The WTO, Safeguards, Antidumping

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UR Accomplishments

• Reduction in tariffs, VERs
• Return of textiles and apparel to GATT
• Strengthen IPR and related trade flows
• Extend GATT rules to services
• Liberalize TRIMs
• Further open government purchases
• Reduce inefficiencies of safeguards, etc.
How the WTO differs from the GATT

• The GATT was a set of rules. The WTO is a permanent institution with its own secretariat.

• GATT was applied on a provisional basis. The WTO commitments are permanent.

• The WTO is a “single undertaking.”

• WTO rules are multilateral.

• The WTO dispute settlement procedure is automatic and less susceptible to blocks.
The WTO as the regulatory framework for trade

- Refer to handout from Deardorff.
- Communication
- Constraints
- Exceptions
- Dispute Settlement
The WTO Dispute Settlement Procedure

- Consultation
- Panel Recommendation
- Appellate Body
- Remedy
  - Implementation
  - Compensation
  - Retaliation
General Agreement on Trade in Services

• GATS – commits signatories to a set of general principles that include MFN treatment, transparency, and progressive liberalization.

• Old barriers not removed; promise not to create new ones. Lack of significant liberalization in financial services, transport, and telecoms

• Sets stage for further negotiation.
Trade Related Intellectual Property (TRIPS)

- All GATT members required to provide copyright, trademark, and patent protection for a specific # of years.
- Timetable for implementation.
- Enforcement must be through both civil and criminal procedures.
TRIMS and Production Subsidies

- Negotiations aimed at eliminating trading requirements not imposed on foreign enterprises that are not also imposed on domestic firms.
- Barriers still remain for foreign investment.
- Specific subsidies not allowed.
Antidumping and the GATT

• Allowable under the GATT; used only seldomly when included.
• By 1990s, antidumping had become the developed countries’ major safeguard instrument.
• Since the WTO agreement, it has gained popularity with developing countries.
Why did other safeguard measures fall into disuse?

- Renegotiation (Article XXVIII) – used in conjunction with emergency actions. Complex procedure requiring compensation
- Emergency Actions (Article XIX) – could be used without consultation. Compensation negotiated later, often as renegotiation of obligations
- Use of these articles waned by the 1960s.
Rise of the VER

• Big problems, such as textiles and apparel autos, steel, handled using VERS, even though most technically GATT illegal.

• VERs did involve negotiation, did provide compensation, were discriminatory and thus favored traditional suppliers, often leveled at small, weak countries.

• BUT, they were costly and destructive to the GATT since not sanctioned.
Fall of the VER

• The Uruguay Round agreement explicitly bans further use of VERs
• Requires elimination of all such measures not in place; they are replaced by tariffs
• UR also placed disciplines on safeguard actions – no compensation or retaliation in first 3 years, but progressive liberalization and phase out required.
Why was antidumping embraced?

- Particular exporters could be singled out.
- The action is unilateral – no compensation or renegotiation follows.
- In national practice, weak injury test.
- Rhetoric of unfairness builds support.
- Investigation alone curbs imports.
- No rules against double jeopardy.
What’s the problem with antidumping?

- Dumping is mostly a fiction – limited economic rationale for long run injury.
- Antidumping is protection, with the associated inter-country and intra-country transfers and deadweight losses.
- Antidumping is now used by all countries and impedes adjustment to changing comparative advantage.
Who uses antidumping?

- See Finger, Ng, Wangchuk
- The EU and USA have initiated largest number of cases in absolute terms.
- But these regions are also the largest importers.
- Looking at cases per $ of imports, the US is one of the least intensive users. Japan has never used antidumping.
Developing Countries Use Antidumping Intensely

• The most intense users are developing countries.
• Brazil’s intensity is 5 times the US; India’s is 7 times, South Africa and Argentina are 20 times the US figure.
• Most developed countries are more intense users than the US
Who is antidumping used against?

- Transition economies are the most targeted.
- Developed economies are the least targeted; developing economies are 3 times more intensely targeted.
- Developed most intensely target transition and China; developing target same; transition target China intensely
Why is antidumping flawed?

• Administrative methodology rigged in favor of finding dumping; methods of calculating cost plus profit biased by procedure.

• Social justification is anti-trust – keep foreign firms from unfairly gaining monopoly. Procedure has nothing to do with finding “home sanctuaries.” Virtually all cases based on constructed home price.

• The outcome is anti-competitive; and irony
Why is current situation harmful?

- Antidumping is GATT-sanctioned protection.
- It is discriminatory and involves no compensation or renegotiation.
- It favors producers over downstream users and consumers.
Can antidumping be improved?

- UR showed how hard it will be to reform antidumping – US and EU opposed reform.
- Burgeoning use by developing countries may change the balance, but now transition economies most targeted (and least powerful in pushing for change).
- What should a “pressure valve” look like?
Is the WTO useless then?

• A system of rules should supercede a system based on power. Does the WTO do this?
• There are some constraints on antidumping behavior.
• Busch, Raciborski, and Reinhardt argue dispute settlement raises the costs of AD.
• Comparing initiated and never initiated US AD cases, they find that the US is less likely to impose duties against WTO members.
Antidumping Discipline

• Virtually no discipline was added by the Uruguay Round. Each country has a procedure for calculating a dumping margin.

• Because the US used antidumping duties in early years of the GATT and because it resists constraints on its domestic laws, anti-dumping as a means to restrict trade is associated with US policy.