



World Trade Organization (WTO)

Topic A: Measures to ensure compliance with the Anti-Dumping Agreement

“Dumping” is the practice done by companies in which a product is exported at a lower price than what it would normally cost in its home market¹. It is considered a form of price discrimination; the practice is acknowledged as intentional with the goal of obtaining a competitive advantage in the importing market. The primary benefit of dumping is the ability to permeate a market with product prices that are often considered unfair. The country exporting the goods may present a subsidy to the producing company in order to compensate for the losses of selling the product at a price lower than their manufacturing cost.

On the other hand, one of the biggest disadvantages in dumping is that said subsidies can eventually become too extreme for it to be sustainable.² Additionally, trade partners who wish to restrict this form of market activity may increase restrictions on the goods, which could result in increased export costs to the affected country or limits on how much a country is able to import.

The World Trade Organization (WTO) seeks to ensure that governments are aware of how they can or cannot react to companies taking part in dumping, it does not take part in the judgement of said companies. This agreement, often called the “Anti-Dumping Agreement”, allows governments to take action against dumping only if they are able to provide evidence of it taking place, the extent of it, and demonstrate how it is damaging or will damage the domestic industry. If the governments are able to provide this, it is considered genuine (“material”) injury³.

While the WTO reserves judgement on whether dumping is an unfair competitive practice, most nations are not in favour of dumping. It is legal under WTO rules, unless the foreign country can prove how the exporting firm has damaged its domestic producers. To counter-dumping and protect their domestic industries from predatory pricing, most nations use tariffs and quotas.

Dumping is also prohibited if it is causing “material retardation” to any establishment of the domestic market. The majority of all trade agreements include limits and restrictions on dumping. However, the violations of said agreements can be cost-prohibitive to properly enforce.

¹ See WTO's *Anti-dumping* on https://www.wto.org/english/tratop_e/adp_e/adp_e.htm

² See *Dumping Definition* by Barone, A. for more details on <https://www.investopedia.com/terms/d/dumping.asp>

³ See WTO's *Understanding the WTO: Anti-dumping, subsidies, safeguards: contingencies, etc.* for details under the *Anti-dumping actions* subdivision on https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm8_e.htm





If two countries do not have a trade agreement in place, then there is no specific ban on trade dumping between them.

Concept definitions:

- *Anti-dumping duty*: a protectionist tariff that a domestic government imposes on foreign imports that it believes are priced below fair market value.
- *Anti-dumping*: measure to rectify the situation arising out of the dumping of goods and its trade distortive effect. An anti-dumping is a protectionist tariff that a domestic government imposes on foreign imports that it believes are priced below fair market value.
- *Dumping*: term used in the context of international trade. It is when a country or company exports a product at a price that is lower in the foreign importing market than the price in the exporter's domestic market.
- *Global trade*: refers to the economic activity of buying, selling, and exchanging goods and services between two or more parties in a marketplace.
- *Market value*: the price an asset would fetch in the marketplace, or the value that the investment community gives to a particular business.
- *Persistent dumping*: when a country consistently sells products at a lower price in the foreign market than the local prices, it is called persistent dumping. It happens when there is a constant demand for the product in the foreign market.
- *Predatory dumping*: it involves the sale of goods in a foreign market at a price lower than the home market. It is done to gain access to the foreign market and eliminate competition. It creates a monopoly in the market, thus is permanent.
- *Reverse dumping*: it happens when the demand for the product in the foreign market is less elastic. It means that price changes do not impact demand.
- *Sporadic dumping*: occurs occasionally when companies dump excess unsold inventories to avoid price wars in the home market and maintain their competitive position. They can either dump by destroying excess supplies or export them to a foreign market where the products are not sold.

Current situation:





Dumping is a current problem since it is a situation of international price discrimination, which leads to the affectation of the economy at a global level. The Anti-Dumping Agreement went into effect on January 1st 1995 and it governs the application of anti-dumping measures by WTO member countries. All members of the WTO are parties to this Agreement and it has no expiration date.

The declaration of the Fourth Ministerial Conference in Doha, Qatar adopted on November 14, 2001, also regarded as the Doha Declaration, provides instructions for the negotiations on a variety of topics, including concerns regarding the implementation of WTO agreements. Said negotiations take place in the Trade Negotiations Committee (TNC) set up by the Doha Declaration.

A particular area of work on the Doha Declaration that raised concerns was paragraph 12: Implementation-related issues and concerns. This is why the Implementation-related issues and concerns decision speaks on the problems that developing countries have implementing WTO agreements. The Doha implementation decision establishes that, regarding anti-dumping, developed countries need to give “special regard” when it comes to dumping situations involving developing countries, and that it is necessary for them to consider “constructive remedies” before anti-dumping duties are applied. The ministers indicate that this provision is mandatory⁴.

The summit of the Doha Declaration was primarily convened to discuss the concerns of developing nations. Trade facilitation, services, rules of origin, and dispute resolution are some of the important topics covered. Concerns over the special and unequal treatment of developing nations were also raised. There have been numerous attempts to restart the negotiations since they broke down in 2008, but to no avail.

The WTO’s Committee on Anti-Dumping Practices met on 26 October 2022 to review members’ latest notifications of new, amended or previously reviewed anti-dumping laws and regulations as well as reports on anti-dumping actions. During the period of January 1st-June 30th, 45 members notified the Committee of anti-dumping actions taken. 16 members reported no new anti-dumping actions in this period, while 53 members made a one-time notification indicating they do not have an investigating authority or apply any anti-dumping measures⁵.

⁴ See *Implementation-related issues and concerns* by the WTO, paragraph 7, specifically 7.2 for more details, on https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_implementation_e.htm

⁵ WTO News. *Anti-Dumping Committee reviews members’ notifications of dumping actions and regulations*. 2022. https://www.wto.org/english/news_e/news22_e/anti_26oct22_e.htm





During the period of 1995 - 2022, there has been a total of 6541 reported Anti-Dumping initiatives, of which around 600 are corresponded to the last 2 years⁶. These reports are divided by the number of initiations made by exporters and reporting members (imports). Some of the countries with highest AD Initiations are: China (1542), Republic of Korea (485), Chinese Taipei (334), United States of America (317), India (268), Thailand (259), Indonesia (245), Japan (238), Russian Federation (196), Mexico (190)⁷.

The countries with the lowest number of reports are Azerbaijan (1), Azerbaijan (1), Cambodia (1), Honduras (1), Iceland (1), Lao People's Democratic Republic (1), Kyrgyz Republic (1), Malawi (1), Morocco (1), Mozambique (1), Nicaragua (1), Nigeria (1)⁸. On the contrary, the reporting members with highest AD measurements are India (1109), United States (855), Brazil (438), Argentina (414), Australia (378). While the delegations with lowest reports are Bulgaria (1), Ghana (1), Jordan (1), Madagascar (1), Slovenia (1)⁹.

International initiatives:

In order to provide a venue for consideration of anti-dumping measures, the WTO hosts two sessions of the Anti-dumping Committee (AD Committee) each year. The AD Committee's duties include examining national anti-dumping implementation laws for compliance with the Agreement, hearing reports on national anti-dumping measures, and researching problems with anti-dumping practices and policies. The Council for Trade in Goods, to which the AD Committee is immediately subject, receives annual reports from the AD Committee on the administration and implementation of the AD Agreement.

All WTO Members must update their anti-dumping laws to comply with the Anti-Dumping Agreement and notify the Committee on Anti-Dumping Practices of these changes. Although the Committee does not "approve" or "disapprove" any Member's legislation, it is considered in the Committee together with queries from other Members and discussions regarding whether a specific Member has consistently implemented the Agreement's obligations in national legislation.

Besides from the WTO Anti-dumping Agreement, there have been other measurements implemented internationally as a way to reduce dumping. The Tokyo Round Code (which entered

⁶ See *Anti-dumping Initiations by Reporting Member 01/01/1995 - 30/06/2022*, on: https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsByExp.pdf

⁷ See *Anti-dumping Initiations by Exporter by the WTO*, on: https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsByExp.pdf

⁸ *Ibid.*

⁹ See *Anti-dumping Initiations by Reporting Member* on: https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsByRepMem.pdf





into force in 1980) represented a quantum leap forward. Substantively, it provided enormously more guidance about the determination of dumping and of injury than did Article VI. Equally important, it set out in substantial detail certain procedural and due process requirements that must be fulfilled in the conduct of investigations.

Both GATT Article VI and the Anti-Dumping Agreement under the WTO provide worldwide anti-dumping regulations. The Tokyo Round Anti-dumping Code was altered to create the new Anti-Dumping Agreement as a consequence of the Uruguay Round negotiations. The methods for examining prices and costs to gauge the harm done to domestic business and determine dumping "Injury" called for a change in the Code. This proved that the Tokyo Round Anti-dumping Code also lacks enough specifics to address the complexity of present global trade.

Nevertheless, the Code still represented no more than a general framework for countries to follow in conducting investigations and imposing duties. It was also marked by ambiguities on numerous controversial points, and was limited by the fact that only the 27¹⁰ Parties to the Code were bound by its requirements.

Guiding questions:

The following guiding questions have the purpose of guiding you through your investigation, making sure that you possess certain information that will be useful at the time of the debate...

- To what extent does your country contribute to or is being affected by dumping?
- Which type of dumping is most common in your delegation?
- What is your delegation's position on dumping?
- What is your delegation's position on the Anti-Dumping agreement?
- Is your delegation a signatory?
- Does your country apply anti-dumping duties?
- How significant is this duty?
- What other measurements has your country implemented? Have they been effective?

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¹⁰ WTO. "Previous Agreements in Technical Information" on Anti-dumping. n/d.
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