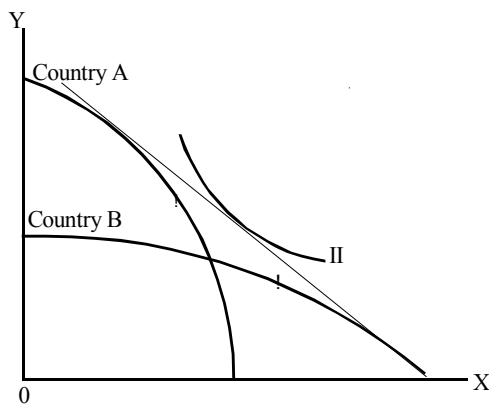


Figure 1a

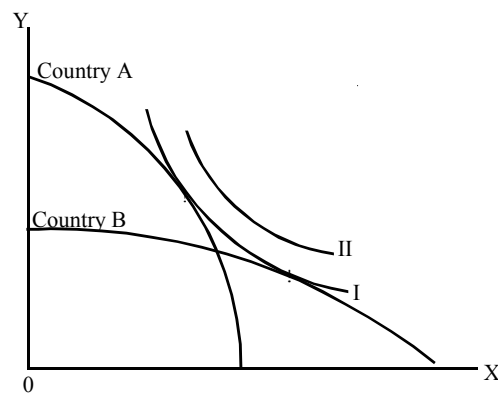


Figure 1b

Both countries have lost as a result of the cheating started by A - a lose-lose situation. In the illustrated scenario, protectionism against legitimately competitive imports results in country A producing the products it should be importing. The factors of production that are tied up in this production are, according to mainstream economic analysis, being used inefficiently (Salvatore 2001:131-134; Smith 1926:219-226; Winters 1992:15-24). In other words, resources are being wasted. It also means that the exporting country, B, is unable to export its surplus production, so it is more than likely that B cannot import from A. Protection could therefore result in there being no trade between the two countries (see fig 1b). The economic activity of each country has been reduced as a result of protectionism and instead

reaching the higher indifference curve II, as depicted in figure 1a above (Salvatore 2001:131-134).

of economic activity being at a level on indifference curve II, it is at a level on indifference curve I. In other words, the global economic pie can be reduced if countries protect their import-competing industries against competitive imports .

Another type of problem could occur if one of the countries in the illustrated scenario, for example A, is a large relatively closed economy and the other country, B, is a small open economy. In other words country B is dependent on country A for the sale of its surplus production as well as for its imports, while A does not rely very much on international trade. It means that any abuse of anti-dumping by A would result in A gaining at B's expense - a win-lose situation. This could illustrate the type of problem that is facing developing countries because developed countries tend to be more closed and developing countries more open (Salvatore 2001:255-263). If developed, relatively closed economies misuse anti-dumping, it will be the more open, developing countries that would lose as a result of the misuse of the measure not the developed, relatively closed economies.

3.2 Anti-dumping - A Prisoner's Dilemma

The problems caused by the misuse of anti-dumping can be further illustrated in an adaption of Laussel and Montet's (1994) analysis of tariffs in which they argue that protectionism creates a prisoner's dilemma. According to Laussel and Montet's (1994:177, 187-191) analysis of tariffs, free trade is the best option but some tacit cooperation is needed to reach the efficient free trade equilibrium. In other words, tacit cooperation may be needed to stay out or get out of a suboptimal Nash equilibrium. However, in their model there are no institutions that are capable of enforcing international agreements which means that trading partners do not always cooperate. In fact there is often the temptation to cheat and renege on agreements. As a result of one party cheating by using tariffs to protect its import-competing industries and the other retaliating, both parties end up in the suboptimal Nash equilibrium - a lose-lose situation.

This simple but effective illustration is adapted slightly in this paper to show the possible effect of the misuse of anti-dumping measures. In this author's adapted version of Laussel

and Montet's analysis, free trade is still the best option for both players, but there is the temptation to protect industries against competitive and fairly traded imports, using anti-dumping measures instead of tariffs. However, if the influence of the WTO Dispute Settlement Body combined with the possibility of retaliation from trading partners is enough to ensure that members of the WTO adhere to the spirit of the Anti-dumping Agreement, then one could argue that anti-dumping policies would probably result in cooperative behaviour. Such cooperative behaviour would ensure the optimal free trade equilibrium, as anti-dumping measures would only be imposed in cases of injurious dumping. In other words, if both parties stick to their agreement then they will both reach an efficient optimal equilibrium. If one party reneges on the agreement though, then both will eventually renege and this will lead to the Nash equilibrium which is sub-optimal. According to the prisoner's dilemma the temptation to renege is high - provided the other party keeps to the original agreement. If both parties agree to be free traders and to only impose anti-dumping duties if trade is unfair and one party manages to manipulate the results of an anti-dumping investigation to ensure the imposition of an anti-dumping duty against trade that is fair, it is more than likely that the other party will at some stage retaliate if it is in a position to do so. The result of this action and reaction is that both parties lose.

Table 3 The payoff matrix for a static game: Illustrating the prisoner's dilemma of anti-dumping protectionism

		Country B	
		Free trade	Protectionism using anti-dumping
Country A	Free trade	(8,8)	(2,10)
	Protectionism using anti-dumping	(10,2)	(4,4)

Source: Adapted from Laussel and Montet 1994: table 7.3

This prisoner's dilemma nature of anti-dumping can be illustrated in the following matrix for a static game. In table 3 the world is represented by two countries, A and B. These

countries trade with each other but have also signed the Anti-dumping Agreement. The government of each country has a choice between free trade or protectionism using anti-dumping measures. The choice for free trade includes the potential to use anti-dumping measures, but only against injurious dumping (ie unfair trade). The choice for protectionism means that anti-dumping actions are initiated against products that are being fairly traded and these actions are possible because the results of anti-dumping investigations can be manipulated.

If both parties elect to cooperate and stick to their agreement, then they will both enjoy the benefits of free trade (8,8). In other words if both parties cooperate then the choice of free trade will be an efficient equilibrium. If one party decides to cheat, say Country A, thinking that the other, Country B, will stick to their agreement, then Country A will improve its position at Country B's expense (10,2) - a win-lose situation. This is an example of a non-cooperative game. The problem of the prisoner's dilemma is that Country B will more than likely retaliate. Now both countries are cheating and they end up in the sub-optimal Nash equilibrium (4, 4) - a lose-lose situation. Nevertheless, it is possible - at least for a while - for A to maximize its payoff at 10. It is this ability to increase one's payoff at the expense of the other party before that party also cheats, together with the fact that the other party can retaliate, that reduces everyone's payoff in the long run, resulting in a prisoner's dilemma. Once both countries are in the sub-optimal situation (4,4), neither country is prepared to go back to the free trade option while the other continues to cheat because that will reduce their benefits even more. The lesson from this simple example is that cooperation is better than not cooperating. Unless countries commit themselves to an agreement and do not cheat, all parties to the agreement could end up as losers. In other words, protectionism tends to be beggar-thy-neighbour and usually invites retaliation, which could result in a lose-lose situation for all the parties concerned.

4 The strategic use of anti-dumping

Nevertheless, there are some reasons why countries would choose to cheat on the Anti-dumping Agreement and which do seem to make economic sense.

4.1 *The potential to retaliate could stop the misuse*

The potential to retaliate could have a different result to the prisoner's dilemma scenario described in section 3.2. The knowledge that the other party will retaliate in response to cheating, could prevent cheating, because if both parties impose unfair anti-dumping measures the result will be the sub-optimal Nash equilibrium of protectionism. In other words, the credible threat of a retaliatory response may result in an efficient equilibrium (Laussel & Montet 1994:193). In this context, it is interesting to note that China, the country most targeted with anti-dumping actions, first began to make use of anti-dumping measures in 2000 initiating only 6 anti-dumping actions in that year. Since then China has initiated many more anti-dumping actions; 14 in 2001, 30 in 2002, 22 in 2003 and 27 in 2004, making a total of 99 (WTO 2005c). It may be coincidence but the number of anti-dumping initiations peaked in 1999 and 2001. Since then they have decreased quite significantly (see table 1).

Although a credible threat may lead to fairer anti-dumping actions - this will depend on the relative strength of the individual exporters/countries to impose anti-dumping duties. If the importing country is a developed country and the exporter is from a small developing or less-developed country (LDC), the exporting country may not have much to retaliate with or to bargain with.

Table 4 The payoff matrix for a static game: Illustrating the possible benefits of cheating in anti-dumping investigations

		Country B	
		Free trade	Protectionism using anti-dumping
Country A	Free trade	(8,8)	(7,5)
	Protectionism using anti-dumping	(10,2)	(9,1)

Source: Adapted from Laussel and Montet 1994: table 7.3.

The following scenario illustrates the situation in which B cannot retaliate. It is assumed that B is a small, open, developing economy and A is a large, relatively closed, developed economy (like the US). In other words, although A trades with B, A's imports and exports form only a small portion of its GDP. The payoffs in table 4 reflect B's weaker bargaining situation in relation to A.

This game is similar in some respects to the previous game illustrated in table 3. Free trade amongst the trading partners will maximise the global economic pie (8,8) and A can do even better if it cheats on the anti-dumping agreement, gaining at B's expense (10,2). However, in this game B will worsen its position even more if it retaliates without doing A much harm (9,1). So if A decides to cheat, the best B can do is not to cheat (10,2). The only time cheating would benefit B is if A does not cheat (7,5). However, B's weak bargaining position means it cannot cheat. B would require some external influence to improve its position in this regard. For example, special and differentiated (S & D) treatment for LDCs (as negotiated during the Uruguay Round and the current Doha Round) could improve the bargaining position of such countries. Payoff (7,5) could be used to illustrate the fact that some developing countries may need help in order to stimulate economic development and that this development could take place at A's expense - but only if A committed itself to free trade. Given the game in table 4, it is highly unlikely that free trade will be the norm, even though the payoff for free trade (8,8) is the one that theoretically maximises global economic welfare.

4.2 Some anti-dumping data

Data on anti-dumping actions illustrate some interesting facts. The number of anti-dumping actions initiated each year continues to be high, but not all countries are affected equally by anti-dumping actions. For example, China is the country that has been the most targeted with anti-dumping actions (investigations initiated and measures imposed) each year since

the early 1990s⁶ (see table 2). In addition, developing countries began to make more use of anti-dumping after the formation of the WTO and as a group, are now initiating more anti-dumping actions than developed countries (see table 1) (Bekker 2004:31; Miranda *et al* 1998; Stevenson 2002; 2003; 2005; WTO2004c; WTO 2004j). Another interesting fact that is more relevant to this paper, is that a high percentage of anti-dumping actions affect the base metals (mainly iron and steel) and chemical sectors.

According to the data in tables 5 and 6, which cover the period 1987 to 2003, anti-dumping investigations have been concentrated in four sectors: base metals (approximately 30%), chemicals (approximately 19 %), plastics and rubber, and machinery and electrical equipment (both approximately 10 - 11%). Approximately 70 percent of the anti-dumping actions (initiated and measures imposed⁷) over this period were against products that fall into these four sectors (Miranda *et al* 1998:16-19, 39; WTO 2004e; WTO 2004g). Anti-dumping actions under HS sections⁸ XV (base metals) and VI (chemicals) made up approximately half of the anti-dumping investigations initiated and anti-dumping measures imposed over the same period.

Although the chemical sector has been targeted less, in total, than the base metals sector since 1987, the number of anti-dumping actions have been more or less the same for both sectors since 2002 (see table 5). Another important point relevant to this paper is that most investigations involving HS Section XV (base metals) concern steel products⁹, which in

⁶China has become a significant importer and exporter of products since the opening-up policies of the late 1970s . For various reasons, products produced by China are often cheaper than similar products produced by the import-competing industries in other countries and many Chinese exporters have become the subject of anti-dumping investigations since the early 1990s (see table 2). China's classification as a non-market economy (NME), in spite of becoming a member of the WTO in December 2001, continues to make it a relatively easy target of anti-dumping actions (Bekker 2001).

⁷As can be seen from table 5, the sectors most affected by the initiation of anti-dumping actions namely, base metals, chemicals, plastics and rubbers, and machinery and electrical equipment, were the same sectors in which most anti-dumping measures were imposed during the period 1987 to 2003 (see table 6). The number of anti-dumping initiations and measures are not the same for two reasons: firstly not all the anti-dumping actions initiated result in the imposition of anti-dumping measures (some cases are terminated) and secondly, there is a slight lag between the initiation of an anti-dumping investigation and the imposition of the anti-dumping duty.

⁸See the Appendix for the Harmonized System (HS) section headings.

⁹ HS Section XV also includes aluminium products.

effect means that most of the anti-dumping actions that affect the base metals sector, affect the iron and steel industry (Miranda *et al* 1998:16; tables 7 & 8).

Table 5 Anti-dumping investigations initiated - by sector (groups of industries)

HS section	1987-1997	1998	1999	2000	2001	2002	2003	Total	%
XV – Base metals	565	105	110	107	136	95	47	1165	29,2
VI - Chemicals	367	24	76	62	66	92	61	748	18,7
VII - Plastics and rubber	250	32	39	21	55	42	28	467	11,7
XVI - Machinery and electrical equipment	293	10	28	30	25	9	12	407	10,2
XI - Textiles	152	28	34	17	26	9	13	279	7,0
X - Pulp and paper	112	4	18	4	7	7	20	172	4,3
XIII - Glass and ceramics	74	12	8	7	6	11	9	127	3,2
V – Minerals	52	4	9	9	16	8	8	106	2,6
XX - Other manufactures	54	5	13	6	5	11	1	95	2,4
IV - Prepared foodstuffs	61	8	2	4	0	3	0	78	2,0
I – Animal products	26	6	8	3	2	11	2	58	1,5
XVIII - Instruments	40	5	2	0	3	3	1	54	1,3
II - Vegetables	29	4	1	7	8	3	1	53	1,3
XVII - Vehicles	34	0	4	7	0	2	0	47	1,2
XII - Footwear	33	4	2	3	2	3	0	47	1,2
IX – Wood	23	3	0	5	3	1	5	40	1,0
III - Fats and oils	17	0	0	0	4	1	2	24	0,6
VIII - Leather	9	0	0	0	0	0	0	9	0,2
XIX - Arms	3	0	0	0	0	0	0	3	0,8
XIV - Jewellery	0	0	0	0	1	0	0	1	0,2
Other (unknown)	6	2	1	2	1	0	0	12	0,3
Total	2200	256	355	294	366	311	210	3992	100

Sources: Miranda *et al* 1998:15; WTO 2004e

Table 6 Anti-dumping measures (definitive) - by sector (groups of industries)

HS section	1987-1997	1998	1999	2000	2001	2002	2003	Total	%
XV - Base metals	308	60	82	82	64	59	63	718	32,3
VI - Chemicals	189	13	14	52	37	56	63	424	19,1
VII - Plastics and rubber	90	14	25	23	11	24	48	235	10,6
XVI - Machinery and electrical equipment	154	29	3	13	11	15	9	234	10,5
XI - Textiles	66	1	21	24	8	29	5	154	6,9
X - Pulp and paper	30	13	5	9	2	6	10	75	3,4
XIII - Glass and ceramics	27	5	4	8	1	2	11	58	2,6
XX – Other manufactures	34	3	3	5	2	6	4	57	2,6
V - Mineral products	22	3	1	5	11	8	2	52	2,3
IV - Prepared foodstuffs	31	3	1	2	2	0	1	40	1,8
XII - Footwear	22	3	0	7	2	1	0	35	1,6
II - Vegetable products	20	4	3	1	4	1	1	34	1,5
XVIII - Instruments	17	0	11	0	1	0	1	30	1,3
IX – Wood	7	5	7	0	0	2	1	22	1,0
XVII - Vehicles	16	0	1	0	1	2	0	20	0,9
I - Animal products	5	2	1	3	7	0	1	19	0,9
III - Fats and oils	2	0	0	0	0	0	0	2	0,1
VIII - Leather	1	0	0	0	0	0	0	1	0,1
XIX - Arms	2	0	0	0	0	0	0	2	0,1
XIV - Jewellery	0	0	0	0	0	0	0	0	-
Other (unknown)	1	4	1	1	2	1	0	10	0,4
Total	1044	162	183	235	166	212	220	2222	100

Sources: Miranda *et al* 1998:40; WTO 2004g

Table 7 Definitive anti-dumping duties in force on 31 December 2003

Initiating country ¹⁰	Iron and steel	Other metals	Chemicals & allied	Rubber & plastics	Wood & paper	Electronics	Other mechanical engineering	Textiles & allied	Agricultural products	Other*	Total
Argentina	30	1	7	5	3	4	8	4	0	1	63
Australia	7	1	14	9	4	2	0	0	2	2	41
Brazil	11	0	18	3	1	2	0	3	4	6	48
Canada	67	0	1	0	1	1	2	0	10	7	89
China	8	0	32	6	5	0	0	0	0	0	51
Colombia	7	1	1	2	0	0	0	0	0	0	11
Costa Rica	0	0	0	0	0	0	0	0	0	1	1
Czech Rep	0	0	0	0	0	0	0	0	0	1	1
Egypt	4	0	0	5	0	6	0	0	0	1	16
EC	49	4	44	8	6	13	9	17	0	5	155
India	23	1	106	29	6	2	12	27	0	14	220
Jamaica	0	0	1	0	0	0	0	0	0	2	3
Japan	0	0	0	0	0	0	0	2	0	0	2
Korea Rep of	1	0	3	0	3	0	4	0	0	2	13
Lithuania	0	0	2	0	0	0	0	0	0	3	5
Malaysia	0	0	0	0	9	0	0	0	0	1	10
Mexico	15	0	12	6	2	1	4	5	3	10	58
New Zealand	1	0	0	0	0	2	0	0	2	3	8
Pakistan	0	0	2	0	0	0	0	0	0	0	2
Peru	10	1	0	1	1	1	1	1	4	6	26
Philippines	0	0	1	0	0	0	0	0	0	2	3
Poland	0	0	0	2	0	0	0	2	0	4	8
South Africa	21	2	12	12	7	2	6	11	2	15	90
Taiwan <i>et al</i>	4	0	0	0	1	0	0	0	0	2	7

¹⁰The different industries in tables 7 and 8 correspond to the following HS section headings; iron and steel and other metals (HSXV), chemicals and allied products (HSVI), rubber and plastics (HSVII), wood and paper (HSIX & X), electronics and other mechanical engineering (HSXVI), textiles and allied products (HSXI) and agricultural products (HSI to IV). See the appendix for more details on the HS section headings.

Thailand	22	0	1	0	0	0	0	0	0	1	24
Trinidad & Tobago	0	0	0	2	0	0	0	0	0	2	4
Turkey	5	0	11	5	1	1	1	17	0	9	50
United States	148	14	55	7	2	2	11	5	21	16	281
Venezuela	9	0	0	2	0	0	0	0	0	5	16
Totals	442	25	323	104	52	39	58	94	48	121	1306

Notes:* Comprising of section headings V, VIII, XII, XIII, XIV, XVII - XXI & unknowns.

Own compilation

Sources: WTO 2004b (semi-annual reports under Article 16.4 of the Agreement, G/ADP/N/112/... for all the countries listed)

Table 8 Price undertakings in force on 31 December 2003

Initiating country	Iron & steel	Other metals	Chemicals & allied	Rubber & Plastics	Wood& paper	Electronics	Other mechanical engineering	Textiles & allied	Agricultural products	Other*	Total
Australia	1	1	0	1	0	0	0	0	0	1	4
Brazil	0	0	2	0	1	0	0	0	3	0	6
Canada	0	0	0	0	0	0	0	0	0	1	1
China	2	0	1	0	0	0	0	0	0	0	3
EC	26	1	8	1	4	1	0	3	0	0	44
Israel	0	0	0	0	0	0	0	0	0	4	4
Korea Rep of	0	0	4	0	1	0	3	0	0	0	8
Latvia	0	0	0	0	0	0	0	0	0	1	1
Lithuania	0	0	0	0	1	0	0	0	0	1	2
Trinidad & Tobago	0	0	0	0	0	0	0	0	1	0	1
Totals	29	2	15	2	7	1	3	3	4	8	74

Notes: * Comprising of section headings V, VIII, XII, XIII, XIV, XVII - XXI & unknowns.

Own compilation

Sources: WTO 2004b (semi-annual reports under Article 16.4 of the Agreement, G/ADP/N/112/... for all the countries listed)

Table 7, which provides data on the definitive anti-dumping duties that were in force on 31 December 2003, confirms that anti-dumping duties are prominent in the iron and steel and chemical industries. Almost 60 per cent of the current anti-dumping duties affect these two industries and it is also clear from table 7 which countries are imposing the anti-dumping duties. The US had 148 anti-dumping duties in force against various exporters in the iron and steel industry and Canada 67, EC members 49, Argentina 30, India 23, Thailand 22, South Africa 21, Mexico 15, Brazil 11 and Peru 10. The countries with the most anti-dumping duties in force on 31 December 2003 against exporters in the chemical and allied industry were India (106), the US (55), EC members (44), China (32), Brazil (18), Australia (14), Mexico (12) and South Africa (12).

The number of price undertakings in force on 31 December 2003 are shown in table 8. The reason this information has been included here is because the existence of a price undertaking means that an anti-dumping duty was avoided. According to table 8, almost 60 per cent of price undertakings (29 in the iron and steel industry and 15 in the chemical industry) affect the same two industries. Yet, in spite of featuring so prominently on the anti-dumping stage, the iron and steel and the chemical industries form a relatively small percentage of global trade in dollar terms (see table 9).

This fact, that industries comprising such a small percentage of global trade are the subject of so many anti-dumping investigations and subject to the imposition of so many anti-dumping measures, increases the suspicion that these industries have been and are being protected from more than just unfair trade practices.

Table 9 World merchandise exports by product, 2002
Billion dollars and percentage

	Value in 2002	% share in 1995	% share in 2002
All products*	6272	100	100
Agricultural products	583	11.7	9.3
Food	468	9	7.5
Raw materials	114	2.7	1.8
Mining products	788	10.7	12.6
Ores and other minerals	63	1.2	1
Fuels	615	7.3	9.8
Non-ferrous metals	110	2.2	1.8
Manufactures	4708	74.3	75.1
Iron and steel	142	3.1	2.3
Chemicals	660	9.7	10.5
Other semi-manufactures	460	7.9	7.3
Machinery and transport equip	2539	38.8	40.5
Automotive products	621	9.2	9.9
Office and telecom equip	838	12.1	13.4
Other machinery and transport equipment	1080	17.5	17.2
Textiles	152	3	2.4
Clothing	201	3.2	3.2
Other consumer goods	553	8.7	8.8

Note: *Includes unspecified products, that accounted for 3 per cent of world merchandise exports in 2002.

Source: Adapted from WTO International trade statistics, Table IV.1 (WTO 2003c)

4.3 *The protection of strategic industries*

The argument that anti-dumping is protectionist is not new, but the extent to which anti-dumping measures are used to protect certain sectors or industries has become more apparent over the last few decades. This concentration of anti-dumping investigations and measures in certain industries is significant and of economic interest. It seems that certain industries are protected, in some instances for developmental and in others possibly for security reasons, and it is irrelevant whether or not the exporters are dumping. If, for some or other reason, the manipulation of the anti-dumping investigation is not successful and anti-dumping duties cannot be imposed as the protection mechanism, attempts will probably be made to impose some other non-tariff barriers instead. In other words, just as dumping can be used as a form of strategic trade policy to increase export opportunities, so anti-dumping can be used as a strategic protection policy to protect industries deemed to be sensitive or strategic, regardless of whether or not exporters are dumping. In such cases the economic issue is one of protectionism, not one of dumping - protectionism under the guise of anti-dumping and in such cases it can be argued that the Anti-dumping Agreement is something of a red herring.

According to the data provided in table 1 developing countries are now the principle users of anti-dumping, and it is more than likely that developmental reasons would be cited as the explanation for this protectionism. According to the data in table 10 and 11, most of the anti-dumping actions initiated by developing countries affect the base metals (HSXV), chemical (HSVI) and plastics (HSVI) sectors. Another explanation that has merit is that producers can use anti-dumping to protect themselves during recessionary periods, when demand for their products is low and prices are decreasing (Corr 1997; Ethier 1982; Finger & Schuknecht 1999; Hindley 1991; Viner 1966; Winter 1992). Research done by Miranda *et al* 1998 supports the allegation that the use of anti-dumping tends to be counter-cyclical. Another important factor that contributed to the increased use of anti-dumping since the early 1980s was the fact that non-tariff barriers like quotas could no longer be used and that tariffs had been systematically reduced by the multilateral trade negotiation process known as GATT.

An important question though, is whether or not the import-competing industries are protecting themselves against dumped or legitimate and competitive products. Anti-dumping measures are the possible and acceptable response to trade that is deemed and proven to be unfair and injurious. Although the data examined in this paper does not prove that certain industries are being protected against more than just dumped products, the evidence does seem to lend some substance to this allegation. And it is especially this type of protectionism that economists have criticised as being detrimental to international trade. Nevertheless, Adam Smith, the “father” of free trade, argued that certain strategic or sensitive industries may need protection, albeit at the cost of economic welfare. According to Smith (1926:226), there are certain cases in which it would be “advantageous to lay some burden upon foreign, for the encouragement of domestic industry”. More research needs to be done on the use of anti-dumping in strategic industries and to understand the dynamics of this type of strategic behaviour and how it can affect international trade and global economic welfare.

Table 10
Sectoral distribution of anti-dumping initiations by reporting members of the WTO -
selected sectors: 1 January 1995 to 30 June 2004.

	Country	HSVI Chemicals	HSVII Plastics and rubber	HSXI Textiles	HSXV Base metals	HSXVI Machinery & electrical equipment		%
Developed	Australia	22	56	6	21	6		
	Canada	4	2	0	89	2		
	EC	46	23	38	95	40		
	US	45	24	6	205	17		
	The rest	4	0	4	6	12		
	Sub-total	121	105	54	416	77	773	30,5
	Developing	Argentina	22	16	11	59	35	
Brazil		33	26	1	26	2		
China PR		45	16	2	5	3		
Egypt		3	13	0	10	7		
India		165*	52	42	49	31		
Indonesia		15	0	7	17	4		
Korea Rep of		22	2	3	10	19		
Mexico		14	5	5	27	4		
Peru		3	2	5	16	1		
South Africa		26	26	10	49	11		
Thailand		5	0	0	26	1		
Turkey		3	29	22	10	2		
Venezuela		0	3	0	19	0		
The rest		18	20	13	31	13		
Sub-total	374	210	121	354	133	1192	47,0	
Total	495	315	175	770	210	1965	77.5	
% of 2537	19.5	12.4	6.9	30.4	8.3	77.5		
Anti-dumping initiations: HSVI; HSVII; HSXI; HSXV; HSXVI							1965	77.5
Anti-dumping initiations: HS1-V; HSVIII-X; HSXII-XIV; HSXVII-XX							572	22.5
Total number of anti-dumping initiations by reporting members							2537	100

Source: Own compilation (WTO2005a)

Table 11
Sectoral distribution of anti-dumping initiations by exporting country -
selected sectors: 1 January 1995 to 30 June 2004.

	Country	HSVI Chemicals	HSVII Plastics and rubber	HSXI Textiles	HSXV Base metals	HSXVI Machinery & electrical equipment		%
Developed	EC	98	43	14	89	36	532	21,0
	Japan	28	17	1	35	20		
	US	59	28	3	6	9		
	The rest	9	8	2	22	5		
	Sub-total	194	96	20	152	70		
Developing	Brazil	6	5	2	27	16	1433	56,5
	China PR	92	23	21	93	38		
	Chinese Taipei	18	20	21	41	13		
	India	26	15	14	34	8		
	Indonesia	11	17	10	15	4		
	Korea Rep of	28	49	28	48	26		
	Malaysia	5	7	7	17	5		
	Russia	18	7	0	60	1		
	South Africa	5	0	0	36	2		
	Ukraine	9	1	0	39	0		
	The rest	83	75	52	208	27		
	Sub-total	301	219	155	618	140		
	Total	495	315	175	770	210	1965	77.5
	% of 2537	19.5	12.4	6.9	30.4	8.3	77.5	
Anti-dumping initiations: HSVI; HSVIII; HSXI; HSXV; HSXVI							1965	77.5
Anti-dumping initiations HS1-HSV; HSVIII-HSXIV; HSXVII-HSXX							572	22.5
Total number of anti-dumping initiations by exporting members							2537	100

Source: Own compilation (WTO 2005b)

The majority of anti-dumping actions initiated by developed nations tend to be concentrated

in the base metals sector (see table 10). And as already pointed out in section 4.2, most of the anti-dumping actions in the base metals sector actually affect the iron and steel industry. A large percentage of these anti-dumping actions affect the iron and steel industries in developing countries (see table 11). Various studies on the iron and steel industry indicate that this industry is being protected in many countries and that protection seems to be the norm for this industry (Barringer *et al* 2001; Blonigen & Prusa 2001; Dale 1980; Finger 1993; Fraser 1993; Howell *et al* 1988; Kenen 2000; Stegemann 1991; Tavares & Miranda 2002; Viner 1966).

One possible explanation for this protectionism could be that, as a major input for the weapons industry, the iron and steel industry is considered to be important in most countries for security reasons. In addition, it is an important input of the automobile and the construction industry. It seems therefore that, in certain countries, the iron and steel industry is being treated as a strategic industry and in many cases is being protected against imports regardless of their origin and regardless of whether or not such imports are competitive. In other words, it seems that in the iron and steel industry, anti-dumping is a strategic protectionist policy instead of just a measure against injurious dumping. According to the data in sections 4.2 and 4.3, it seems that the other industries that are also being protected by anti-dumping for strategic or developmental reasons are the chemical and plastics industry. From the perspective of this paper, it is important to realise that this type of protection has nothing to do with dumping.

A group of WTO members have initiated negotiations, which form part of the Doha Round of Multilateral Trade Negotiations, on how to clarify and improve the Anti-dumping Agreement (Negotiating Group on Rules 2002a:1). However, it may be more fruitful to hold discussions about strategic or sensitive industries, instead of holding negotiations about how to change the Anti-dumping Agreement. If the intention is to cheat on the Anti-dumping Agreement, changes to the Agreement may create more, not fewer loopholes. Agricultural products and clothing and textiles have long been a bone of contention, and are also on the current WTO agenda. However, neither sector has been affected much by anti-dumping measures. The data on anti-dumping seems to indicate that the two industries that are the

“problem” in terms of the Anti-dumping Agreement are the iron and steel and the chemical industries.

5 Concluding remarks

The Anti-dumping Agreement provides ample opportunity to manipulate results of anti-dumping investigations and a number of anti-dumping measures imposed seem to be protecting certain import-competing industries against competitive imports rather than against dumped imports. Even though the WTO states that it is not “for free trade at any cost”, it is commonly accepted that the WTO promotes free and fair trade. Trade protectionism is to be discouraged rather than encouraged (WTO 2003a:1). According to conventional wisdom, in the long run it is to the benefit of all countries if comparative advantage dictates who produces what. If other issues also have to be taken into consideration, for example developmental or security issues, then these should be placed on the negotiation table together with the economic issues, otherwise the resultant agreements could become a sham. It would serve the long-term credibility of the WTO better if members were honest about their motives regarding those industries that are considered to be strategically important. Unfortunately it is naive to expect countries to behave in this fashion. By the same token, however, it is also naive to expect free and fair trade principles to reign supreme in strategic industries like the iron and steel industry. As pointed out by Adam Smith, sometimes certain industries may need to be protected, even if such protection is at the cost of economic welfare. It is important to realise what is really happening and to avoid burying the real issue, that is the protection of certain sensitive and strategic industries, under dumping and anti-dumping rhetoric.

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Appendix

Table 8 The harmonized system section headings

Section	Description
I	Live animals; animal products
II	Vegetable products
III	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
IV	Prepared foodstuffs; beverages; spirits and vinegar; tobacco and manufactured tobacco substitutes
V	Mineral products
VI	Products of the chemical or allied industries
VII	Plastics and articles thereof; rubber and articles thereof
VIII	Raw hides and skins; leather, furskins and articles thereof; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)
IX	Wood and article of wood; wood charcoal; cork and articles of cork; manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork
X	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard; paper and paperboard and article thereof
XI	Textiles and textile articles
XII	Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith; artificial flowers; articles of human hair
XIII	Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware
XIV	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewellery; coin
XV	Base metals and articles of base metal
XVI	Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles
XVII	Vehicles, aircraft, vessels and associated transport equipment

XVIII	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; clocks and watches; musical instruments; parts and accessories thereof
XIX	Arms and ammunition; parts and accessories thereof
XX	Miscellaneous manufactured articles
XXI	Works of art, collectors' pieces and antiques
... (other)	Unknown

Source:WTO 2002