Chapter 3

Legal Framework: GATT Code of Antidumping

And Economics of Dumping

As discussed in the preceding chapter, the focus of the analysis in this paper is the legal framework of antidumping actions within multilateral trading arrangements and economic rationality of the same. Therefore, before examining various aspects of antidumping action under the national antidumping regulations of the countries under study, it is essential to understand the multilateral agreement on antidumping. This chapter highlights the broad framework of the Agreement on Antidumping as adopted in GATT 1994 and also summarizes the economic principles underlying dumping. The succeeding chapters will analyse the rules and practices in different countries against this background.

3.1 Broad Framework

The GATT 1994 set forth a number of basic principles applicable in trade between Members of the WTO, including the "Most Favoured Nation" (MFN) principle. Article VI of the GATT 1994 is the framework agreement for the national antidumping legislation of the Members. It explicitly authorizes the imposition of a specific antidumping duty on imports from a particular source, in excess of bound rate, in cases where dumping causes or threatens injury to a domestic industry. Thus it allows derogation of the MFN principle and 'bound rate commitments' contingent upon an injurious import to a member's territory. The Agreement on implementation of Article VI of GATT 1994 (known as Antidumping Agreement) provide for the rules and procedures for antidumping investigation, imposition and collection of duties, and process of review of such orders and dispute settlement. In addition to these basic rules, Article X of GATT 1994 establishes important obligations concerning transparency and due process, which members must follow when administering their trade remedy rules. These rules are to be administered in a "uniform, impartial and reasonable" manner. WTO has described this obligation as an expression of the doctrine of "good faith". WTO Agreement on Antidumping does not contain elaborate provisions (of special and differential treatment) with respect to developing countries. Article 15 of the Agreement simply recognises that "special regard must be given by developed country members to the special situations of developing country members". Without imposing any obligation on developed country members, the Agreement simply contemplates that possibilities of "Constructive Remedies" as provided in the agreement shall be explored before applying antidumping duties, where they would affect the essential interests of developing country members. These provisions taken together and various dispute settlement reports of the WTO's Dispute Settlement Body establish the rights and obligations of parties to a trade remedy investigation like antidumping action. The members are obliged to notify their trade remedy laws to the other members through WTO secretariat WTO members are also entitled to challenge another member's trade remedy legislation "as such", i.e. outside the context of an investigation..

Article 16 of the Agreement established the Committee on Antidumping Practices as the apex body within the GATT framework to monitor the activities of the Members and implementation and operation of the Agreement. The Members are required to notify all their actions under the Agreement to this Committee. Article 17 provides for the mechanism of consultation and settlement of disputes among members, arising out of the operation of the agreement. The article provides for adequate opportunity of consultation between the parties to a dispute to settle the issues before the issues are raised in the DSB. However, if the issue is not settled through consultation process, the article provides the rules for reference to the Panel set up by the Dispute Settlement Body, and subsequent Appellate reviews.

The framework agreement provides the substantive elements of concepts and procedure, for determination of 'Dumping', 'Injury', and 'Causation'. It also provides for termination and suspension of action under certain conditions like 'price undertakings' etc. and imposition and collection of duties, interim and termination reviews. The substantive elements and the procedures as laid down in the framework agreement have been discussed in detail, in the following chapters, with reference to the national regulations of the countries under study. This chapter only provides a brief outline of the concept of dumping from a legalistic point of view and as laid down in the Agreement, before discussing the economic concepts of dumping and other substantive elements of the Agreement. Remaining Chapters deal with the substantive elements, procedures and practices followed in countries under study.

3.2 WTO definition of Dumping, and concepts

The Antidumping Agreement provides the legal framework for understanding the concepts of 'dumping' and 'injury' and the method, as well as procedures of there determination.

3.2.1 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*." As per this article, dumping is to be condemned if it causes or threatens to cause *"material injury"* to an established industry in the importing country or "*materially retards"* the establishment of domestic industry. For the purpose of this article the "**normal value**" has been defined as:

- The comparable price for the "*like product*", "*in the ordinary course of trade*", when destined for consumption in the exporting country, or in the absence of such a domestic price, normal value shall be less than either:

  i) The comparable price for the like product for exports to an appropriate *third country, in the ordinary course of trade*; or

  ii) *Cost of production* of the product in the country of origin plus a reasonable *addition for selling cost and profit* (Constructed Price).

- Due allowance shall be made in each case for differences in conditions and terms of sale, for difference in taxation, and for other differences affecting price comparability.

The rules provide for a *Fair Comparison* between the *normal value* so determined and the *export price* at the same level of trade, normally at the ex-factory level. Due allowance is to be given, on merit, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences that demonstratively affect price comparability. On the basis of this fair comparison, the *margin of dumping* is to be established for the purpose of imposition of antidumping duty, which should be sufficient to eliminate the injurious effect of dumping.

The wordings of articles 2.1 and 2.2.1 of Agreement on Antidumping read with Art. VI of GATT has led to various types of transactions being considered as 'dumping'. Among them two categories dominate (1) International price discrimination (Price dumping), and (2) sales below average cost (Cost dumping). These two concepts shall be discussed in detail in the foregoing chapters.

3.2.2 Injury

As per the GATT agreement, dumping defined above should cause or threaten to cause "*material injury*" to the domestic 'like product' industry, or cause or threaten to cause, retardation of establishment of the domestic industry. The causal relationship between the injury and the dumped import is the vital criteria for definitive action under the agreement. The Agreement on Antidumping provides the basic framework for injury determination to be established on 'positive evidence' and based on an 'objective examination' of, both; (a) volume of the dumped imports (volume effect) and the effect of the dumped imports on price in the domestic market for like products (price effect), and (b) the consequent impact of these imports on domestic producers of such products. Article 3.7 of the Agreement provides that the determination of a threat of material injury shall be based on facts and not merely on allegations, conjectures or remote possibility. It provides very broad guidelines for factors to be considered in making a determination regarding the existence of a threat of material injury. The Agreement also provides for a framework for determination of domestic industry for the purpose of 'injury determination'. Article 3.3 of the Agreement provides for *"Cumulation"* i.e., cumulative assessment of the effect of imports of a product from more than one country subject to simultaneous injury investigation.

3.3 National Regulations

GATT Antidumping Agreements provide the basic framework for the member nations to frame their domestic regulations within the accepted parameters defined in the Agreement. The Agreement provides for reporting of the national legislation to the WTO Committee on Antidumping. The Committee monitors the practices and operation of these regulations and their compliance with the framework Agreement. This paper analyses antidumping practices in three countries, namely, the USA, the EU, and India.

3.3.1 United States

The U.S. Antidumping laws are comprised of the following:

i) Import Administration's regulations (19 CFR ξ 351). In May 1997, IA published the final version of the AD regulation reflecting the changes made by the URAA, and the Departmental Manual 1998;

ii) The legislative history to amendments of the Tariff Act including the statement of Administrative Action to the Uruguay Round Agreements Act (URAA) which amended the law to conform with the Antidumping and Subsidies Agreements; and

iii) Title VII of the Tariff Act of 1930, as amended and the US Trade Act 1984;

According to the U.S. AD manual the U.S. AD law is designed to counter international price discrimination, commonly referred to as "dumping". Generally, dumping occurs when a foreign firm sells merchandise in the US market at a price lower than the price it charges for a comparable product sold in its domestic market. Under certain circumstances, dumping may also be identified by comparing the foreign firm's U.S. sales price to the price it charges in other export market, or to the firm's cost of producing the merchandise, taking into account the firm's selling, general, and administrative expenses, and profit. Finally, when the producer is located in a non-market-economy (NME) country, a comparison is made between US price and a "surrogate" country. The difference between a company's US sales price and the comparison market price or cost is called the dumping margin, which is often expressed as a percentage of the U.S. sales price.

3.3.2 The European Union

In the European Community, Article 131 and 133 of the EC Treaty provide for the creation of a common commercial policy. Article 133 is the foundation of all EC trade remedy legislation and explicitly refers to measures “to protect trade”, including, but not limited to “those to be taken in the event of dumping or subsidies”. The Community’s framework legislation on antidumping is contained in Council Regulation (EC) No. 384/96. The EC’s antidumping legislation is closely modeled on the applicable WTO rules. Thus, in order to impose anti-dumping measures, it must be shown that: (a) Imports of the product concerned are being sold at below normal value (i.e. being dumped); (b) The European Industry (known as the “Community Industry”) is suffering material injury; (c) Such material injury is being caused by the dumped imports of the product concerned; and (d) The imposition of measures is in the Community interest.

The final “Community Interest” criteria involves a political decision as to whether, having taken into account the interests of users, consumers, upstream and downstream industries, the application of measures is in the overall interest of the Community. This analysis is not mandated by the WTO AD Agreement and is a special feature of EU antidumping practice. Coal and steel products were earlier covered by a specific legislation, i.e. Commission Decision No. 2277/96/ECSC on protection against dumped imports from countries not members of European Coal and Steel Community. The provisions of this Decision were very similar to the provisions of Antidumping Regulation. At the expiry of the European Coal and

Steel Community in 2002, the Antidumping Regulation has been made applicable to steel and coal products.

3.3.3 India

The first Indian Antidumping legislation came into existence in 1985 when the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and Determination of Injury) Rules, 1985 were notified. However, the first antidumping case was initiated only in 1992 and between 1992 and 1995 only 8 cases of dumping were investigated. After the Uruguay Round of negotiations, the national law on antidumping has been amended and Sections 9,9A, 9B and 9C of the Customs Tariff Act, 1975 as amended in 1995 are the basic legal provision for antidumping action in India. The rules in this regard i.e., the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended in July 1999, vide Notification No. 44/ 1999, and May 2001, vide Notification No.28/ 2001, form the basis of antidumping investigation in India. The Directorate General of Antidumping and Allied Duties was created in 1998 in the Ministry of Commerce to investigate and recommend antidumping action to the Government.

Indian antidumping actions follow the three basic criteria stated in the WTO framework Agreement, i.e. a) Dumping, b) Injury, where applicable; and c) where applicable, a causal link between such dumped imports and the alleged injury. The rule provides the authority and initiations of investigations, procedure to be followed in the investigation process, imposition and collection of duties, administrative as well as judicial review.

The rules governing the investigation in India generally correspond to the WTO Agreements. However, it contains a provision that, the injury test is necessary only in case the allegedly dumped imports are from any country or territory, which is either a party to GATT or who has entered into MFN agreement with India. For others, antidumping and countervailing duties can be imposed even if the dumped or subsidized imports do not cause any injury. In such cases injury test is not required.

3.4 Fundamental Principles and Economics of Dumping

WTO Antidumping Agreement and the corresponding legislation of the WTO members deal, among other things, with the conditions under which AD duties can be imposed; not with the necessary conditions for dumping to occur. Therefore, questions have been raised again and again as to whether the GATT code should take into account the economic considerations and factors that need to be satisfied for dumping to actually take place, i.e. to subject the dumping determination to an economic test before such dumping becomes actionable. It is therefore, important to understand the economist's notion of dumping and the economic concepts behind it and to compare it with the GATT concept of dumping and its practices.

3.4.1 Economics of Dumping

The GATT/ WTO codes and the national legislation of members define 'dumping' as pricing in export markets at levels that are below prices or "normal values" in the home market, i.e. international price discrimination. Under the GATT/ WTO codes, dumping, though not illegal *per se*, is actionable if it can be shown to have caused injury. EU legislation is unusual in requiring an examination of the overall community interest in addition to tests for dumping injury and causation.

Going by this definition of dumping adopted by GATT, it covers quite a broad range of economic circumstances. These can be broadly defined as:

1) Price discrimination aimed at market entry;

2) Cost dumping or selling below cost;

3) Monopolistic predatory pricing;

4) Strategic behaviour falling short of monopolistic predation;

5) Cyclical price undercutting;

6) Behaviour of state trading enterprises, not based on commercial considerations;

(i) International price discrimination and below cost selling

Price discrimination is a very normal behaviour of any firm operating in differentiated markets having different price elasticities of demand. Cutting prices is also the normal way of entering a new market and doing it does not necessarily require any form of unfair advantage. In addition to sales below normal value to influence the behaviour of rivals, there is also the simple case of firms lowering their prices below their home market prices, or even in the short run their full costs in order to influence consumers alone. That is to say, the seller cuts prices on the assumption that his action will have a negligible effect on other firms' sales or prices.

For a firm, which is small and has no reputation in the foreign market, price-cutting is the normal way to enter a new market. Such behaviour may be facilitated by closure of the exporters' home market but it need not be. In a case where the foreign firm undertakes market opening dumping in a downturn, this is akin to cyclical dumping.

A steep price elasticity of demand in the home country might enable the producer to charge a higher price and earn super-normal profit, which he will use to offset the loss he might be making in the importing country. A flatter demand curve in the importing country will decide the competitive price of the commodity and the producer cannot charge more than that. At the time of slack demands the producer may sell at the marginal cost price and recover a part of his fixed costs to remain in business. This is a standard business practice and often allowed under national competition laws. But for international price discrimination of this nature, or charging of two different prices for a like product between two or more separated markets, termed as price dumping, usually require certain conditions to be satisfied for the firm to be able to dump. Phillips (1985) in his book "the Economics of Price discrimination" provides the economic factors and conditions that are necessary for 'dumping to occur. (1) Segmentation of markets, (2) dominant market position in the home market for the product by firm, and (3) a higher price elasticity of demand in the exporting market than that of the home market for the product concerned. Only if these conditions are satisfied, the firm will be in a position to charge a lower price in the foreign market than home market in an attempt to maximize profit.

(ii) Cost dumping or selling below cost

Cost dumping is a situation in which seller chooses to sell below average total cost, or in some cases even below marginal cost for a certain period of time. Such sales are not treated, as in "ordinary course of trade" under WTO Rules and normal value is reconstructed. But selling below average cost, when a portion of the costs are fixed is a normal behaviour of firms when the prices are depressed, so long as it recovers the marginal cost. It is rational for the firms to adjust the prices below average cost in the short run, during times of slack demand. While this will be treated as a normal trade practice under national competition and antitrust laws, the WTO Rule treats it as dumping and will disregard this price even if the seller is charging the same price from all customers.

(iii) Cyclical price undercutting

If the exporting firm does not have the kind of market position to sustain price dumping, or cost dumping, it may still resort to dumping for a short duration, in what is called '**cyclic dumping'** coinciding with its 'up-turn' and 'down-turn' phases, in order to retain its market. This may cyclically affect the domestic industry of the importing country, unless it has the capability to absorb these cyclic price behaviours. In such a situation as the economists suggest, it is essential to establish whether this is normal or apparently the result of asymmetric market access. If asymmetric market access is the reason, it should warrant antidumping action. This is a natural phenomenon, although it can be harmful where certain firms can do it and others cannot. The important thing is to check whether these firms can ensure that only they benefit from the cyclical peaks and ability to off load their goods cheaply during a downturn.

(iv) Monopolistic predatory pricing

Pure monopolistic predation occurs when a firm (or a cartel) with a dominant position in one market seeks to drive all other firms out of the market in order to abuse the subsequently acquired dominant position by raising prices. There is a long-standing debate in the economics literature about the possibility of firms actually being able to do this. Trade economists and the Chicago School of industrial economists have systematically denied that predation is a realistic possibility and many trade economists have shared this view. US anti-trust law has been heavily influenced by attempts to demonstrate that firms could never recoup losses they would initially incur in doing this. This school firmly believes that for successful predation to take place the predatory firm should have sufficient market power to withstand the price-cutting losses in the initial stages of predation to recover it at a later stage. It is also held that predation is not possible in a situation of complete information and perfect capital markets. It occurs only to the extent that potential victim has doubts about the predatory nature of price cut and the predator manages to manipulate these doubts to its advantage (Tharakan, 2001). These difficult conditions make any successful predation extremely difficult. However, neither information, nor the capital market structure is perfect world over. Predation may therefore, injure the domestic industry and must be acted upon.

(v) Strategic behaviour falling short of monopolistic predation

Economists would define strategic behaviour as action undertaken with a view to influencing the behaviour of rivals. To be more precise, behaviour is strategic if it is not optimal profit maximizing behaviour, if the actions of other firms were taken as given, but which becomes profit maximizing when the reaction of others is taken into account. Strategic behaviour does not have to be loss making: It just has to depend for an important part of its profitability on interaction effects. From a competition, or trade policy point of view, we cannot hope to test for the existence of strategic behaviour by looking for loss-making action. Strategic behaviour includes:

- Cutting prices in one market in order to signal to a rival that the firm is prepared to fight a price war there or elsewhere if they undertake any price cutting at all.
- Deliberately building more capacity than the firm needs now and openly committing to high levels of output even if other firms enter.
- Signing clauses with customers to match any rebates that new entrants can offer.

The extreme example of strategic behaviour is when firms engage in monopolistic predation, so that rivals leave and prices to consumers can be put up. There is, however, a wide spectrum of behaviour that can be termed strategic competition, some of which is quite harmless, and can have anti-competitive effects that fall far short of predatory monopolization. Most firms engage in strategic behaviour of some kind. What is of concern here is where one firm or group of firms has options, which other firms do not have due to some form of asymmetric market conditions of their own market. This asymmetric condition influences the strategic behaviour of the firms.

(vi) State Trading

The cases discussed previously have been of dumping carried out by private firms. It is customary to assume that this will be motivated by considerations of profit, which inevitably put a limit on the scope for artificially low prices, even though there may be cases where firms with very strong asymmetric market positions can afford to aim at maximum sales or growth even at the expense of current profit. However, where commercial factors are not relevant, and foreign producers are motivated by random variations in production and pricing, this can act as a deterrent to investment in a market economy. This occurs in the case of a state trading, mostly in the command economies, where the trading is carried out not on commercial and economic terms, but as state policy. The random uncertainties coming from such behaviour clearly are capable of acting as a deterrent to investment in a market economy. These unfair actions may force the firms with authentic comparative advantage, operating in open market to face injurious 'artificial' international competition. In the absence of a multilaterally negotiated competition law to handle these trade-distorting practices, market distortions caused by Non-market State Trading practices require careful analysis and action under the trade remedy laws.

3.4.2 Gainers and losers in a dumping situations

The above discussion showed that price discrimination, and below cost pricing in certain instances is normal firm behaviour in response to demand and supply conditions in the market without any predation intention. National competition and anti-trust laws recognise these practices of the firm as natural firm behaviour. It was also pointed out that it requires a very stringent condition to be satisfied for this dumping to take place, which are actually satisfied in very few instances. But the international price discrimination of the type discussed above is the prime target of the WTO Antidumping Code. The very definition of dumping in the Agreement contains two main notions of dumping: (1) international price discrimination (price dumping), and (2) below cost sales (cost dumping), without distinguishing the monopolization intent and capacity of the firm to sustain dumping. Thus price discrimination gets covered under WTO definition of dumping and attracts punitive action. Economists do not see any rationale for punitive action in such cases and suggest internal adjustment measures for the injured industry than antidumping action in such cases. Further economic analysis of this aspect shows that the domestic consumers are better off on the short run from a dumping. The welfare loss in producer surplus in a dumping operation is much less than the welfare gain in consumer surplus caused by dumping in the importing country.

Therefore, economics suggest that international price discrimination and below cost sales without predatory intent should not be actionable under the antidumping rules. But the problem is with domestic investments and employment, which is not fungible in the short run. Economists suggest that such problems should be handled through the "specificity rule"[1]. But the problem is with the implementation of such a policy, and national governments tend to opt for the softer option of regulating this uncomfortable trade under antidumping rules.

Interestingly, the antidumping code emerged in the early twentieth century, on the basis of action against 'monopolization' based on the Sherman's Antitrust Act of 1890, before the concept of monopolization was replaced by 'fairness' in the national regulation of the US and then GATT code. Even the inclusion of 'international price discrimination' and 'below cost pricing without predatory intent' does not seem to violate the 'fairness' test under these regulations. The underlying strength of the firms could be because of their natural competitive advantage due to the structure of their home markets and the intent could be market entry only, which is a normal behaviour of any firm operating in a competitive market. Therefore, the underlying analysis of dumping should be for the separation of monopolization attempt and effect of a distorted domestic market, which may affect the price behaviour of the firm, causing it to deviate from the normal price based on the firm's comparative and competitive advantages and scale economies.

3.5 Economic effects of antidumping actions

The number and proliferation of antidumping measures in force does not in itself provide an adequate picture of the extent of the impact of antidumping action on trade. Frequent investigations, even if the complaints are finally rejected, amount to a kind of harassment of the defendant because of the uncertainty and cost of such actions. Trade literatures analyze the i) Welfare Effects; ii) Trade Effects; iii) Price Effects; and Tariff Jumping FDI Effects of antidumping actions.

[1] The "specificity" concept argues that in case of market failure affecting a sector of the economy it is better to directly support that sector through assistance than putting a restriction on that activity to protect that sector.

Study of the impact of antidumping action by Tharakkan (1988) showed high import incidence for US and low incidence for EU. But the low incidence for EU could be due to the stringency or the trade diverting effect of the measure itself. The Commission of the European Union argues that although the absolute value of trade covered by definitive antidumping measure in 1996 was 2,919 million Euros, it affected only around 0.6 percent of total imports of the Union (Tharakkan 1999). However, subsequent studies indicate that in the case of EU, imported quantities of the products affected by the antidumping action fell by 36 per cent in the third year after initiation and prices increased by 12 percent in the fifth year. According to an ITC study (USITC, 1995), imported quantities declined by 73 per cent and unit values increased by 32.7 per cent for imports with high-calculated dumping margins. Prusa (1999) also corroborate this through regression analysis, which found that antidumping has a larger impact on the quantities than on prices. He finds that an affirmative AD determination causes quantity to fall by almost 70% during the first three years following the duty. Even when the case was rejected, the imports fell by 15 to 20%. In an analysis of US antidumping duties levied up to 1995 and subjected to Sunset review subsequently, Michael O. Moore[2] finds that average original margin for the entire sample of 395 separate individual firm margins against foreign firms was 45%. Among the individual industry sectors, average firm dumping margins ranged from a low of 23% for the 6 textile firms subject to orders, to 64% for the 33 basic commodity firms. Basic steel and processed steel products, the sectors with the largest numbers of individual

[2] "Commerce Department Antidumping Sunset Reviews: A Major Disappointment", Michael O. Moore, Associate Professor of Economics, and International Affairs Elliott School/ Department of Economics The George Washington University

firm margins, had original duties equal to an average of 42% and 50%, respectively. There were 79 foreign firms in the sample, which ultimately faced no domestic interest in continuing an order. Interestingly, firms involved in cases for which there was *no* domestic interest in continuing the orders were subject to some of the highest original dumping margins: basic steel (84%) and commodities (80%). This may reflect that foreign firms with such high margins had permanently left the US market, leaving domestic firms unconcerned about possible foreign reentry into the market. Prusa, (1996), Vandenbussche, Konings and Springael, (1999) also support this 'trade diversion' effect of antidumping actions.

The effects of antidumping action on the strategic behaviour of firms and governments and its implications for profits, employment and welfare are now receiving increasing attention. Tharakkan (1999) finds that in certain sectors (electronics in the European Union, for example) there has been a coincidence between antidumping action and onward investment, although other factors (such as the expansion of the EU and availability of subsidies etc.) cannot always be disentangled. Studies find that antidumping as well as other policies in the EU and US have substantially increased the incidence of manufacturing investment by Japanese electronic firms in these two regions. Belderbos, (1998) finds that an affirmative AD decision raises the FDI probability from 19.6% to 71.8% in the EU but only 19.7% to 35.95% in the U.S. However, using antidumping rules for triggering foreign direct investment and employment is viewed as a *'beggar-thy-neighbour'* policy.

Furthermore, antidumping laws are said to produce a 'chilling effect' on imports (Prusa, 2001)), especially since both the probability and the amount of duty are relatively high. For example, the proportion of affirmative outcomes of anti dumping investigations between 1987 and 1997 was 51% for all countries, and more than 60% for the USA, Canada and the EU (Miranda et al., 1998). The percentage of investigations leading to provisional measures – which may be equally chilling to foreign exporters- is 60% on average, and more than 80% for the USA and the Canada. Average *ad velorem* antidumping duties lie between 30 and 40%, which is higher than the present level of average import tariffs.

Blonigen and Flynn (1988) have estimated the collective economic loss of antidumping and countervailing duty actions on the US economy and demonstrate that the US antidumping/ countervailing duty action led to large welfare losses of around US$4 Billion in 1993. . Gallaway et al., (1999) estimate the welfare loss to the U.S Economy at $ 2.4 billion annually. It was second only to the MFA, among the welfare-loss generating protectionist instruments. Though these figures look small compared to the GNP of United States, they grossly underestimate the effects of the protectionist measures as they fail to capture the effects of the self imposed restraints. The cost of such measures by countries like Mexico and Argentina are likely to be a non-negligible proportion of their GNP. After reviewing the filing patterns, Prusa (2001) finds that three-quarters of all antidumping filings are consistent with the 'club effect' and half are consistent with 'retaliation incentives' indicating that political economy factors play major role in the antidumping mechanism.