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Poster Child for Reform: The Antidumping Case on Bedroom Furniture from China

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Last October, an association of U.S. manufacturers of wooden bedroom furniture and some unions representing workers in the industry filed an antidumping petition with the U.S. International Trade Commission and the U.S. Department of Commerce seeking relief from injury allegedly caused by unfairly priced import competition from China.

After an extended evaluation as to whether there was sufficient support for the petition within the domestic industry, an investigation into the allegations was initiated in December 2003. In January 2004, the ITC rendered a preliminary determination that there is a reasonable indication that less-than-fair-value imports from China are causing material injury to the domestic industry. The DOC is expected to announce its preliminary findings regarding the levels of dumping and the application of antidumping duties by June 17, 2004.

Whether the DOC will calculate affirmative antidumping duties is not much of a mystery. It almost always does—particularly in cases involving China, where it utilizes a calculation methodology that has no foundation in logic or fairness. What remains a mystery is whether policymakers will continue to sit idly by as the antidumping law is misused once again to impose trade restrictions under false pretenses.

The case of *Wooden Bedroom Furniture from China* has nothing to do with unfair trade and is a perfect example of the need for antidumping reform. The filing of this case was a tactical maneuver by one group of domestic producers that seeks to exploit the gaping loopholes of the antidumping law to get a leg up on its domestic competition. Domestic producers realize that the only way to compete and offer their customers variety is to source at least some production from abroad. Instead of preserving or returning domestic jobs (which is the public justification for the petition) import restrictions will cause a shift in sourcing from China to places like the Philippines, Indonesia, Brazil, and Vietnam—places from which many of the petitioners have begun or are poised to begin importing themselves.

This case demonstrates the ease of access to a commercially disruptive weapon that is presumed naively to be reserved for cases of unfair trade. In reality, the antidumping law as written and applied is incapable of identifying unfair trade and is used with increasing frequency to hamper legitimate competition, both foreign and domestic. The unfortunate end result is a greater cost burden for import-using industries and higher prices for consumers.

An Industry Divided

From the outset, the furniture case has involved extraordinary circumstances. Domestic furniture producers were closely split on the issue of bringing and supporting the initiation of this case. The law requires that the petition be filed on behalf of the domestic industry, which means that domestic producers or workers who support the petition must account for at least 25 percent of domestic production, and they must account for more than 50 percent of the production of all those expressing support for or opposition to the petition. In this case, the 25 percent threshold was met, but the 50 percent threshold was not. Under the law, the DOC can poll the industry to gauge whether sufficient support exists—presumably by attempting to ascertain the positions of those producers and workers who had not registered an opinion one way or the other.

After polling and reviewing the data, the DOC concluded that producers supporting the petition accounted for more than 57 percent of the value of production by that portion of the industry expressing support for, or opposition to, the petition. Hence, industry support requirements were met and the case was initiated.

One can only wonder how much influence the Byrd Amendment and its potential to reward only supporters of the petition affected the level of industry support.¹ Quite conceivably, if the prospect of Byrd Amendment money persuaded even one of the estimated 125 domestic producers of wooden bedroom furniture to support the petition, the provision's

existence—despite its being ruled a violation of WTO rules—might have tipped the balance in favor of initiating this case. This situation might provide one possible basis for a WTO challenge should definitive duties be imposed eventually.

Irrespective of the influence of the Byrd Amendment, since initiation, Hooker Furniture, an original supporter of the petition, changed its position of support to neutral. Under the law, however, there is no revisiting the question of industry support once a case has been initiated. Whether the value of Hooker's sales was significant enough to have prevented initiation had it been neutral at the outset is unknown, but the evidence is compelling that the domestic industry is deeply divided on this case.

Underlying Market Distortions

Defenders of the antidumping status quo argue that the law is necessary to restore a "level playing field" in cases where foreign producers have an unfair competitive advantage as a result of some market-distorting policy or policies of their government. High tariffs or other trade barriers, regulations that restrict competition, nonexistent or inadequate regulations to punish anti-competitive behavior, price controls, and other forms of intervention are often identified as the types of market-distorting policies that could give rise to dumping. By operating in a protected or sanctuary market, foreign producers can reap supernormal profits on their home market sales and then use the proceeds to cross-subsidize low-priced export sales.

But even if imposing duties is a proper response to this type of foreign market distortion, serious problems remain. Most fundamentally, antidumping petitions are not even required to contain allegations of the underlying market distortions the sought remedy is intended to address. Likewise, the administering authorities never even investigate—much less confirm—the existence of any market-distorting policies that could give rise to dumping. In other words, the existence of such policies (i.e., the predominant justification for the antidumping law) is simply assumed by evidence of price discrimination or sales below cost.² As a result, the antidumping law usually misses its target: companies engaging in normal commercial conduct are penalized for selling products at different prices or at prices below the cost of production even though such pricing strategies are commonplace, rational, often profit-maximizing, and perfectly legitimate in a purely domestic context.³

The furniture case has absolutely nothing to do with market-distorting policies or any competitive advantages they could bestow on foreign producers. It is simply a complaint about the legitimate advantages of producing wooden bedroom furniture in China by some U.S. producers who have been less successful in capitalizing on those advantages. Consider the dubious logic of the petitioners' own argument for antidumping relief:

A recent article on a Chinese industry website, China International Furniture Network, observed that the most important factor explaining China's rise in the world furniture market is that Chinese furniture is "of

high quality and low price." Interestingly, in August of this year, when the press began to report that an antidumping petition might be filed against imports of wooden bedroom furniture from China, Jia Qingwen, the Director of the China National Furniture Association, acknowledged that these products are being sold at low prices, stating: "Chinese exporters can afford (to sell) at low prices because of the low production costs in China. . . ." Accordingly, there is every indication that the unfair and declining prices of subject imports will continue to encourage demand for further subject imports in the near future.⁴

How do you get from high quality and low production costs to unfair prices? This non sequitur reflects the petitioners' understanding that there are no serious evidentiary standards to which their argument must be held. Since when are low prices automatically reflective of underlying market distortions? Why are low prices unfair? The fact is that wage rates in China are much lower than they are in the United States—hardly breaking news—and as a result wooden bedroom furniture production costs, which involve highly labor-intensive hand carving and inlaying, are dramatically lower there. This fact was recognized and acted upon several years ago when U.S. producers themselves began sourcing some of their product lines from China.

Injury Causation—The Full Picture

The petitioners' argument that the U.S. furniture industry is being hurt by Chinese imports is similarly suspect. In the 1990s, U.S. producers began to supplement their domestic production with furniture made in China. The import surge from China did not begin until years after U.S. producers began to cultivate the Chinese industry.

Consider the experience of Vaughan-Bassett Furniture Company, one of the largest U.S. producers and a petitioner in this case. In the late 1990s Vaughan-Bassett invited one of the largest Chinese producers, Lacquer Craft, to its factory to videotape production of bedroom furniture so that it could produce bedroom furniture in China for Vaughan-Bassett to import and resell. According to testimony before the ITC, U.S. producers turned to China to "supplement their product line because they had ideas, they had designs, they were the professionals in our industry, and they knew after traveling to China and seeing the infrastructure there that they could make certain bedrooms in China, bring it here, mark it up 30 to 40 percent to a retailer and still sell it for less than they could have made it for."⁵

Some producers invested directly in Chinese manufacturing facilities, while others simply imported from unrelated Chinese producers. U.S. retailers soon caught on, recognizing the many benefits of purchasing from China. They could cut out the middlemen (U.S. producers) who were simply importing, marking up, and profiting; they could produce a greater variety of designs (including hand carvings and inlays) that are cost-prohibitive in the United States; they could respond to high levels of defects in U.S. production by switching to alternatives; and they could have custom

designs mass-produced and labeled under their own brand names.

While imports of wooden bedroom furniture from China have increased considerably over the past few years, domestic producers (including many of the companies that brought or at least supported the antidumping petition) have played a major role in that increase. In 2000, 6 percent of domestic producers' U.S. shipments were sourced from China. By 2002, that figure increased to 19.6 percent, and through the first half of 2003, that figure stood at 26.6 percent.⁶ According to the ITC's own preliminary report in this case:

As an initial matter, we note that the record indicates it has become common practice for members of the domestic industry to import the subject merchandise from China as a means of supplementing their domestic production in the market place. For example, the record shows that 20 of the 40 responding domestic producers imported Chinese merchandise during the period and that the 12 largest domestic producers of wooden bedroom furniture all imported reasonably substantial and increasing volumes of merchandise from China during the period of investigation. In fact, the *** companies within the petitioning group all have imported increasing volumes of subject merchandise from China during the period of investigation.⁷

The essence of this case, then, is well summarized by representatives of Furniture Brands International, Inc., the largest U.S. producer and an opponent of the petition. This case boils down to "a request by domestic producers who are significant importers of the subject merchandise to impose duties on imports that they have voluntarily made on the ground that their very own actions have caused them injury."⁸

Are petitioners really calling on the federal government to stop them before they import again? The actual story looks more complicated. Evidence presented during the ITC proceeding indicates that certain petitioners have begun or are poised to begin importing from alternate sources should antidumping duties be imposed on Chinese furniture. The ITC preliminary report confirms this trend is likely underway:

U.S. imports of wooden bedroom furniture from Indonesia, Brazil, Malaysia, and Thailand, the fifth, sixth, eighth, and tenth respective largest foreign country suppliers of wooden bedroom furniture to the United States, increased by a total of \$100.4 million during 2000–02 and by another \$26.7 million in January–June 2003 from the same period in 2002. Although still a small supplier of wooden bedroom furniture to the U.S. market, U.S. imports of these products from Vietnam increased by a total of \$8.5 million during 2000–02 and by another \$11.6 million in January–June 2003 from the same period in 2002.⁹

A brief submitted to the ITC by the Furniture Retailers Group indicated that petitioners "have been busy helping to set up operations in numerous third countries, such as

Indonesia and Vietnam, where costs are lower than in China. In fact, this week representatives of Vaughan-Bassett are in Vietnam meeting with Vietnamese furniture companies."¹⁰ The brief went on to question why the petition named only China and not any of the other low-price third-countries since source-shifting is a common response to country-specific antidumping duties. The answer, of course, was implied.

Imposing restrictions on imports of wooden bedroom furniture from China would amount to nothing more than picking winners and losers. Those who have invested in Chinese facilities and those who have developed relationships and nurtured their Chinese supply chains successfully will effectively be penalized for their success. Those whose business models were less successful and who have begun cultivating relationships with suppliers in other countries will be granted a head start in the inevitable process of foreign source-shifting. Whatever happens, production is highly unlikely to return to the United States.

Conclusion

This case is a perfect example of how porous antidumping rules are abused for commercial gain. The evidentiary burden for proving dumping is so minimal that petitions can cite high quality and low production costs as evidence of unfair trade. Further, they can cite their own decisions to source from China as evidence of injury to themselves. The existence of the Byrd Amendment, which compensates petitioners and supporters of petitions, only tilts the equation further in favor of using trade remedies to gain a commercial advantage. In the words of one of the respondents in this case, the U.S. trade laws "are not intended to protect U.S. producers from the folly of their own failed business plans."¹¹ Perhaps not, but that is how they operate in practice.

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1. For a detailed discussion of the Byrd Amendment, see Dan Ikenson, "'Byrdening' Relations: U.S. Trade Policies Continue to Flout the Rules," *Cato Free Trade Bulletin* no. 5, January 13, 2004.
 2. In Chinese (or other "non-market economy") cases, there isn't even a basis for this presumption since home market prices are ignored completely and instead represented by surrogate values based on input prices from different countries.
 3. For greater detail concerning the failure of antidumping practice to live up to the justifications of its supporters, 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. See also Brink Lindsey and Daniel J. Ikenson, *Antidumping Exposed: The Devilish Details of Unfair Trade Law* (Washington: Cato Institute, 2003).
 4. American Furniture Manufacturers Committee for Legal Trade, Petition for the Imposition of Antidumping Duties against Wooden Bedroom Furniture from China to the U.S. International Trade Commission, October 31, 2003, p. 35.
 5. Jeffrey Seaman, CEO, Rooms to Go, Testimony before the U.S. International Trade Commission in the Matter of Wooden Bedroom Furniture from China, Preliminary Conference Report, November 21, 2003, p. 149.

6. U.S. International Trade Commission, Wooden Bedroom Furniture from China, Investigation 731-TA-1058 (Preliminary), Publication no. 3667, January 2004, Table IV-2.
7. ITC Preliminary Report, p. 11.
8. Furniture Brands International, Post-Conference Brief before the U.S. International Trade Commission, December 4, 2003, p. 2.
9. ITC Preliminary Report, p. II-11.
10. Furniture Retailers Group, Post-Conference Brief before the U.S. International Trade Commission, December 4, 2003, p. 13.
11. Furniture Brands International, p. 11.