Recent Antidumping Cases Involving Companies in Russia and Ukraine*

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This paper begins with a discussion of antidumping laws in general and how they have been applied by U.S. domestic producers to target Russian and Ukrainian companies. The use and abuse of antidumping laws by the steel industry in the United States is then discussed, followed by discussions and analyses of selected antidumping cases involving Russian and Ukrainian companies and industries. The paper then applies ethical theory to antidumping and concludes that the only ethical solution is repeal rather than reform of the antidumping laws.

Introduction

Antidumping laws have become the protectionist's tool of choice since the World Trade Organization and various trade agreements have reduced or eliminated a number of tariffs and quotas. One might say that antidumping laws are a refinement of other long-used trade weapons – tariffs and quotas – because antidumping laws can be used to surgically remove an aggressive competitor, whereas tariffs and quotas act more like a blunderbuss, which can be aimed only the general direction of the target.

Antidumping laws are also much more swift and efficient, from an economic perspective, than tariffs or quotas are capable of being. In the case of a tariff or quota, representatives from a domestic industry must lobby the legislature and persuade a number of influential legislators to introduce legislation, a process that is expensive, time-consuming and capable of failure. Even if legislators can be found to push the proposed protectionist measure, success in passing the legislation is far from clear, and even if the legislation is eventually successful, passage might take years.

Antidumping laws are much easier to use. All that the domestic industry needs to do is ask the U.S. Commerce Department to launch an antidumping investigation of a particular industry or foreign producer. The bulk of the work and expense are assumed by the federal government, although the domestic industry can expend some funds to provide biased information to support its case if it wants to. The walls of protectionism can be raised almost instantaneously. There is no need to lobby members of Congress and wait a year or more before protectionist legislation is enacted into law. The antidumping law is already on the books. All one need do is pull the trigger, so to speak.

As soon as the antidumping investigation is launched, the foreign producer is placed under severe pressure to raise prices, lest they be found guilty of dumping. The investigative process is relatively short. Preliminary determinations can be reached much sooner than it would take to pass most trade legislation. In some cases, the targeted foreign producer can be precluded from making any sales in the domestic market before any final determination has been made. Some smaller foreign producers could actually be forced into bankruptcy at this point, since they do not have the financial resources to continue doing business after their major market has been completely closed to them.

Another interesting fact about antidumping laws is that the target company does not even have to engage in dumping to be found guilty of dumping. It is possible to be found guilty of dumping, in the United States, at least, even if the foreign producer sells its product for the same price in all markets. That is because of the curious way that prices are compared. A shift in exchange rates is often all that is needed to turn a unitary price producer into a producer that is guilty of dumping (McGee, 1994, pp. 96-97).

Companies in countries that have hyperinflation can be especially hard hit by the Commerce Department's methodology. In one case involving a Brazilian steel wheel manufacturer, the Commerce Department computed the selling price in

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the United States using the exchange rate in effect at the sale date but based the company’s cost of production on the rate that existed when the product was exported several months later. Such methodology can result in a major distortion when the exchange rate declines rapidly as a result of hyperinflation (Bovard, 1991). Suggestions for using a different methodology have been suggested, but so far no changes have been made (Kaplan, Kamarck & Parker, 1988).

For these reasons the antidumping laws are increasing in popularity among domestic producers in a number of countries because their effectiveness in preventing foreign competition is now well known.

There are a number of ways to analyze the extent to which the antidumping laws are being used to hamper trade. One way is to look at the number of antidumping and countervailing duty orders that are currently in place. The United States International Trade Commission (USITC) website maintains such a list. Table 1 summarizes the orders that were in place for Russia and Ukraine as of February 4, 2004.

The steel industry in the United States is the most aggressive user of antidumping laws to insulate itself from foreign competition. As Table 1 shows, the steel and metals industry has launched more antidumping cases than any other industry. The chemicals industry is a distant second. In fact, the U.S. steel industry has a long-standing policy of using antidumping laws to restrict foreign competition.

However, the figures shown in Table 1 do not fully reflect the extent to which antidumping laws have been used to restrict trade in the United States. For every case that leads to an antidumping order being put into effect, there are several cases that prevent foreign trade without the necessity of a formal antidumping order. As soon as an antidumping investigation is initiated, foreign producers are placed under tremendous pressure to raise prices. If a foreign producer is found guilty of dumping at the preliminary stage of an investigation, there is tremendous pressure to settle the case, which involves raising prices to uncompetitive levels and promising the Commerce Department to keep prices high. In effect, the representative of the domestic industry that called for the investigation to be launched have already won, even if a settlement is reached before the investigation is finalized. In fact, many antidumping investigations are never finalized because the foreign target companies settle before the finalization stage.

Table 2 lists some of the antidumping investigations that have been initiated by the U.S. Commerce Department at the behest of domestic producers against Russian and Ukrainian companies and industries in recent years. This list includes only the investigations that are posted on the United States International Trade Commission’s (USITC) website, and its website omits mention of some investigations from the mid-1990s, and omits mention of any investigations before 1995, so this list is likely incomplete. However, it does provide an indication of the level of activity and the kinds of industries that are targeted for antidumping investigation.

As can be seen, the domestic U.S. steel and metals industry is most active in the use of antidumping laws. The steel industry is responsible for the launching of more antidumping investigation than any other industry. Russian and Ukrainian companies have been targeted because they are capable of producing low cost steel products. However, Russian and Ukrainian companies are not the only ones being targeted. Table 2 also lists other countries whose steel and metals industries have been the targets of antidumping investigations. The U.S. steel industry has a policy of targeting practically any country that sells steel or steel products in the United States.

Table 1. **Antidumping and Countervailing Duty Orders in Place in Russia and Ukraine as of February 4, 2004**

Country and Product	Order in Place Since	Country Total
Russia		7
Solid urea	1987	
Uranium	1992	
Ferrovanadium & nitrided vanadium	1995	
Carbon steel plate	1997	
Hot-rolled carbon steel flat products	1999	
Ammonium nitrate	2000	
Silicon metal	2003	
Ukraine		7
Solid urea	1987	
Carbon steel plate	1997	
Steel concrete reinforcing bar	2001	
Ammonium nitrate	2001	
Silicomanganese	2001	
Hot-rolled carbon steel flat products	2001	
Carbon steel wire rod	2002	
Total		14

Source: www.usitc.gov

Table 2. **Antidumping Reports Involving Russia and Ukraine 1995-2003**

Product	Countries Investigated	Date of Report
Cut-to-length Carbon Steel Plate (Review)	China, Russia, South Africa, Ukraine	Sept. 2003
Urea Ammonium Nitrate Solutions (Final)	Belarus, Lithuania, Russia, Ukraine	April 2003
Silicon Metal (Final)	Russia	March 2003
Certain Cold-rolled Steel Products (Final)	Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, Venezuela	Nov. 2002
Carbon and Certain Steel Alloy Rod (Final)	Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Turkey, Ukraine, Trinidad & Tobago	Oct. 2002
Ferrosilicon (Reconsideration) (Remand)	Brazil, China, Kazakhstan, Russia, Ukraine, Venezuela	Sept. 2002
Certain Structural Steel Beams (Final)	China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, Taiwan	June 2002
Oil Country Tubular Goods (Preliminary)	Austria, Brazil, China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, Venezuela	May 2002
Hot-Rolled Steel Products	China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, Ukraine	Nov. 2001
Certain Ammonium Nitrate	Ukraine	Aug. 2001
Ferrovanadium and Nitrided Vanadium (Review)	Russia	May 2001
Certain Steel Concrete Reinforcing Bars	Indonesia, Poland, Ukraine	May 2001
Silicomanganese (Review)	Brazil, China, Ukraine	Jan. 2001
Pure Magnesium	China, Israel, Russia	Dec. 2000
Certain Steel Concrete Reinforcing Bars (Preliminary)	Austria, Belarus, China, Indonesia, Japan, Korea, Latvia, Moldova, Poland, Russia, Ukraine, Venezuela	August 2000
Certain Ammonium Nitrate (Final)	Russia	August 2000
Uranium (Review)	Russia, Ukraine, Uzbekistan	August 2000
Certain Cold-Rolled Steel Products (Final)	Argentina, Brazil, Japan, Russia, South Africa, Thailand	March 2000
Solid Urea (Review)	Armenia, Belarus, Estonia, Lithuania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan	Oct. 1999
Ferrosilicon (Reconsideration)	Brazil, China, Kazakhstan, Russia, Ukraine, Venezuela	Aug. 1999
Certain Hot-Rolled Steel (Final)	Brazil, Russia	Aug. 1999
Titanium Sponge	Japan, Kazakhstan, Russia, Ukraine	Aug. 1998
Certain Carbon Steel Plate (Final)	China, Russia, South Africa, Ukraine	Dec. 1997
Cut-to-Length Carbon Steel Plate (Preliminary)	China, Russia, South Africa, Ukraine	Dec. 1996
Ferrovanadium and Nitrided Vanadium (Final)	Russia	June 1995
Magnesium (Final)	China, Russia, Ukraine	May 1995

Source: www.usitc.gov

The U.S. Steel Industry

The steel industry in the United States has a long history of being protected from foreign competition. Protection can be traced back to 1791 when Alexander Hamilton issued his Report on Manufactures, which advocated high tariffs on a wide range of American products. During the years shortly after the formation of the United States, arguments were made that domestic industries should be protected for awhile, until they could grow and become strong enough to compete against British, French and other European industries. There is a certain plausibility to this argument, which has been labeled the Infant Industry Argument. Just like an infant cannot compete against a steelworker in the marketplace, a newly born industry cannot be expected to compete against a more mature industry from another country. Even Adam Smith, the great advocate of free trade, allowed an exception for infant industries in The Wealth of Nations (1776).

However, there are several weaknesses with the infant industry argument. For one thing, it is a non sequitur to state that Industry X is new and weak; therefore it needs to be protected. The second clause does not follow logically from the first. Just because some domestic industry is new and weak does not mean that it needs to be protected. The infant banana industry in Alaska or Siberia may be weak, but the taxpayers and consumers who live in Alaska and Siberia should not be forced to subsidize the domestic banana industry until it can get on its feet. Perhaps Alaska and Siberia should not have a banana industry. Not every country needs to have a banana industry, especially if there is free trade, since they will be able to buy their bananas from countries that can raise bananas more efficiently.

The same can be said of the steel industry. If a country cannot produce steel that its own domestic consumers or other countries want at a price they are willing to pay, perhaps it is time to get out of the steel industry and into something else. It is just an example of David Ricardo's law of comparative advantage at work (1817). Adam Smith said basically the same thing in 1776 when he said people and countries should do what they do best and trade for everything else.

Another problem with the infant industry argument, aside from the fact that it is based on a non sequitur, is inefficient and is unfair to domestic taxpayers and consumers, is that such infants have a tendency never to grow up. They tend to remain infants for a long time, in constant and continual need of protection. The U.S. sugar industry is one such case in point. This infant industry has been protected since 1816 (Novack 1989), which allowed U.S. sugar producers to sell their product for as much as 21.5 cents a pound when the rest of the world was paying about 4 cents. The problem with protecting infant industries is that it is easier to start protecting them than to stop the protection. Politics being what they are, it is more economical and efficient for the companies that produce the protected product to lobby their legislature to ask for continued protection than it is to invest, retool and do what is necessary to make their industry competitive on international markets. It is a classic case of rent seeking behavior, which the Public Choice School of Economics has defined to mean seeking some favor or special privilege from government at the expense of the general public (Buchanan et al. 1980; Rowley et al. 1988; Tullock 1989; 1993).

The U.S. steel industry can no longer claim to be an infant industry. Even the most argent advocates of protection would not claim that it is. However, there is another argument they use for protection – the breathing room argument. This argument is a cousin of the infant industry argument, and the same criticisms that were made of the infant industry argument can also be made of the breathing room argument. This argument basically says that some domestic industry should be protected for some limited period of time, just long enough to give it some breathing room so that it can retool, restructure and do what needs to be done to compete in international markets.

Again, this argument is based on a non sequitur – Industry X will continue to be harmed, will decline or even go out of existence if it is not protected for a period long enough to get back on its feet; therefore, the government must step in and protect it. It is not logical to conclude that the government must protect some industry from harm or extinction because there are other options. The industry can be allowed to die, for example, just like someone who is being kept alive artificially by being placed on a respirator should be allowed to die by pulling the plug. Many, perhaps most of the companies that were listed on the Fortune 500 thirty years ago are no longer there, at least not under the same name. They have gone out of existence, merged or been replaced with newer, healthier companies that did a better job of serving consumer needs. Such change is part of the free enterprise system. If companies are allowed to succeed, they must also be allowed to shrink and even go out of existence if consumers cease to want their products. The resources that are being misallocated by being used to produce products consumers no longer want should be permitted to shift into areas where they can be used to make products that consumers do need and want. This process is what Joseph Schumpeter (1984) called creative destruction. In order for new industries to be born, old industries must be allowed to die.

Such a viewpoint may seem harsh, but actually it is less harsh than the other alternatives. If dying industries are kept alive artificially, new industries cannot come into existence because the resources that are being allocated to inefficient industries cannot be transferred to industries where they will be used more efficiently. Numerous studies have found that imposing some tariff, quota or other protective measure destroys more jobs than it saves, often by a ratio of 2 to 1 or 3 to 1. In other words, for every job saved in Industry X, two to three jobs are either destroyed or not permitted to come into existence in other industries. The "voluntary" restraint President Reagan imposed on foreign steel producers in 1984 was estimated to have saved

16,900 jobs in the steel industry but also destroyed 52,400 jobs in the industries that use steel, for a ratio of 3.1 jobs destroyed for each job saved (Denzau 1987).

Hufbauer et al (1986) did a number of studies that measured the cost of protectionism and also summarized many other studies on this point. Some of the studies they examined measured the cost of protection in terms of dollars per job saved. Benzenoid chemicals was one of the highest, with a cost of more than $1 million for each job saved. For carbon steel the cost was $750,000 per job saved. For specialty steel the cost was $1 million per job saved. Those are all annual costs, not total costs per job saved. The point is that it does not make sense to incur costs of $750,000 to $1 million or more each year to save one job. It would be far less costly to continue to pay the steelworkers or other affected workers their regular $40,000 or $60,000 salaries and let them stay at home, since nobody wants to buy the products they make. We are not advocating paying people not to work, but are merely pointing out that it would be a more efficient solution than imposing a tariff on the importation of some foreign product just to protect some domestic job that the market says should no longer exist.

A major study by the American Institute for International Steel (AIIS) (Barringer and Pierce 2000) document most of the major protectionist policies that the U.S. government has used to protect its steel industry over the last 30 years. This study estimates that the total cost to American consumers of protecting the steel industry from 1969 to 1999 was between $90 and $151 billion in 1999 constant dollars. The major protectionist measures during this time period consisted of:

! Voluntary Restraint Agreements 1969-1974;

! The Trigger Price Mechanism 1978-1982;

! Voluntary Restraint Agreements 1982-1992;

! Antidumping and Countervailing Duty Petitions 1992 - Present.

A study by the Consuming Industries Trade Action Coalition (CITAC) estimated that the present Bush tariff would save 8,900 jobs in the steel industry and destroy 74,500 jobs in other industries, which is more than 8 jobs lost for each job saved. The cost per job saved was estimated to be $451,500 (CITAC 2001; Francois and Baughman 2001).

The Public Choice School of Economics points out that special interests – protectionists in this case – have a built-in advantage because they stand to gain a lot if they can persuade the legislature to see things their way, but those who stand to lose – consumers of steel products in this case – stand to lose a little. Furthermore, many of the potential losers don't even realize that they stand to lose a little. As a result, the special interest – steel – is highly organized, whereas those who stand to lose – consumers – are unorganized. The result is that the special interests almost always win, in the sense that the legislature passes laws that help them at the expense of the general public.

There have been some counterbalancing interests in the last few decades that sometimes put a brake on special interest legislation. Destler and Odell (1987) point out several interesting cases where those who stand to lose as a result of special interest trade legislation band together to fight the special interests. American importers of foreign autos, for example, banded together to pressure Congress not to pass protectionist legislation that would raise the prices of the foreign autos they wanted to import. The U.S. auto industry lobbied Congress in an attempt to block legislation aimed at protecting the domestic steel industry, since automakers stand to lose if they have to pay more for steel, which is one of the main components of their autos. In the case of steel, the AIIS and CITAC are two such groups that attempt to counterbalance the influence of the steel industry. So far they have been unsuccessful, but that might change as the cost of protecting the steel industry becomes more apparent.

The Tariff on Steel

The Bush steel tariff started as a series of antidumping cases. Several months before Bush imposed his 30 percent tariff (Sanger 2002), the United States International Trade Commission (USITC) held that steel imports from a number of countries were injuring the domestic steel industry. Bush placed the blame on 50 years of foreign government intervention in the global steel market (Bush 2002). The Bush tariff was imposed to stem this surge of imports. The problem is that there has been no surge of imports to the United States. At least that is what the EU claims. Pascal Lamy, the EU trade commissioner points out that EU steel imports have risen by 18 percent since 1998 while U.S. imports of steel have actually declined by 33 percent during the same period (Associated Press, March 27, 2002). So if one were to buy into the argument that "temporary" tariffs are justified to prevent damage from a flood of imports, the EU would have a better case than the United States to justify its own imposition of tariffs, although an 18 percent increase over a 3 or 4 year period does not look like much of a flood. If economic growth averages 3 percent a year, the compounding effect over three or four years would almost completely offset the 18 percent increase in steel imports to the EU.

The “temporary” tariff that Bush imposed was scheduled to last for three years, according to a statement issued by the White House Press Secretary on March 5, 2002. However, the tariff was lifted before the three-year expiration date as a result of heavy criticism from the international community and intense lobbying on the part of several domestic industries in the United States that use steel. There is no doubt that the U.S. steel industry is hurting. About 30 percent of the industry, in terms of capacity, is in bankruptcy. The tariff was intended to give the industry some breathing room so that it could adjust and become more competitive (Zoellick). But the real reason for imposing the tariff was protectionism. President Bush used it to buy votes in the states that make steel.

Retaliatory Effects

The Bush tariff triggered instant retaliation. The day after the tariff was announced, Vladimir Putin announced that Russia would no longer allow U.S. chicken legs into the country (Wines 2002; Tavernise 2002). Officially, the decision to prevent the chicken legs from crossing the Russian border was because the chemicals American farmers use to fatten up their chickens might not be good for the health of the Russian people. But the fact that the announcement was made the very day after the Bush tariff was announced was no coincidence. Putin was sending a message to Washington that Bush could expect retaliation if he insisted in imposing tariffs on the importation of Russian steel. The chicken blockade is expected to cost American chicken farmers $600 million a year in lost sales (Tavernise 2002). That amounts to $3,000 for each steelworker, since the U.S. steel industry employs about 200,000 steelworkers. But Russia is expected to lose about $1.2 billion in lost steel sales to the United States over the next three years (Tavernise 2002), and that does not include the lost sales that will result if other countries raise their tariffs and keep out Russian steel.

It didn’t take the EU long to retaliate either, although a portion of its retaliation was labeled as a defensive measure rather than an offensive to punish the United States. The EU protective duties on steel range from 14.9 percent to 26 percent and are intended to protect it from an influx of steel from other countries estimated at perhaps 15 million tons, which amounts to more than 50 percent of its current imports. It fears that closing the U.S. market to imports would cause other steel producing countries to divert their sales to Europe (Reuters March 27, 2002). It is very likely that that would be the case, given the fact that the EU and the U.S. are the two largest markets for steel.

EU retaliation is not limited to raising its own tariffs on steel, however. WTO rules allow countries adversely affected by the U.S. tariff to impose tariffs of their own on U.S. products as a form of compensation, although it is difficult to see how EU consumers are being compensated if they have to pay an extra $2 billion or so for selected U.S. products as a result of the imposition by the EU of tariffs on citrus products, motorcycles, long grain brown rice, panty hose, tooth brushes, ballpoint pens and other items (Meller 2002). It is not by chance that the EU chose these particular products. It chose them because these products are made in states like Pennsylvania, Ohio, West Virginia, North Carolina, South Carolina, Georgia and Florida (Dunham 2002), which George Bush and the Republican Party need to carry in the November 2002 and 2004 elections. EU officials openly admit that their choices were intended to have maximum political impact. The case of Florida citrus products is especially interesting, since it was Florida that was responsible for George Bush’s election win in 2000, and it is also the state where George Bush’s brother is governor.

Russian and Ukrainian Cases

A number of Russian and Ukrainian companies and industries have been targeted in antidumping investigations in recent years. Steel and steel products is the most frequent group of products targeted, followed by chemicals.

Ferrovanadium and Nitrided Vanadium

This product bridges both the metals and chemical industries. It is an alloy of iron and vanadium. Its principal use is in the production of steel and iron. The original investigation was launched in June, 1995 as the result of a petition filed by the Ferroalloys Association Vanadium Committee, an ad hoc group of U.S. domestic producers.

That investigation found the targeted Russian companies to be guilty of dumping and imposed an antidumping margin of 108 percent (USITC, 1995). As a result of this margin, which acts basically the same as a tariff, Russian companies were no longer able to sell their product in the United States because adding the tariff to the price of the product priced them out of the market. It is an excellent, if all too frequent example of how antidumping laws may be used to prevent foreign competitors from selling their goods in domestic markets. The fact that actual dumping may not have actually occurred is irrelevant. As was mentioned previously, the Commerce Department can find dumping where no dumping actually occurred. The Russian companies were merely low cost producers.

Table 3 shows some sales statistics for this product between 1995 and 2000.

A review of an antidumping decision is often made after five years to determine whether the antidumping margin should remain in place. Such was the case for ferrovanadium and nitrided vanadium. The review (USITC, 2001a) determined that revocation of the antidumping order, which would result in allowing the Russian companies to sell their product in the United States, would lead to injury to the domestic industry. Thus, the antidumping margin was allowed to remain in place.

Such a decision is curious, yet all to frequent. The Russian companies continue to be precluded from selling in the domestic market merely because such sales, if permitted, would damage the domestic industry. In effect, they are being punished for a crime they have not yet committed. It is like saying that a bank robber who has served his time in prison should not be released merely because he might commit the crime again, except in this case, no crime has been committed. The Russian companies were merely selling their legal product at an agreeably low price to domestic customers who willingly purchased what the Russian companies were selling. Section 751(c) of the Tariff Act of 1930 permits such preventative measures to be taken. It is a regular occurrence. This Russian case is merely one of many examples of how this provision in the U.S. trade law is used to stifle competition.

The concept of injury takes on new meaning when applied to U.S. trade law. The general rule in legal philosophy is to structure the legal system in a way that prevents "illegal" injury from occurring while punishing illegal injury that has already occurred. Yet its application to trade law prevents consenting adults from entering into voluntary exchange. If such acts are illegal, it is only because the legal system makes them illegal. No one's rights are violated by engaging in such consensual activity. No one is unjustly harmed by such sales. If any harm is suffered it is not unjust harm because the domestic industry has no inherent claim on such sales.

Table 3. **Ferrovanadium and Nitrided Vanadium U.S. Imports from Russia 1995-2000**

Year	Quantity (1,000 pounds)	Value ($1,000)
1995	352	2,087
1996	155	1,520
1997	0	0
1998	0	0
1999	0	0
2000	0	0

Source: USITC, 2001a

If a mom and pop grocery store stands to be harmed if a supermarket opens across the street, it does not follow that the supermarket should be prevented from opening its doors for business. Although mom and pop stand to suffer losses, and even be forced out of business by the low cost competitor across the street, it does not follow that the legal system should protect them. Mom and pop are not entitled to the sales dollars (or Euros) of consumers who prefer to do business with someone else. It is merely economic democracy at work. Consumers vote with their dollars (or Euros) to purchase from the supermarket and not from mom and pop.

The same is true with domestic producers of ferrovanadium and nitrided vanadium. They have no inherent right to prevent willing consumers from doing business with someone else, whether that someone else is domestic or foreign. Preventing such sales from taking place is an abuse of the legal system. Yet it occurs because special interests have pressured the Congress of the United States and the legislatures of other countries to enact such special interest legislation.

In the ferrovanadium and nitrided vanadium case, the Commerce Commission found that price was a determining factor in consumers' purchasing decisions and that the Russian imports had suppressed and depressed prices in the domestic market considerably. The Russian companies were able to gain market share as a result of their low prices, at the expense of the domestic producers, which significantly and adversely impacted domestic industry indicators such as shipments, employment, sales revenue and market share (USITC, 2001a, p. 17). One might make the same charge against California companies selling their products in Florida, as is done regularly in the citrus industry, yet when the trade is confined to states within the United States, there seems to be nothing wrong with the practice. Free trade between states is seen as a good thing when both of those states are members of the United States, yet when one of the states is a foreign state, such trade is somehow seen as harmful. The fact that all trade is a positive-sum game is completely ignored by the bureaucrats and politicians who make and enforce such restrictive trade practices.

Certain Cold-Rolled Steel Products

The mother of all antidumping cases involving steel is the 2001 cold-rolled steel products case (USITC, 2001b, 2002a). This case made the first page of the financial press in the United States and throughout the world mostly because of its outrageousness. The U.S. steel industry has a regular practice of using the antidumping laws to target foreign competitors, but this case was special because it targeted steel producers in 20 countries, practically every country that sells steel in the United States, a mere year after it had lost a similar, if smaller case, involving some of those same countries (USITC 2000a).

Table 4. **Antidumping Margins Assessed for Cold-Rolled Steel (Period of Investigation July 1, 2000 to June 30, 2001)**

Country	Weighted-Average Margins (%)
Argentina	27.18
Belgium	11.56
Brazil	33.88
China	105.35
France	11.59
Germany	12.56
Korea	8.90
The Netherlands	6.28
New Zealand	21.72
Russia	137.33
South Africa	41.90
Spain	46.20
Taiwan	4.02
Turkey	4.32
Venezuela	53.90

Source: USITC 2002a.

One would think that the worldwide steel industry would be in dire shape if it were true that 20 countries had to sell their product below cost in the United States. Certainly if that were true, the industry would be in a dire situation. Any industry that is forced to sell its product below cost is unlikely to stay in business for long. But it is possible to be accused of dumping, and even be convicted of dumping, even if a product is sold far above cost because of the way cost is computed. Furthermore, if a targeted company fails to provide 100 percent of the information the Commerce Department demands, which is quite often the case, since so much is demanded in such a short period of time, the company can be found guilty of dumping because the Commerce Department will use data provided by the domestic competitors that asked for the investigation to be made. Such information is almost always biased against the targeted companies (McGee, 1994; Bovard, 1991).

This case, which was eventually thrown out because it was so weak, and was actually an embarrassment even to the steel industry, assessed an antidumping margin of 137.33 percent against the Russian steel industry. Luckily for Russia and the other countries under investigation, the USITC determined that the U.S. steel industry was not materially injured or threatened with material injury as a result of the steel imports, which means that the antidumping margins were not added to the price of foreign steel. Table 4 shows the antidumping margins that were computed for the various countries before the case was dropped. As can be seen, the margin for Russia was the highest margin assessed.

Ferrosilicon

In August, 1999 the USITC determined that the U.S. ferrosilicon industry was not materially injured or threatened with material injury from ferrosilicon imports (USITC 2003a), although it made positive determinations in 1993 and 1994. The case was remanded in 2002 (USITC 2002b) and again in 2003 (USITC 2003a) because of the unwillingness of the domestic industry to accept defeat. In the Russian case, only four quarterly price comparisons were made. Those comparisons found that the Russian companies undersold the U.S. companies each time, by margins ranging from 2.0 percent to 6.1 percent.

Only eight price comparisons were possible between domestic and Ukrainian imported ferrosilicon. In those comparisons, the Ukrainian company undersold the U.S. company six times, by margins ranging from 0.1 to 5.5 percent. In the other two cases, the Ukrainian company sold for prices that were between 2.8 and 12.2 percent higher than the domestic firm (USITC 2002b). If one were to take the mid-point for the below average sales and the mid-point for the above average sales and compute a weighted-average for all the sales, one could easily conclude that the Ukrainian sales were actually at about the same price as the domestic U.S. company sales.

For example, let's say that the average U.S. company sales price was $100 and that 8 sales were made by the Ukrainian companies. The six below average price sales were made for an average of 2.8% below average [(0.1 + 5.5)/2 = 2.8%], or $97.20 [$100 (100% – 2.8%)]. The two above average price sales were made at an average of 7.5% above average [(2.8 + 12.2)/2 = 7.5%], or $107.50 [$100 (100% + 7.5%)]. Total sales would be $798.20 [6($97.20) + 2($107.50)]. The average Ukrainian selling price would be $99.775 [$798.20/8], which is less than 1/4th of 1 percent below the average U.S. company sales price, a difference that is hardly worth going to court over, unless the reason for going to court was harassment rather than to obtain justice.

Concluding Comments

Russian and Ukrainian companies have been targeted by U.S. producers that feel threatened by competition. The main targets have been various segments of the steel industry, and chemicals. The main reason for launching these antidumping investigations is because of blatant protectionism. U.S. companies ask the Commerce Department to launch an investigation because they know that doing so will either force the Russian and Ukrainian companies to raise their prices to uncompetitive levels or force them out of the U.S. market entirely.

One study (McGee & Preobragenskaya, 2004) found that the mere initiation of an antidumping investigation caused the targeted Russian company to lose millions of dollars in sales during the investigation period, even though the company was later found not guilty of dumping. With this kind of payoff, it is a wonder that even more antidumping investigations are not launched, since the cost to the domestic company is minimal. It is a very effective way to prevent foreign goods from crossing the border.

A recent study by Lindsey and Ikenson (2003) offered 20 specific proposals to reform the World Trade Organization's Antidumping Agreement. However, reform is not enough. Antidumping laws are structurally deficient. There is no way to reform them so that abuses cannot occur. They are inherently protectionist. There is nothing wrong with allowing consenting adults, or the companies they represent, to trade what they have for what they want, even if they are selling below cost. No one's rights are violated by such sales, and all such sales are a positive-sum game, since both sides benefit. Utilitarian ethics and rights-based (entitlement theory) ethics would both hold that sales at any agreed upon price are ethical. What is unethical is preventing such sales, since prevention violated both utilitarian ethics and entitlement theory (Nozick, 1974) ethics. Reform of the antidumping laws is not sufficient. Repeal is called for, the sooner the better.

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