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Zeroing In: Antidumping's Flawed Methodology under Fire

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Few trade policies engender more bitterness and international ill will than the U.S. antidumping law. For many years, that law has been the weapon of choice among domestic producers seeking to quell import competition. While defenders of the antidumping regime point to its use as a means for redress of unfair trade, scrutiny of the law in practice exposes the fallacy—even irony—of that justification.

In reality, administration of the antidumping law is entirely divorced from the supposed theoretical justifications articulated by its defenders. Furthermore, it is fraught with methodological distortions that routinely exaggerate and even fabricate dumping margins. The result is to cripple normal, healthy import competition and injure downstream U.S. industries and consumers.¹

Possibly the most egregious distortion is the practice known as “zeroing.” Its application is a significant cause of the systemic overestimation of dumping margins and subsequent application of inflated antidumping duties.

To appreciate the impact of zeroing, it is important to understand how the U.S. Department of Commerce calculates dumping margins.² In a typical antidumping investigation, DOC calculates weighted-average net prices for each product sold in the United States. It then compares each of those U.S. prices to the product's normal value, which can be calculated a number of different ways but is ideally the weighted-average net price of the most similar product sold in the home market.³ Zeroing is introduced after the comparison of the U.S. price and normal value.

When normal value is higher than the U.S. price, the difference is treated as the dumping amount for that sale or that comparison. When, however, the U.S. price is higher, the dumping amount is set to zero rather than its calculated negative value. All dumping amounts are then added and divided by the aggregate export sales amount to yield the company's overall dumping margin. Zeroing thus eliminates “negative dumping margins” from the dumping calculation. In so doing, it can create dumping margins out of thin air.

In Table 1 comparisons of the average prices of five products in both markets are presented. Each product is sold at identical net prices in both markets with the exception of Product 1 and Product 5. Product 1 is sold for \$0.50 less in the home market than in the U.S. market, and Product 5 is sold for \$0.50 more. The unit margin is equal to the amount of dumping calculated for each unique comparison. The arithmetic sum of the individual dumping margins (total margin) is zero because the price differences for products 1 and 5 cancel each other out. But surprise: This is not how dumping is calculated by DOC.

Rather, the negative dumping margin on Product 1 is set equal to zero and is thus denied any impact on the overall margin. Thus, by engaging in zeroing in this example, the DOC would find a dumping margin of 10 percent (the sum of the total PUDD⁴ divided by the sum of the total value) despite the lack of any difference in overall price levels between the two markets.

Table 1
Zeroing

Product Code	Net U.S. Price	Net H.M.* Price	Unit Margin	U.S. Quantity	Total Margin	Total PUDD	Total Value
1	\$1.00	\$0.50	-\$0.50	100	-\$50	\$0	\$100
2	\$1.00	\$1.00	\$0.00	100	\$0	\$0	\$100
3	\$1.00	\$1.00	\$0.00	100	\$0	\$0	\$100
4	\$1.00	\$1.00	\$0.00	100	\$0	\$0	\$100
5	\$1.00	\$1.50	\$0.50	100	\$50	\$50	\$100
Total Margin					\$0		
Total PUDD						\$50	
Total Value							\$500
Percent Margin							10%

* Home Market

Table 2
Percentage Changes to Calculated Dumping Margins
in Actual DOC Determinations When Refraining from
Zeroing

Country	Case	Company	Proceeding	Zeroing
Moldova	Concrete Reinforcing Bars	1	Investigation	0.00%
Japan	Cut-to-Length Plate	1	Investigation	-12.24%
Taiwan	DRAMs	1	Investigation	-1.07%
Taiwan	DRAMs	2	Investigation	-0.07%
Taiwan	DRAMs	3	Investigation	-68.45%
Japan	Hot-Rolled Steel	1	Investigation	-0.18%
Taiwan	Polyester Staple Fiber	1	Investigation	-13.99%
Taiwan	Polyester Staple Fiber	2	Investigation	-8.15%
Indonesia	Preserved Mushrooms	1	Review	-411.82%
Germany	Stainless Steel Bar	1	Investigation	-29.74%
Germany	Stainless Steel Bar	2	Investigation	-3.31%
Taiwan	Stainless Steel Plate in Coils	1	Investigation	-2.60%
Taiwan	Stainless Steel Round Wire	1	Investigation	-96.84%
Japan	Stainless Steel Sheet & Strip	1	Review	-153.13%
Taiwan	SRAMs	1	Investigation	-296.83%
India	Steel Wire Rope	1	Investigation	-48.32%
Japan	Tapered Roller Bearings—Large	1	Review	-231.23%
Japan	Tapered Roller Bearings—Small	1	Review	-177.47%
Overall Impact				-86.41%

Consider the results of 18 actual U.S. dumping determinations in Table 2. Using actual case data and the DOC's dumping calculation computer programs, it was possible to calculate the actual effects of zeroing in these particular cases. In 17 of the 18 determinations, the dumping margin was inflated by zeroing. In 5 of the cases, the overall dumping margin would have been negative. On average, the dumping margins in the 17 cases would have been 86.41 percent lower if zeroing had not been employed.

Certainly, the impact of zeroing varies from case to case. If every comparison generates a positive dumping margin, then the prohibition of zeroing will have no impact. But if there are many comparisons generating negative margins, or if there are only a few generating large negative margins, the prohibition of zeroing can have a very substantial impact on the amount of antidumping duties ultimately applied.

On April 13, 2004, a WTO dispute panel ruled against the U.S. practice of zeroing in a case brought by Canada involving softwood lumber. The panel found that "the United States has violated Article 2.4.2 of the *AD Agreement* by not taking into account all comparable export transactions when DOC calculated the overall margin of dumping as Article 2.4.2 requires that the existence of margins of dumping has to be established for softwood lumber on the basis of a compari-

son of the weighted-average-normal value with the weighted average of prices of all comparable export transactions, that is, for all transactions involving all types of products under investigation."⁵ By setting equal to zero the dumping margins of those comparisons where the average export price exceeded the average normal value, the DOC failed to take into account all comparable export transactions.

The WTO's ruling in the lumber case is not surprising since the practice of zeroing had already been found to violate the WTO Antidumping Agreement in a previous case brought by India against the European Union involving bed linen. In that case, the WTO Appellate Body ruled in March 2001 that the EU's practice was WTO-inconsistent for the same reason.⁶ The European Union has since changed its practice as a consequence of the Appellate Body's ruling, but loopholes remain.⁷

The U.S. zeroing methodology is also under WTO attack from another quarter. In February 2004 the European Union requested the formation of a WTO panel to hear its complaint about 31 different U.S. antidumping cases in which zeroing had been used. The EU seems to be approaching this complaint particularly fastidiously, apparently—and rightly—concerned that the United States will exercise every contingency available to retard antidumping reform. Presumably, the inclusion of 31 different cases in the complaint is designed to nip in the bud any attempts by the United States to respond to WTO indictments about zeroing on a case-by-case basis.

Importantly, the 31 cases include antidumping investigations as well as administrative reviews of existing antidumping orders. The methodologies for calculating dumping are slightly different for each type of proceeding, presenting a potential loophole if the WTO were to rule on only one type or the other. It is important that the WTO issue an unambiguous decision that the practice of zeroing violates the Antidumping Agreement regardless of whether individual-to-individual, individual-to-average, or average-to-average comparisons are used to calculate dumping.

While the United States is likely to appeal the panel's decision in the Canadian lumber case, it is likely that the Appellate Body will come to the same conclusion that the panel did, just as the Appellate Body did in the case involving Indian bed linens. When it does—or if there is no appeal—the United States should seek to bring its antidumping calculation methodology into conformity with the Antidumping Agreement in an expeditious manner.

The growing list of adverse WTO rulings with which the United States has failed to comply is serving to undermine the integrity of the dispute settlement system. Congressional resistance to repealing or revising the Continued Dumping and Subsidy Offset Act (or Byrd Amendment), which was ruled a violation of both the Antidumping Agreement and the Agreement on Subsidies and Countervailing Measures by a panel and the Appellate Body, is fostering doubts among U.S. trade partners about U.S. commitment to the WTO.⁸ Congress's failure to act on the Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) issue, which was determined to constitute illegal export subsidies by two

panels and upheld twice by the Appellate Body, has led to the European Union's imposing retaliatory tariffs on U.S. exporters. Failure to repeal the Antidumping Act of 1916—and the decision of a U.S. court to award damages under that statute even after it was deemed a violation of the Antidumping Agreement—threatens further damage to the integrity of the dispute settlement process.

Although the United States pushed hard in the Uruguay Round for the creation of a dispute settlement body that would render determinations that would be respected, ironically it is the United States that has been especially dismissive of its findings. The unfortunate implications of this obstructionism are clear. As U.S. Trade Representative Robert Zoellick explained to a congressional subcommittee last month, “Our ability to demand that others follow the trade rules is strengthened when the United States addresses cases we lose.”⁹

1. For a comprehensive review of many of the glaring flaws of antidumping methodology and a set of related reform proposals, see Brink Lindsey and Dan Ikenson, “Reforming the Antidumping Agreement: A Road Map for WTO Negotiations,” Cato Trade Policy Analysis no. 21, December 11, 2002. Much of the discussion in this bulletin was culled from that report. See also Brink Lindsey and Daniel J. Ikenson, *Antidumping Exposed: The Devilish Details of Unfair Trade Law* (Washington, D.C.: Cato Institute, 2003).

2. For an in-depth explanation of how antidumping calculations are performed, see Brink Lindsey and Dan Ikenson, “Antidumping 101: The Devilish Details of ‘Unfair Trade’ Law,” Cato Trade Policy Analysis no. 20, November 26, 2002. See also Lindsey and Ikenson, *Antidumping Exposed*.

3. The average normal value is often based on a subset of home

market sales: those sold at prices above the average cost of production. Alternatively, it can be based on the cost of production plus allowances for expenses and profit, or on prices in a third-country market.

4. PUDD is a DOC acronym for Potentially Uncollected Dumping Duties.

5. Report of the Panel on *United States—Final Dumping Determination on Softwood Lumber from Canada*, WT/DS264, April 13, 2004, p. 128.

6. Report of the Appellate Body on *European Communities—Antidumping Duties on Imports of Cotton-Type Bed Linen from India*, WT/DS141/AB/R, March 1, 2001.

7. In the *EU-Bed Linen* case, the Appellate Body concluded that zeroing is WTO-inconsistent because it prevents true average-to-average comparisons as called for by Article 2.4.2 of the Antidumping Agreement. This reasoning leaves open the possibility that zeroing may be permissible when dumping is calculated another way. Indeed, since the agreement explicitly allows individual-to-average comparisons under certain circumstances, and since those comparisons would yield exactly the same results as average-to-average comparisons unless zeroing is employed for the former, there is a plausible argument that zeroing is implicitly permitted under current WTO rules whenever individual-to-average comparisons are allowed. Thus, zeroing may be consistent with Article 2.4.2 as currently worded in targeted dumping cases. That is the EU's position at present.

8. See Dan Ikenson, “‘Byrdening’ Relations: U.S. Trade Policies Continue to Flout the Rules,” Cato Free Trade Bulletin no. 5, January 13, 2004.

9. Statement of Robert B. Zoellick, U.S. Trade Representative, before the Committee on Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies of the United States House of Representatives, March 25, 2004.