

**TRENDS IN THE USE OF ANTI-DUMPING MEASURES
DURING THE FIRST TWELVE YEARS OF THE WORLD TRADE
ORGANIZATION**

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A. Introduction

The World Trade Organization ("WTO") is the international body that oversees the functioning of international trade since its inception in 1995. Attached to the Agreement Establishing the WTO are, among others, 13 multilateral agreements, each addressing a different aspect of international trade in goods. The *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade ("GATT") 1994* ("the Anti-Dumping Agreement"), one of the mentioned 13 agreements, deals with the measures that WTO Members can take against imports at dumped prices.

Article 2.1 of the Anti-Dumping Agreement describes dumping as a product being "introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country."

The Anti-Dumping Agreement sets forth rules regarding the imposition of anti-dumping measures against dumped imports. Subject to strict conditions, carefully-drafted through rigorous diplomatic negotiations, it arguably allows Members of the WTO to interfere with the free flow of goods by subjecting imports at dumped prices to a supplementary duty for a limited period of time. Certain WTO Members, such as the United States and Canada, enacted anti-dumping legislations long before this matter was subjected to international disciplines under the *General Agreement on Tariffs and Trade ("GATT") 1947* and subsequently in the context of the WTO¹.

Economists advocate significantly different views regarding the appropriateness of anti-dumping measures. Some argue that anti-dumping measures disturb the efficient allocation of resources globally and therefore should not be allowed. Others take the

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¹ The first anti-dumping legislation was passed in Canada in 1904, followed by Great Britain, the United States and two British dominions in 1921. See Viner Jacob, *Dumping: A Problem in International Trade* (1966), p. 192.

position that importing countries should be allowed to use these measures to protect their domestic industries from the injurious effects of dumped imports which may access their markets more easily after the tariff reduction commitments made under the auspices of GATT/WTO.

This paper does not undertake to revisit this longstanding debate. The Anti-Dumping Agreement has been in existence since the inception of the WTO in 1995² and has been applied quite frequently by a growing number of WTO Members. Taking this reality as given, in this article, we only intend to analyse the changing patterns in the use of anti-dumping measures by WTO Members during the first twelve years of this organization.

The first section contains a comparative analysis of the data regarding the initiation of anti-dumping investigations between 1990-1994 and 1995-2006. The second section compares trends with regard to the imposition of anti-dumping measures imposed during the same two periods. The third section deals with the sectors most frequently targeted by anti-dumping measures. Finally, the last section analyses the levels of development of the countries imposing anti-dumping measures and those affected by them.

Our analysis is based on the WTO data, which may be accessed through this organization's website.³

B. Trends with respect to initiations of anti-dumping investigations by importing member

Table 1 illustrates initiations of anti-dumping investigations by importing Member between 1995-2006. Altogether the top 16 countries in Table 1 account for 90 per cent of all initiations in this period. Of those, 11 are developing countries. In terms of percentages, developing countries within the top 16 account for 53 per cent of all initiations.

² The first time a separate anti-dumping code was enacted under the auspices of the GATT was after the Kennedy Round of trade negotiations. See Trebilcock Michael J. and Howse Robert, *The Regulation of International Trade* (1999), p. 167.

³ http://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

Top 10 of the table, accounting cumulatively for 76⁴ per cent of all initiations, now include only four developed countries, i.e. the United States ("US"), the European Communities ("EC"), Australia and Canada. India has been the most active user, with 457 initiations in this period, i.e. 15 per cent of all initiations, followed by the US and the EC. The other active users among developing countries are Argentina and South Africa, each accounting for 7 per cent and Brazil, China and Turkey each accounting for 4 per cent.

This overview of Table 1, therefore, clearly shows that developing country Members of the WTO have taken the lead with respect to initiating anti-dumping investigations in the first twelve years of this organization.

In order to have a better understanding of the changes in the pattern of the use of anti-dumping measures, we found it useful to compare the data relating to the first twelve years of the WTO with the data pertaining to the five years immediately preceding its inception, i.e. the period between 1990-1994, provided in Table 2 below. Several observations can be made based on a comparison of Tables 1 and 2.

Firstly, the number of WTO/GATT Members accounting for the lion's share of initiations seems to have come down in the period 1995-2006. Table 2 shows that the ten most frequent users of anti-dumping measures accounted for 92 per cent of all initiations in the period 1990-1994. We recall that this number came down to 76 per cent in the period 1995-2006. This indicates that anti-dumping is now being used by a much larger number of countries, most of which are developing countries. Secondly, the composition of the most active users seems to have changed dramatically. Of the top ten in the period 1990-1994, five were developing countries, whereas they are now six in the top ten in the period 1995-2006. Furthermore, the weight of developing countries in the overall initiation figures in the top ten has changed significantly. Developing countries accounted for only 25 per cent of all initiations between 1990-1994, whereas their share increased to 41 per cent in the first twelve years of the WTO.

In addition to these general observations, a closer look to the case of some developing countries may also be informative. Clearly India deserves the priority in this regard. This country did not initiate any investigation in 1990, 1991 and 1993. It

⁴ Due to rounding, aggregate figures mentioned in our analysis may deviate from the figures provided in the tables.

initiated 8 investigations in 1992 and 7 in 1994, bringing its total initiations to 15 between 1990-1994, i.e. 1 per cent of all initiations. Between 1995-2006, however, India became the most active user as far as initiations are concerned, accounting for 15 per cent of all initiations. South Africa also deserves to be mentioned in that it increased its share in initiations from 1 per cent in 1990-1994 up to 7 per cent in 1995-2006.

Other interesting examples among developing countries are Thailand which increased the number of its initiations from 3 to 37 between these two periods, Peru from 3 to 63 and South Korea from 19 to 88.

One last category of developing countries that we must mention is those that were completely out of the picture between 1990-1994, which subsequently became relatively active with respect to the initiation of anti-dumping investigations. The first is China. Although China did not show up at all in the list for the period 1990-1994, it became number 9 active user with respect to initiations between 1995-2006. Among others, this category also includes countries such as Indonesia, Egypt and Malaysia, with Indonesia and Egypt now accounting for 2 per cent of all initiations each and Malaysia for 1 per cent.

Table 1: Initiations By Importing Country 1995-2006

Importing Country	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Totals	%
India	6	21	13	28	64	41	79	81	46	21	28	29	457	15
United States	14	22	15	36	47	47	75	35	37	26	12	7	373	12
European Communities	33	25	41	22	65	32	28	20	7	30	25	34	362	12
Argentina	27	22	14	8	23	45	26	14	1	12	12	15	219	7
South Africa	16	33	23	41	16	21	6	4	8	6	23	3	200	7
Australia	5	17	42	13	24	15	23	16	8	9	7	10	189	6
Canada	11	5	14	8	18	21	25	5	15	11	1	8	142	5
Brazil	5	18	11	18	16	11	17	8	4	8	6	12	134	4
China, P.R.	0	0	0	0	0	6	14	30	22	27	24	10	133	4
Turkey	0	0	4	1	8	7	15	18	11	25	12	8	109	4
Mexico	4	4	6	12	12	6	5	10	14	6	7	6	92	3
Korea, Rep. of	4	13	15	3	6	2	4	9	18	3	4	7	88	3
Indonesia	0	11	5	8	8	3	4	4	12	5	0	5	65	2
Peru	2	8	2	3	8	1	8	13	4	7	4	3	63	2
Egypt	0	0	7	14	5	1	7	3	1	0	12	8	58	2
New Zealand	10	4	5	1	4	9	1	2	5	5	0	1	47	2

Thailand	0	1	3	0	0	0	3	21	3	3	0	3	37	1
Malaysia	3	2	8	1	2	0	1	5	6	3	4	8	43	1
Others	17	19	15	40	29	24	23	14	10	6	20	17	234	8
Totals	157	225	243	257	355	292	364	312	232	213	201	194	3045	100

Table 2: Initiations By Importing Country 1990-1994

Importing Country	1990	1991	1992	1993	1994	Totals	%
Australia	47	68	71	59	15	260	21
United States	34	63	82	32	48	259	21
European Communities	50	29	42	21	43	185	15
Mexico	11	9	26	66	22	134	11
Canada	15	11	46	25	2	99	8
Brazil	2	7	9	40	9	67	5
Argentina	0	1	14	28	17	60	5
New Zealand	1	9	14	0	6	30	2
Turkey	0	0	0	7	21	28	2
Poland	0	24	0	0	0	24	2
Korea, Rep. of	5	0	5	5	4	19	2
South Africa	0	0	0	0	16	16	1
India	0	0	8	0	7	15	1
Thailand	0	0	0	3	0	3	0
Peru	0	0	0	0	3	3	0
Others	2	7	8	16	16	49	4
Totals	167	228	325	302	229	1251	100

C. Trends with respect to the imposition of definitive anti-dumping measures⁵ by importing member

In order to undertake as thorough as possible an analysis and to place the initiation figures in context, we compared them with the figures relating to the imposition of definitive anti-dumping measures in the same two periods used above. To be consistent with our analysis regarding initiations, we analyzed data pertaining to impositions of definitive measures in the period 1995-2006 and then compared them with the data for 1990-1994.

⁵ We use the term "definitive anti-dumping measures" to refer to definitive duties as well as price undertakings accepted by investigating authorities pursuant to Article 8 of the Anti-Dumping Agreement.

Table 3 contains data regarding definitive measures imposed in the period 1995-2006. It shows that the top ten most active users of anti-dumping measures in this period accounted for 78 per cent of all impositions. The six developing countries in the top ten accounted for 46 per cent of all impositions. That is, developing countries' share has been considerably larger than that of developed countries. Table 4 indicates that in the period between 1990-1994, top ten active users of anti-dumping measures accounted for 97 per cent of all impositions. Five of them were developing countries which altogether accounted for only 18 per cent of all impositions.

On the basis of these data, our observations regarding the imposition of definitive anti-dumping measures have to be considerably similar to those regarding initiations. Firstly, as in the case of initiations, here too the number of the users of anti-dumping measures went up significantly within the first twelve years of the WTO, compared to the period between 1990-1994. The share of the ten most active users declined to 78 per cent in 1995-2006 from 97 per cent in 1990-1994. Secondly, the composition of the active users also seems to have changed. The number of developing countries within the top ten went from five up to six. Here too the increase in their share in total impositions was far more remarkable than the increase in their number: developing countries accounted for 46 per cent of all impositions between 1995-2006 whereas they only accounted for 18 per cent between 1990-1994.

Clearly, the data on the imposition of definitive anti-dumping measures confirm our observation in connection with the initiation of investigations that developing countries have become the main users of these measures in the post-WTO period.

We also note that the composition of the developing countries is almost the same in the top ten of the initiations and impositions in the post-WTO period, except that there are slight differences with respect to the rankings of China, Brazil, Turkey and Mexico.

Table 3: Measures By Importing Country 1995-2006

Importing Country	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Totals	%
India	7	2	8	22	23	52	38	64	53	29	17	16	331	17
United States	33	12	20	12	24	31	33	25	12	14	18	5	239	12
European Communities	15	23	23	28	18	41	13	25	2	10	21	12	231	12

Argentina	13	20	11	12	9	15	15	24	19	1	8	5	152	8
South Africa	0	8	18	14	35	13	5	15	1	4	0	7	120	6
Turkey	11	0	0	0	1	8	2	11	28	16	9	21	107	6
China, P.R.	0	0	0	0	0	0	0	5	33	14	16	24	92	5
Canada	7	0	7	10	10	14	19	0	5	8	4	0	84	4
Mexico	16	4	7	7	7	6	4	4	7	7	8	5	82	4
Australia	1	1	1	17	6	5	10	9	10	4	3	4	71	4
Brazil	2	6	2	14	5	9	13	5	2	5	3	0	66	3
Korea, Rep. of	0	5	10	8	0	5	0	1	4	10	3	8	54	3
Peru	2	2	3	0	3	4	1	7	7	8	3	4	44	2
Egypt	0	0	0	5	13	0	0	7	4	1	0	12	42	2
Others	12	9	15	21	31	24	14	14	34	20	18	14	226	12
Totals	119	92	125	170	185	227	167	216	221	151	131	137	1941	100

Table 4: Measures By Importing Country 1990-1994

Importing Country	1990	1991	1992	1993	1994	Totals	%
United States	17	17	23	46	28	131	26
European Communities	16	19	18	20	20	93	18
Australia	6	23	35	13	14	91	18
Canada	7	12	9	25	21	74	14
Mexico	3	10	7	8	25	53	10
Brazil	0	2	9	6	3	20	4
New Zealand	0	5	11	0	0	16	3
Korea, Rep. of	0	2	0	4	3	9	2
Others	1	0	4	5	14	24	5
Totals	50	90	116	127	128	511	100

D. Sectors affected by anti-dumping measures

Tables 5 and 6 show sectors affected by anti-dumping measures in the periods between 1995-2006 and 1990-1994, respectively. It may be observed that the list of the most affected sectors did not change significantly over time. Metals are on top of both tables, followed by chemicals. What is perhaps more interesting is the fact that the share of these two categories in the overall impositions remained more or less the same. Metals accounted for 31 per cent of all impositions both between 1990-1994 and 1995-2006. Chemicals accounted for 20 per cent in both periods. Textiles accounted for 7 per cent between 1990-1994 and 8 per cent between 1995-2006.

The only change in terms of the rankings of the products affected by anti-dumping measures was observed between plastics and machinery. Between 1990-1994, plastics were number four, accounting for 9 per cent of all impositions whereas they became number three between 1995-2006 and accounted for 13 per cent. Machinery, on the other hand, was number three between 1990-1994 accounting for 12 per cent, but its share dropped to 7 per cent between 1995-2006.

Table 5: Sectors Affected By Anti-Dumping Measures 1995-2006

Sector	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Totals	%
Metals and metal products	49	24	45	57	82	79	64	60	65	38	23	15	601	31
Chemical products	18	12	21	13	14	49	37	56	66	42	30	25	383	20
Plastic and rubber products	10	11	13	14	26	23	11	24	48	23	23	28	254	13
Textiles	4	8	9	2	21	24	9	29	2	14	13	23	158	8
Machinery, electrical appliances	8	17	16	28	3	13	11	15	7	6	12	9	145	7
Pulp and paper	2	0	2	23	5	9	2	6	10	4	10	7	80	4
Cement, glass, ceramics	3	3	1	5	5	7	1	2	11	4	4	7	53	3
Miscellaneous manufactured articles	7	3	7	3	3	5	2	6	4	4	2	6	52	3
Mineral products	0	1	2	3	1	5	11	8	1	10	0	0	42	2
Vegetable products	4	1	1	4	3	1	4	2	1	0	2	7	30	2
Others	14	12	8	18	22	12	15	8	6	6	12	10	143	7
Totals	119	92	125	170	185	227	167	216	221	151	131	137	1941	100

Table 6: Sectors Affected By Anti-Dumping Measures 1990-1994

Sector	1990	1991	1992	1993	1994	Totals	%
Metals and metal products	7	15	19	74	43	158	31
Chemical products	13	26	18	17	27	101	20
Machinery, electrical appliances	8	22	8	12	11	61	12
Plastic and rubber products	6	7	22	5	8	48	9
Textiles	3	2	14	3	12	34	7

Cement, glass, ceramics	0	2	7	3	8	20	4
Mineral products	2	4	5	4	2	17	3
Pulp and paper	3	3	2	1	6	15	3
Footwear	6	0	6	2	0	14	3
Foodstuffs, beverages, spirits, tobacco	0	4	6	0	0	10	2
Miscellaneous manufactures	0	4	0	1	5	10	2
Photographic, precision, timing equipment	1	0	3	2	1	7	1
Vehicles	1	0	3	1	1	6	1
Vegetable products	0	0	2	0	1	3	1
Fats, oils, waxes	0	0	0	2	0	2	0
Arms and ammunition	0	0	0	0	2	2	0
Animal products	0	1	0	0	0	1	0
Wood	0	0	1	0	0	1	0
Others	0	0	0	0	1	1	0
Totals	50	90	116	127	128	511	100

E. Who is targeting whom?

Tables 7 and 8 show the breakdown of anti-dumping measures on the basis of the levels of development of the countries imposing them as well as the countries targeted, between 1995-2006 and 1990-1994, respectively.

The first observation to be made in this context concerns the rate of increase in the total number of measures imposed by developed and developing countries. Between the two periods we analyse here, the number of total measures imposed by developed countries increased by 57 per cent whereas measures by developing countries went up by more than 1177 per cent.

Above, we observed that the number of countries imposing anti-dumping measures had increased significantly in the post-WTO period. We also observed that the share of developing countries in the total measures imposed went up significantly. The massive rate of increase in the number of measures imposed by developing countries, compared to the increase in the measures imposed by developed countries, is all the more proof that developing countries have become active users of anti-dumping in the first twelve years of the WTO.

The tables also reveal the interesting fact that developing country Members of the WTO have gradually increased their anti-dumping measures against other developing countries. Although 60 per cent of the measures imposed by developing

countries targeted other developing countries (including countries in transition) between 1990-1994, this rate went up to 73 per cent between 1995-2006. Equally significant is the fact that the rate of measures imposed by developed countries against developing countries also went up between these two periods. It was 64 per cent (including countries in transition) between 1990-1994 and went up to 80 per cent between 1995-2006. This demonstrates that the more active developing countries became in imposing anti-dumping measure the greater became the number of measures targeting them.

Table 7: Anti-Dumping Measures By Level Of Development 1995-2006

Countries imposing the measure	Affected Countries			Totals:	Affected Countries %		
	Developed	Developing	Transition		Developed	Developing	Transition
Developed	131	398	118	647	20	62	18
Developing	340	782	155	1277	27	61	12
Transition	2	5	10	17	12	29	59
Totals	473	1185	283	1941			

Table 8: Anti-Dumping Measures By Level Of Development 1990-1994

Countries imposing the measure	Affected Countries			Totals:	Affected Countries %		
	Developed	Developing	Transition		Developed	Developing	Transition
Developed	146	214	51	411	36	52	12
Developing	40	54	6	100	40	54	6
Totals	186	268	57	511			

F. Conclusion

National legislations designed to counteract the practice of dumping in international trade date back to the beginning of the Twentieth Century. The issue was

for the first time subjected to multilateral disciplines through Article VI of GATT 1947. During the Kennedy Round of trade negotiations, a separate Anti-Dumping Code was agreed to by the Members of GATT 1947.

Statistics show that anti-dumping measures were mainly used by a limited number of developed countries until 1990s. Following the establishment of the WTO in 1995, however, this pattern has changed considerably. Firstly, the number of countries applying anti-dumping measures went up significantly. It is not anymore a tool used predominantly by a small group of countries. Secondly, developing countries seem to have taken the lead in the use of anti-dumping measures within the first twelve years of the WTO. The number of measures imposed by these countries as well as their share in total impositions increased considerably during this period. Nonetheless, statistics show that the more developing countries imposed anti-dumping measures the more they were targeted by other countries' measures. The share of measures imposed by developed as well as developing against other developing countries increased between 1995-2006 compared with the period between 1990-1994.

It may therefore be concluded that anti-dumping is no more a north-south issue. In other words, it is no longer true to argue that it is a tool used by developed countries against developing countries. How this changed structure will evolve in the future remains to be seen. It may, however, be argued that given the increased level of awareness on the part of industries, which are the main beneficiaries of anti-dumping measures in the importing countries, it may not be unreasonable to expect that developing countries will continue to be the main user of anti-dumping measures.