

Inflicting injury through product quality: how European antidumping policy disadvantages European producers

Hylke Vandenbussche^{a,b}, Xavier Wauthy^{c,d,*}

^a Faculty of Economics and Applied Economics, University of Leuven, Naamsestraat 69,
3000 Louvain, Belgium

^b CEPR, London, UK

^c Facultés Saint-Louis, CEREC, 43 Boulevard du Jardin Botanique, Brussels, Belgium

^d CORE, UCL, Louvain-la-Neuve, Belgium

Abstract

In this paper, we show how an industry characterized by vertical product differentiation may be affected by European antidumping policy. Using a two-stage model where quality choice is determined before price competition takes place, we show that EU antidumping policy that takes the form of price-undertakings protects domestic firms at the price competition stage, but is disadvantageous to domestic firms once the effect on quality choice is taken into account. European antidumping policies may therefore disadvantage European producers through reversals of quality ranking. © 2001 Elsevier Science B.V. All rights reserved.

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1. Introduction

European antidumping legislation (A-D policy hereafter) allows a protectionist response whenever a foreign product “similar” to a European one is “dumped” on the

* Corresponding author. Facultés Universitaires Saint-Louis, CEREC, 43 Boulevard du Jardin Botanique, 1000 Brussels, Belgium. Tel.: +32-2-211-7949; fax: +32-2-211-7943.

E-mail address: xwauthy@fusl.ac.be (X. Wauthy).

European market (Official Journal of the EC, EC Regulation 386/94). The procedure follows two main steps. If dumping (i.e., price discrimination between national markets) has been established,¹ the legislation aims at eliminating price-undercutting of European products in the European market. The protectionist policy is justified by “unfair competition”, and as a compensation for the resulting “injury” caused to the European industry. More specifically, the A-D policy aims at eliminating the injury as measured by the extent of the “injury margin”, defined through the extent of foreign price-undercutting in the European market (Vermulst and Waer, 1991). In order to eliminate the injury, the European Commission may either impose a duty or accept a price-undertaking. Price-undertakings are commitments by foreign competitors to match the price of the European product in the European market.² A price-undertaking thus compels the foreign firm to ‘meet’ the price set by the European producer of the ‘like product’ in the European market. In this paper, we focus on such price-undertakings, which are arguably the most common type of antidumping measures used by the European Commission.³ According to Tharakan (1994), undertakings accounted for about 72% of the antidumping/countervailing duties cases terminated by the European Commission during the period 1980–1987. Tharakan (1994) studies the determinants of this preference. According to his empirical analysis, trade policy considerations seem to play an important role in the choice between undertakings and duties.⁴

The way the European Commission calculates the injury margin in European antidumping cases has often been criticized.⁵ The relation between observed price-undercutting and real dumping is also subject to criticism. Veugelers and Vandebussche (1999) show how foreign price-undercutting can reflect a cost advantage of foreign firms selling differentiated products on the EU market, rather than any idea of “unfair” trade practices. Here, we shall show how perverse effects are induced by the A-D policy and we cast doubt on the economic rational of “injury” determination.

According to the A-D regulation, the legislator allows for price differences between a European and a foreign product when there are differences in product characteristics (EU regulation 386/94 §3 section D.10). However, there are cases where quality differences between domestic and foreign products are acknowledged, but no price adjustments were made. For example, in 1987, a Russian importer of ‘standardized electrical motors’ in the EU was accused of dumping and causing injury to the Community industry, by selling at a price below that of the European standardized

¹ Legal dumping occurs whenever the price charged by a foreign producer on its own market is higher than the price charged in its export market (in the present case the European one).

² It has even been argued that price-undertakings could to a certain extent be viewed as “a legal substitute for illegal price fixing” (Stegeman, 1990).

³ The case of a duty will briefly be discussed in the paper but results under a duty will be quite similar to those obtained under price-undertakings.

⁴ For a detailed study of the EC’s practices on trade protection issues, the reader is referred to Schuknecht (1992).

⁵ Vermulst and Waer (1991) provide a detailed analysis of the difficulties as well as of the possible arbitrariness involved in computing the injury margin.

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