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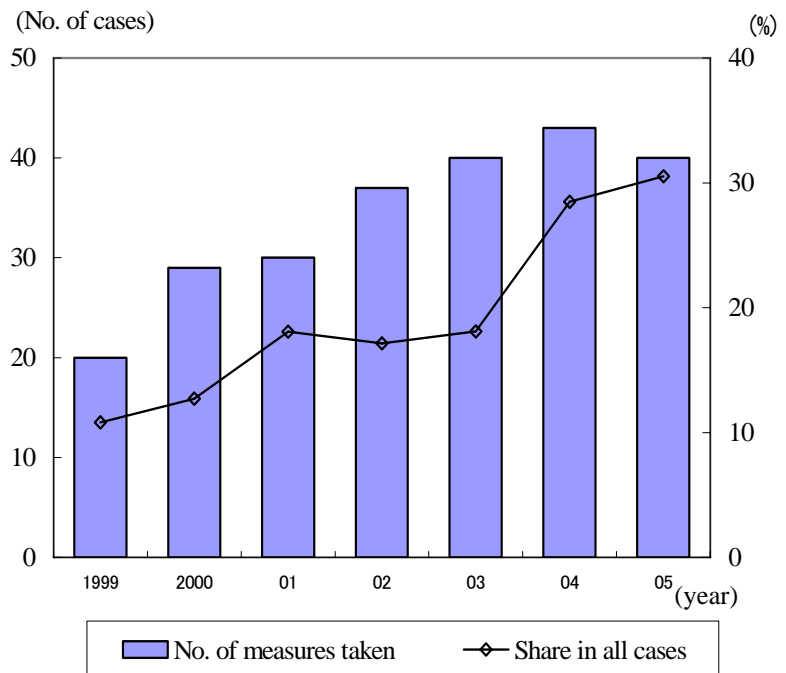
Antidumping Measures by Europe and the U.S. Against China are Problematic

Ryuichi Ushiyama
Senior Economist

Antidumping measures, which impose additional duty on imports to prevent them being sold at unfairly low prices, are recognized by the World Trade Organization. The largest target of such measures is China. In 2005, more than 40 such measures were taken against China, which accounted for approximately 30 percent of all antidumping measures. As China claims that many of the antidumping measures taken against it are unfair, this paper has examined the actual measures taken by Europe and the United States to see if this claim is valid.

In recent years, antidumping measures taken against China have continued to increase both in terms of the number of cases and as a percentage of all such measures taken (Chart 1). Between the creation of the World Trade Organization in 1995 and 2005, antidumping measures taken against China numbered a cumulative total of 338, almost three times as many as those taken against South Korea, which was the second largest target with a cumulative total of 127. India took the largest number of actions at 66, followed by the United States, which took 50 actions, and the European Union, which took 41 actions. China is frequently vigorous in its protest against the antidumping measures taken by Europe and the United States, which are the country's major export destinations. A recent example is an approximately 17-percent antidumping duty which has been imposed by the EU since October 2006 on leather shoes made in China.

Chart 1 Antidumping Measures Against China



Source: Compiled from World Trade Organization statistics.

In addition to their large numbers, the characteristics of the antidumping measures taken by Europe and the United States are the high ratio of actions taken and the high antidumping duties themselves. Governments conduct antidumping investigations on imports upon request from domestic industries, and when dumping is recognized, actions are taken. According to the United States Government Accountability Office (2006), in the United States, slightly more than 60 percent of cases against Chinese products are recognized as dumping (1980-2004), which is higher than the percentage (slightly more than 40 percent) for cases against products of other countries. The rate of antidumping duty against Chinese products is on average 23 percent higher than that imposed on the same products from other countries, which have been judged as dumped, even when such decisions are made at the same time.

Comparison with Domestic Prices in a Third Country

What China regards as problematic are the methodologies for the dumping ruling and the computation of the rate of antidumping duty. The principle of the World Trade Organization is that if export prices are below domestic prices in the exporting country, it constitutes dumping and that an importing country may impose an antidumping duty equivalent to the difference between the two (GATT Article 6, 1-2). However, in Europe and the United States, the dumping ruling is often based on a comparison of export prices of Chinese products with prices of the same type of products in a third country. China is very unhappy with these practices.

Which countries then, are Europe and the United States using as third countries? In antidumping investigations conducted by the EU against China between 2001 and 2005, 14 cases, or 40 percent of the total and by far the largest share, used the United States as the third country (Table 1). In almost all preliminary investigations for antidumping measures against China conducted by the United States between January 2000 and June 2006, India was used as the third country (Table 2).

Table 1 Third Country or Region Used by the EU(2001-2005)

Rank	Country	No. of cases	Share
1	United States	14	40%
2	Lithuania	3	9%
2	Mexico	3	9%
2	Turkey	3	9%
5	India	2	6%
5	Indonesia	2	6%
5	Taiwan	2	6%
	Total	35	100%

Source: Compiled from Detlof and Fridth (2006).

Table 2 Third Country or Region Used by the U.S. (January 2000 - June 2006)

Country	No. of cases
India	30
South Africa	1

Note: The number of cases denotes the number of times a country was designated as a major third country. The cases are those which were in effect as of June 2006.

Source: Compiled from United States International Trade Commission statistics.

The EU's actions are clearly problematic. It is easy to make a dumping ruling if prices of Chinese products are compared with those of the same type of products in an advanced,

industrialized country, where prices are higher. It also increases the likelihood that the rate of antidumping duty will be high. The United States, on the other hand, calculates the “hypothetical cost” of Chinese products, based on the cost of raw materials and publicly regulated charges in a third country and adds suitable “hypothetical profits” to determine the price used for the comparison. However, many publicly regulated charges in India are higher than those in China. Also, it has been pointed out that the method of calculating “hypothetical profits” is arbitrary, often pushing up the prices used for the comparison [Rushford (2005)].

Europe and the United States use the comparison-with-a-third-country method on two grounds. First, GATT articles have a provision that there are cases in which comparisons with domestic prices are not appropriate in recognizing a case as dumping (GATT Appendix 1, Article 6-1). Second, in the protocol China signed when it joined the World Trade Organization in 2001, a similar provision recognizing exceptions is included (Article 15).

The basic stance of Europe and the United States is that in China, which is a “non-market economy country,” since domestic prices are distorted due to government intervention and other factors, it is difficult to apply the World Trade Organization principle. However, the World Trade Organization does not have concrete provisions pertaining to the content of exceptional measures. As a result, both the United States and the EU have established an antidumping system within their borders for “non-market economy countries,” which allows the use of price information from a third country, and which is used as legal grounds for making a dumping ruling.

Arbitrariness of “Market Economy Country” Recognition

A “non-market economy country,” as claimed by Europe and the United States, is an extremely abstract concept. The United States claims that it uses six factors, including “to what extent wage determination is based on labor-management negotiations” and “the extent to which investment by foreign companies is recognized,” in determining a market economy country. However, it does not make public concrete numerical standards. The EU’s criteria are also limited to such statements as “prices and costs are determined by the market’s demand-supply balance” and “corporate financial conditions are not subjected to the effects of serious distortions such as those which occur in a non-market economic system.”

According to the Index of Economic Freedom (2006 edition) by the Heritage Foundation in the United States, China ranks 112th in the world. However, lower-ranking India (121st place) and Russia (122nd place) are recognized as “market economy countries.” The arbitrariness of “market economy country” recognition, coupled with a lack of clarity in WTO rules pertaining to exceptions, render opaque the antidumping measures by Europe and the United States against China.

References

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Ryuichi Ushiyama

*Senior economist, Asian Research Department and Economic Analysis
Department, specializing in Asian politics and economies.*

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Japan Center for Economic Research (JCER)

Nikkei Kayabacho Bldg. 2-6-1 Nihombashi Kayabacho, Chuo-ku, Tokyo 103-0025, Japan
Phone:81-3-3639-2810 / FAX:81-3-3639-2839 / E-mail:jcernet@jcer.or.jp