



Coming Home to Roost Proliferating Antidumping Laws and the Growing Threat to U.S. Exports

by **Brink Lindsey and Dan Ikenson**

Executive Summary

For decades, the U.S. antidumping law has been abused by domestic industries seeking protection from foreign competition. Recently, many other countries have begun to follow the bad U.S. example, and American exports are starting to pay the price.

During the 1990s, use of antidumping measures increased by 50 percent relative to the 1980s. The surge in new cases reflects the proliferation of antidumping laws in the developing world. Developing countries accounted for only seven investigations during 1980–87; by contrast, developing countries brought more than 700 cases during the second half of the 1990s. The number of jurisdictions using antidumping measures jumped from 12 to 28 between 1993 and 1999.

U.S. companies have become leading targets of the antidumping barrage. From January 1995 to June 2000, the United States was the third most popular target of antidumping measures worldwide, trailing only China and Japan. Over that period, U.S. exports were the subject of 81 investigations

by 17 different countries. In 51 of those cases, antidumping measures were imposed. Exposure of U.S. exports to antidumping harassment is up sharply: the average number of measures in force against U.S. goods during 1996–2000 was 41 percent higher than during 1991–95. Included among the hundreds of U.S. exporters victimized by antidumping are many well-known corporations: 3M, Amana, Bristol-Myers Squibb, ConAgra, Dow Chemical, Monsanto, Owens Corning, and Union Carbide.

The U.S. government continues to resist calls for antidumping reform in international trade negotiations. That opposition reflects the strong political support for the U.S. antidumping law on the part of protectionist U.S. industries. Downstream import-using industries and American consumers are left to suffer; now, with the worldwide spread of antidumping protectionism, so are U.S. exporters. The dangers of the proliferation of antidumping measures should provide a wakeup call for U.S. policymakers: it's time to get serious about antidumping reform.

Brink Lindsey is director of the Cato Institute's Center for Trade Policy Studies. Dan Ikenson is a trade policy analyst with the center.

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Introduction

In the U.S. trade policy debate, antidumping policy has become a hot-button issue. The U.S. antidumping law, which protects domestic industries against supposedly unfair import competition, has long been unpopular with countries whose exports suffer from its operation. In recent years, many of those countries have been urging the U.S. government to agree to new international rules—either multilaterally at the World Trade Organization or regionally in talks about a free-trade area of the Americas (FTAA)—that would tighten the requirements that must be met before antidumping protection can be granted.

Powerful U.S. lobbying interests, and their supporters in Congress, have vehemently opposed new antidumping negotiations. American industries that frequently seek antidumping protection—in particular, steel producers—argue that a “strong” law is needed to ensure a “level playing field” and to maintain public support for generally open markets. They insist that any effort to “weaken” current law through trade negotiations must be rejected out of hand.

The Clinton administration accepted the arguments of the supporters of antidumping and stoutly refused to put antidumping on the agenda for a new round of WTO negotiations. Indeed, U.S. intransigence on that point was a significant factor in the breakdown of talks at the Seattle ministerial conference in December 1999. The Bush administration is now revisiting the question, in the context of both the WTO and an FTAA.

As the Bush administration weighs its options, it should realize that supporters of antidumping, however vocal and well organized, do not by any means represent the full range of affected U.S. interests. Despite the efforts of supporters of antidumping to frame the issue in “us-versus-them” terms—with American import-competing industries on one side and foreign “unfair traders” and their governments on the other—the fact is that many vitally important American constituencies have a

strong stake in antidumping reform. Most obviously, American import-using industries and consumers suffer when antidumping measures increase the price or interfere with the availability of foreign-sourced raw materials, equipment, components, and goods. Their interests, and the overall national interest in strong economic performance, would be well served by new restraints on antidumping abuses.

Yet another powerful constituency stands to benefit from improved antidumping rules. Although this group is usually at the very center of U.S. trade policy concerns, its interests with respect to antidumping have up to now been almost completely ignored. The constituency in question is U.S. exporters, whose interest lies, not in the U.S. law, but in the proliferating tangle of foreign antidumping laws and the growing threat they pose to market access abroad.

For many decades antidumping protectionism was a vice exclusive to rich industrialized nations—specifically, the United States, Canada, members of what is now the European Union, Australia, and New Zealand. In recent years, however, dozens of less-developed countries have followed the U.S. example and adopted antidumping laws. As a result, the chickens are coming home to roost: U.S. exports are increasingly encountering the same unpredictable, arbitrary, and disruptive obstacles abroad that have long been inflicted on other countries' exports here. Indeed, from 1995 to 2000, the United States was the third most frequent target of world antidumping measures.

Market access for U.S. exports is one important component of a much broader national interest in an open and prosperous international economy. That larger interest is also menaced by the recent proliferation of antidumping measures. The rapid spread of antidumping protectionism throughout the developing world threatens to undo many of the liberalizing gains made possible by the elimination of quotas and import licenses and the slashing of tariff rates. The integrity of the world trading system is being undermined by the increasing frequency and virulence of antidumping activity.

It is therefore imperative that the focus of the antidumping debate here in the United States be broadened. The effect of international negotiations on the U.S. antidumping law—or rather, on the industries that use the U.S. law—has up to now been the exclusive subject of attention. Policymakers need to lift their sights and recognize that more than 60 countries now have antidumping laws. They should recognize further that, as a result, U.S. exports—and the vitality of the world trading system—are increasingly being cut up in the crossfire. They should conclude that the time has come for meaningful international negotiations to restrain and reverse the spread of antidumping abuses.

The Antidumping Loophole

Antidumping laws allow national governments to impose special duties on “unfairly traded” imports. Before duties are imposed, the authorities that administer the law must make two findings: (1) that imported goods are being “dumped,” or sold at prices less than “normal value,” and (2) that the dumped imports are causing or threatening material injury to the domestic import-competing industry. Under the U.S. system, the Department of Commerce determines whether dumping is occurring, while the International Trade Commission examines whether dumped imports are injuring the domestic industry. When both Commerce and the ITC make affirmative findings, the goods under investigation are subject to duties equal to the margin of dumping—that is, the difference between the U.S. prices of the imports and their “normal value.”

Supporters of antidumping laws argue that they are needed to create a level playing field for domestic industries that face “unfair” import competition. Specifically, they contend that various distortions in foreign markets—trade barriers, monopoly or collusion, government subsidies, and “barriers to exit” (poor bankruptcy laws, ineffective protection of creditors’ rights) that prevent loss-making businesses from reducing capacity or going out of business—allow foreign producers to

charge lower prices in export markets than would otherwise be possible. In one scenario, firms may enjoy supernormal profits at home (in a protected or cartelized “sanctuary market”) and then use those profits to cross-subsidize low-price export sales. Alternatively, subsidies or barriers to exit may allow firms to sell abroad (and at home as well) at below-cost prices without suffering the normal marketplace consequences.

According to supporters, antidumping laws ensure a level playing field by offsetting those “artificial” sources of competitive advantage. Dumping, it is alleged, demonstrates the existence of one or more of the market distortions discussed above; antidumping duties, by making up the difference between dumped prices and “normal value,” extinguish the foreign producer’s artificial advantage and put the domestic industry back on an equal footing. At least that is the theory.

In an earlier paper, one of the authors of the present study examined how well that theory describes actual practice under the U.S. antidumping law.¹ The paper concluded that there is a yawning gap between what supporters of antidumping say the law is supposed to do and what it actually does.

To understand the disconnect between antidumping rhetoric and antidumping reality, it is necessary to look in detail at how dumping is actually defined under current laws. The details of the U.S. law are representative. In the United States, the existence of dumping is evaluated according to various methodologies. The most straightforward method—but one that is seldom used²—is to treat the foreign company’s average home-market price as “normal value.” Dumping is then said to occur if U.S. sales are at lower prices than comparable home-market sales.

The idea behind this method is that price discrimination reveals the existence of a sanctuary market in the foreign producer’s home country. The persistence of price differences supposedly demonstrates the presence of trade barriers or anti-competitive conditions that prevent arbitrage through reimportation; meanwhile, the higher prices at home are assumed to generate abnormal profits that then bankroll cheap export prices.

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In fact, however, this methodology is so badly flawed that it is incapable of identifying reliably the sanctuary markets that are the supposed targets of antidumping measures. First of all, there are a host of problems with how export and home-market prices are compared. Consequently, the finding of dumping is not necessarily a reliable indicator of real price differences. More basically, there are many reasons for persistent international price differences other than “unfair” distortions in one of the markets. Yet antidumping investigations contain no screening mechanisms for distinguishing between real sanctuary markets and “false positives.” There is no requirement of any direct evidence of trade barriers or anti-competitive conditions, nor of resulting supernormal profits. Accordingly, it is entirely possible for normal commercial behavior to be stigmatized as unfair dumping under this methodology.

All the other methodologies used under U.S. law are even worse. Thus, if there is an insufficient volume of home-market sales, sales by the foreign producer to a third-country market serve as the basis for normal value. But price discrimination between two export markets says precisely nothing about the possible existence of a sanctuary market at home, or any other domestic market distortions for that matter. Consequently, findings of dumping based on comparisons of export and third-country sales offer no evidence whatsoever of unfair trade.

Further problems are introduced when home-market or third-country prices are subjected to the so-called cost test and found to be below the average cost of production. When sufficient below-cost sales are found, U.S. prices are compared to only the above-cost sales in the comparison market. In other words, all prices in one market are compared to only the highest prices in the other market—an egregious methodological distortion that skews comparisons toward a finding of dumping.

If there are no “viable” comparison markets, or if all sales of comparable merchandise in those markets are below cost, normal value is based on artificial prices, or “constructed value,” equal to the full cost of production plus some

amount for profit. The use of constructed value has nothing to do with price comparisons. Sales that are found to be dumped under this methodology are often made at higher prices than in the home market. At the same time, comparisons of export prices to constructed value do not show whether export sales are below cost (and hence perhaps subsidized or otherwise facilitated by market distortions), since constructed value contains an amount for profit. Furthermore, under U.S. law the profit benchmark is usually inflated, since typically it is based on the average profit of only those comparison-market sales made at above-cost prices. A legitimate profit benchmark would reflect a company’s or industry’s experience on all sales, not just selected high-price sales.

The constructed-value methodology grows even more absurd in U.S. investigations involving so-called nonmarket economies (NMEs)—namely China and those former members of the Soviet bloc that have not yet been deemed by Commerce to be sufficiently advanced in their transition from communism. In NME cases, Commerce calculates constructed value by taking the foreign producer’s “factors of production”—the physical quantities of all the inputs used in producing the merchandise—and valuing them on the basis of prices in a “surrogate country.” Surrogate countries are market economies judged to be at a level of economic development similar to that of the NME country under investigation. Quite plainly, this methodology is so bizarre and prone to abuse that findings of dumping based on it have no probative value whatsoever.

Finally, in certain circumstances, Commerce will reject the sales, cost, or “factors of production” information placed on the record by the exporter and instead resort to what is known as “facts available.” Determinations are based on facts available when a foreign producer fails to provide all the requested information or when the information provided is judged inaccurate or incomplete. This approach is the most adverse to exporters because the “facts” used are usually based on allegations made by the complaining domestic industry in its antidumping petition. Dumping margins based on facts

available averaged 95.58 percent in U.S. investigations during 1995–98.³

This review of how dumping is calculated makes clear that antidumping laws, contrary to the claims of their supporters, do not ensure a level playing field. On the contrary, they penalize foreign producers for engaging in commercial practices that are perfectly legal and unexceptionable when engaged in by domestic companies. Such discrimination against foreign firms creates an unlevel playing field for imports. In other words, antidumping laws discriminate against imports, and that is the essence of protectionism.

Unfortunately, this particular form of protectionism enjoys the sanction of multilateral trading rules. Article VI of the original General Agreement on Tariffs and Trade authorizes national governments to impose duties on dumped imports. Today, the authority to engage in antidumping protectionism is recognized by the World Trade Organization. The WTO Antidumping Agreement, finalized in 1994 during the Uruguay Round of trade talks, specifies the standards and procedures that national antidumping regulations must follow. Although the requirements of this agreement do impose modest restraint on what WTO members can do in the name of antidumping, the sad fact is that the agreement more or less follows the model of the current U.S. law and therefore allows wide scope for protectionist abuses. Under the present rules, antidumping is a major loophole in the free-trade disciplines of the world trading system.

Backdoor Protectionism

For many years the antidumping loophole allowed only a trickle of protectionism. Antidumping laws actually predate the GATT: the U.S. law dates back to 1921, and laws in Canada, Australia, New Zealand, Great Britain, and France go back even earlier.⁴ But until the past couple of decades, those laws were sparingly invoked and even more stingily applied. In the United States, for example, there were a total of 706 antidumping investi-

gations between 1921 and 1967, or about 15 per year, but a mere 75 of them resulted in relief for the petitioning industries.⁵

Changes in the law during the 1970s and 1980s widened the loophole dramatically. The big breakthrough occurred in 1974, when the U.S. law was amended to provide for use of the cost test, the exclusion of below-cost sales in the comparison market, and the use of constructed value when too many sales are so excluded. This change made it much easier to find dumping and produced substantially higher dumping margins.⁶ Other countries followed suit, and the result was an explosion of antidumping cases in the 1980s. The United States initiated 398 investigations between January 1980 and June 1989, or roughly 40 per year; Australia, the European Community, and Canada combined initiated 1,091 new cases over the same period.

Despite the dramatic surge in cases, the number of jurisdictions exploiting the antidumping loophole remained small. The antidumping fraternity was almost exclusively a rich countries' club: the United States, the European Community (now Union), Canada, Australia, and New Zealand accounted for virtually all antidumping activity worldwide. Between January 1980 and June 1987, a mere seven investigations were initiated by developing countries.

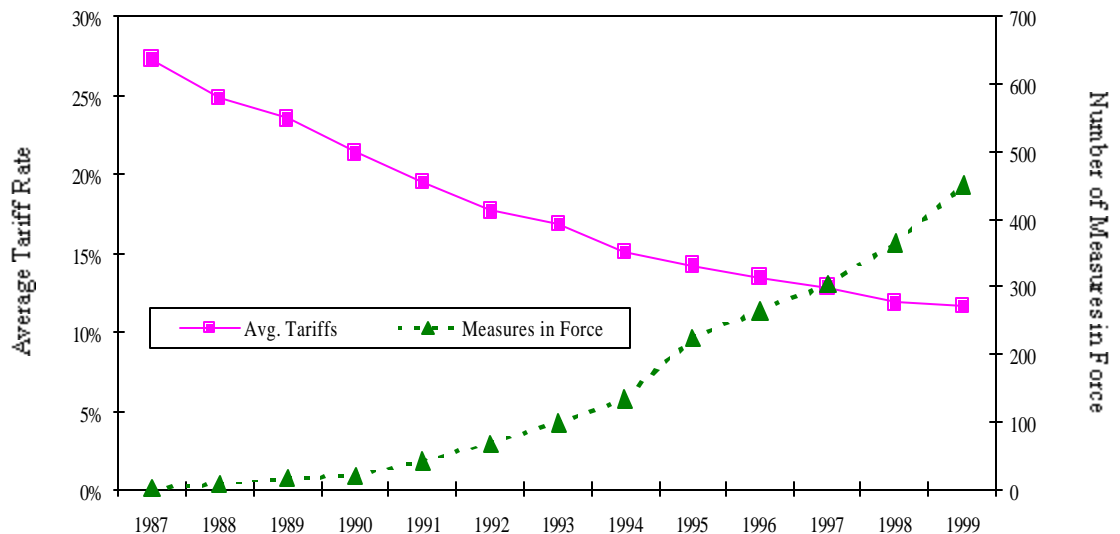
The major reason for this exclusivity was that antidumping measures would have been superfluous in most countries. Until the 1980s, developing countries typically maintained extremely protectionist trade policies: not only high tariffs, but also quotas and restrictive import-license schemes. Under the old GATT, such policies were winked at with the excuse that they were a necessary response to balance-of-payment difficulties.⁷ Accordingly, there was no need to make use of a protectionist tool as complicated, cumbersome, and difficult to use as antidumping.

Over the past couple of decades, however, many developing countries have engaged in sweeping trade liberalization. Furthermore, they have "locked in" many of their reforms by making them binding commitments under WTO

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Antidumping measures by countries other than the traditional users have skyrocketed as tariff levels in those countries have fallen.

Figure 1
Average Tariffs and Antidumping Measures
(nontraditional users, 1987–99)



Source: Tariff data, World Bank; Antidumping data, WTO Reports in G/ADP/N series.

agreements. Meanwhile, import-competing industries in those countries have had to contend with unprecedented competitive pressure from abroad. Faced with demands from struggling domestic industries to alleviate that pressure, but constrained by their WTO commitments, governments in the developing world have turned to the backdoor protectionism of antidumping measures.

Figure 1 tells the story. Antidumping measures by countries other than the traditional users⁸ have skyrocketed as tariff levels in those countries have fallen. Country after country has charged through the antidumping loophole. The number of antidumping users shot up from 12 at the end of 1993 to 28 at the end of 1999.⁹ As of 1999, a total of 62 jurisdictions (including the 15 countries of the European Union as a single jurisdiction) reported having antidumping legislation on their books.¹⁰ As developing and postcommunist countries have rushed to join the antidumping club, the result has been another quantum leap in antidumping activity. A total of 2,483 investigations were initiated worldwide during 1990–99—a

greater than 50 percent increase over the record of the 1980s.¹¹

The proliferation of antidumping protectionism began in the late 1980s as Mexico, Brazil, Argentina, and other countries joined the traditional users at the antidumping banquet table. The number of antidumping measures has accelerated greatly, though, since the completion of the Uruguay Round in 1994. During the period 1990 through 1994, 1,254 antidumping cases were initiated around the world.¹² The traditional users accounted for 63 percent of those initiations. The remaining 37 percent were initiated by numerous developing countries, most notably Mexico, Brazil, and Argentina.

During the second half of the decade, the user profile changed significantly. While the number of initiations trailed off slightly to 1,229,¹³ traditional users accounted for a far smaller percentage of the total, several new users surfaced, and a few developing nations emerged as prominent users of antidumping. From 1995 to 1999, nontraditional users accounted for 59 percent (up from 37 percent) and traditional users accounted for 41 percent (down from 63

percent). New users such as Venezuela, Peru, Egypt, Israel, Malaysia, and the Philippines accounted for 108 initiations collectively.

Perhaps most noteworthy during this period, however, is the flurry of cases filed by India, South Africa, and Argentina. In the first half of the decade, India initiated 15 cases. In the second half it initiated 140, propelling it to the second largest user behind the European Union and ahead of the United States. Between those two periods, South Africa's case initiations increased eightfold from 16 to 129, making it the fourth largest user. And by increasing its case initiations by more than 50 percent, to 96 in the second half of the decade, Argentina became the sixth largest user.¹⁴

Thus far we have been examining trends in new investigations—some fraction of which do not result in protectionism. But when we look instead at actual antidumping measures in force, a similar picture emerges.¹⁵ The total number of definitive antidumping measures¹⁶ in force increased by 26 percent between 1995 and 2000. Table 1 shows the top 10 antidumping users during this period. The most prolific

was the United States, with an average of 323 measures in force during the period, followed by the European Union with 143, Canada with 88, Mexico with 84, and South Africa with 59.

The number of measures imposed by new users more than doubled between 1995 and 2000, while the figure for traditional users declined by 4.5 percent. The upward sloping trajectory was particularly steep for India and South Africa, whose measures increased by 654 percent and 518 percent, respectively. Whereas new users accounted for roughly 26 percent of all measures in 1995, their share of the total had increased to about 44 percent by 2000.

Each of the top 10 users had measures in force against multiple countries, refuting any notion that antidumping measures target only a few notorious "unfair traders" (Table 2). The United States, once again, led the way, with antidumping measures in force against 58 different countries during 1995–2000. Many of the new users experienced rapid growth in the number of countries their laws target: Between 1995 and 2000, South Africa leaped from 13 to 33, India from 7 to 30, and Brazil from 12 to

In the first half of the decade, India initiated 15 cases. In the second half it initiated 140.

Table 1
Top 10 Antidumping Users, Total Measures in Place, 1995–2000

| Country | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Average |
|----------------|------|------|------|------|------|------|---------|
| United States | 309 | 313 | 321 | 327 | 342 | 323 | 323 |
| EU | 138 | 137 | 138 | 139 | 150 | 154 | 143 |
| Canada | 95 | 96 | 93 | 77 | 79 | 87 | 88 |
| Mexico | 92 | 90 | 82 | 83 | 77 | 77 | 84 |
| South Africa | 17 | 31 | 47 | 58 | 94 | 105 | 59 |
| Australia | 84 | 64 | 42 | 44 | 41 | 45 | 53 |
| India | 13 | 15 | 20 | 44 | 62 | 98 | 42 |
| Argentina | 19 | 31 | 35 | 37 | 42 | 43 | 35 |
| Turkey | 37 | 37 | 35 | 34 | 35 | 13 | 32 |
| Brazil | 20 | 26 | 24 | 31 | 37 | 41 | 30 |
| All others | 50 | 59 | 84 | 102 | 122 | 117 | 89 |
| Total | 874 | 899 | 921 | 976 | 1081 | 1103 | 976 |
| Traditional | 651 | 636 | 618 | 611 | 631 | 622 | 628 |
| Nontraditional | 223 | 263 | 303 | 365 | 450 | 481 | 348 |

Source: Compiled from WTO Reports in G/ADP/N series.

Table 2
Top 10 Antidumping Users, Number of Targeted Countries per Year, 1995–2000

| Country | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Average |
|----------------|------|------|------|------|------|------|---------|
| United States | 55 | 56 | 55 | 56 | 53 | 52 | 58 |
| EU | 32 | 32 | 33 | 33 | 35 | 37 | 43 |
| Canada | 34 | 34 | 34 | 32 | 33 | 35 | 41 |
| Mexico | 31 | 30 | 16 | 16 | 18 | 19 | 32 |
| South Africa | 13 | 16 | 21 | 25 | 33 | 33 | 33 |
| Australia | 29 | 24 | 18 | 19 | 22 | 22 | 32 |
| India | 7 | 7 | 9 | 19 | 23 | 30 | 30 |
| Argentina | 11 | 15 | 13 | 11 | 14 | 15 | 21 |
| Turkey | 17 | 17 | 17 | 16 | 17 | 10 | 21 |
| Brazil | 12 | 17 | 15 | 18 | 19 | 23 | 28 |
| All others | 19 | 20 | 28 | 33 | 39 | 36 | 43 |
| Total | 75 | 75 | 76 | 76 | 78 | 80 | 87 |
| Traditional | 71 | 70 | 67 | 67 | 67 | 69 | 77 |
| Nontraditional | 56 | 57 | 50 | 54 | 61 | 60 | 74 |

Source: Compiled from WTO Reports in G/ADP/N series.

Table 3
Top 10 Antidumping Users, Number of Industry Groups Targeted by Year, 1995–2000

| Country | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Average |
|----------------|------|------|------|------|------|------|---------|
| United States | 15 | 15 | 15 | 15 | 15 | 14 | 15 |
| EU | 10 | 12 | 16 | 15 | 15 | 15 | 16 |
| Canada | 11 | 11 | 10 | 10 | 10 | 11 | 12 |
| Mexico | 13 | 13 | 11 | 13 | 14 | 14 | 15 |
| South Africa | 7 | 8 | 8 | 9 | 9 | 10 | 10 |
| Australia | 9 | 8 | 8 | 9 | 8 | 8 | 10 |
| India | 2 | 2 | 4 | 6 | 7 | 8 | 8 |
| Argentina | 8 | 10 | 9 | 9 | 10 | 11 | 12 |
| Turkey | 9 | 8 | 8 | 8 | 8 | 3 | 9 |
| Brazil | 6 | 7 | 7 | 9 | 9 | 9 | 9 |
| All others | 12 | 12 | 12 | 14 | 14 | 14 | 14 |
| Total | 17 | 17 | 18 | 19 | 17 | 18 | 19 |
| Traditional | 17 | 17 | 18 | 18 | 17 | 17 | 18 |
| Nontraditional | 15 | 15 | 14 | 16 | 16 | 16 | 16 |

Source: Compiled from WTO Reports in G/ADP/N series.

23. Unsurprisingly, as antidumping protectionism increases, many of the heaviest users have also become popular targets. Four of the top 10 targets during 1995–2000 (the United States, Brazil, Germany, and France) also number among the top 10 users; furthermore, an additional 4 of the top 10 antidumping users (India, Canada, Mexico, and the United Kingdom) are included among the 20 leading antidumping targets (Appendix 2).

The virulence of antidumping protectionism can be measured, not just by the number of countries targeted, but also by the range of industries affected. Nineteen of 21 broad industry groups were the subject of antidumping measures during 1995–2000¹⁷ (Table 3). The European Union maintained measures against 16 different industry groups during 1995–2000, followed closely by the United States and Mexico with 15 apiece. Note the rapid expansion of the scope of antidumping

measures in India: from two industry groups targeted in 1995 to eight by 2000.

Although antidumping measures have left few industry groups unmolested, they are by no means evenly applied. Around the world, steel and other metal product industries are the most common and fastest growing targets of antidumping actions. In 2000 those industries accounted for roughly 36 percent of all outstanding measures in force. Chemical products (including pharmaceuticals) came in second, accounting for 21 percent of total measures in force as of June 2000 (Table 4).

Proliferation has become a self-reinforcing process. In other words, antidumping is contagious. If one country uses antidumping forcefully, it creates pressure from affected industries in other countries for similar measures at home. Measures to curtail competition in one country create excess supply, which is viewed as threatening by industries in other countries.

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Table 4
Antidumping Targets by Industry, Total Measures in Place, 1995–2000

| HTS Section | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Average |
|--------------------------------------|------|------|------|------|------|------|---------|
| Base metals, articles of base metal | 276 | 290 | 305 | 316 | 372 | 401 | 327 |
| Chemical, allied industry products | 201 | 203 | 204 | 210 | 217 | 228 | 211 |
| Machinery, mechanical, elect. equip. | 81 | 85 | 94 | 95 | 100 | 81 | 89 |
| Textiles, textile articles | 48 | 60 | 61 | 54 | 70 | 79 | 62 |
| Plastics, rubbers | 53 | 54 | 55 | 53 | 66 | 74 | 59 |
| Vehicles, aircraft, transport equip. | 42 | 40 | 40 | 42 | 43 | 30 | 40 |
| Articles of stone, plaster, cement | 34 | 37 | 37 | 42 | 44 | 40 | 40 |
| Wood pulp, paper, paperboard | 18 | 17 | 21 | 44 | 44 | 39 | 31 |
| Prepared foodstuffs | 35 | 31 | 29 | 31 | 28 | 27 | 30 |
| Vegetable products | 15 | 19 | 19 | 24 | 23 | 22 | 20 |
| Footwear, headgear, umbrellas | 21 | 16 | 9 | 17 | 13 | 16 | 15 |
| Optical, photo, cinema instruments | 14 | 11 | 10 | 9 | 20 | 23 | 15 |
| Miscellaneous manufactured articles | 14 | 15 | 14 | 13 | 12 | 14 | 14 |
| Wood, articles of wood | 6 | 6 | 6 | 5 | 11 | 11 | 8 |
| Live animals, animal products | 4 | 3 | 4 | 6 | 7 | 7 | 5 |
| Animal, vegetable fats, oils | 9 | 9 | 9 | 2 | 1 | 1 | 5 |
| Mineral products | 0 | 0 | 0 | 9 | 9 | 9 | 5 |
| Arms, ammunition, parts thereof | 3 | 3 | 3 | 3 | 0 | 0 | 2 |
| Raw hides, skins, leather products | 0 | 0 | 1 | 1 | 1 | 1 | 1 |
| Total | 874 | 899 | 921 | 976 | 1081 | 1103 | 976 |

Source: Compiled from WTO Reports in G/ADP/N series.

The exposure of U.S. exports to antidumping harass- ment is up sharply.

Consequently, they become more likely to petition their own governments for similar actions. Possible evidence of this domino effect is the fact that 12 of the 28 jurisdictions that reported definitive antidumping measures to the WTO during the period 1995–2000 had more measures in place against steel and steel-using products than against any other industries. Seven others targeted chemical and allied product industries more than any other industry.¹⁸

There is also evidence of a tit-for-tat motivation for antidumping actions. Twelve countries simultaneously targeted and protected the same industry group (steel and steel products) the most (Appendix 3). In 29 countries the very same products were subjected to antidumping duty orders both at home (against imports) and abroad (against exports) (Appendix 4). So much for the theory that antidumping measures merely ensure a level playing field: how can an industry that is injured by reason of unfairly priced imports from Country A itself be causing injury to that same industry in Country A?

The past decade has witnessed a sea change in the nature of antidumping protectionism. In short, it has gone global. Once the preserve of a few rich countries, antidumping is now spreading rapidly throughout the developing and postcommunist worlds. Indeed, all the considerable net growth in worldwide antidumping activity in recent years has come from new users. Leaders of developing countries complain, with justification, when rich countries preach free trade but use antidumping to block access to their markets. Those leaders need to recognize, however, that the use of antidumping laws increasingly pits one developing country against another. From 1995 to 1999, developing countries were targeted in 818, or 67 percent, of all actions taken. Nearly half of those actions, though, were taken by other developing countries.¹⁹

Meanwhile, the exports of rich countries are increasingly under antidumping attack. Antidumping measures in force against the exports of traditional users were up 46 percent between 1995 and 2000. Although the number of antidumping measures taken by traditional

users against traditional users actually fell over this period, measures taken by new users against the old guard skyrocketed 192 percent—from 72 in 1995 to 210 in 2000²⁰ (Appendix 5). In a bit of poetic justice, rich countries have been hoist with their own petard. And no traditional user of the antidumping laws has been more victimized in recent years than the United States.

Targeting U.S. Exporters

From January 1995 to June 2000, the United States was the third most popular target of antidumping measures worldwide—trailing only China and Japan. Over that period, U.S. exports were the subject of 81 investigations by 17 different countries; in 51 of those cases antidumping measures were imposed (Appendices 6 and 7).²¹ A total of 103 measures by 18 different countries were in effect against U.S. exports for at least some portion of the years in question. The exposure of U.S. exports to antidumping harassment is up sharply: the average number of antidumping measures in force against U.S. goods during 1996–2000 was 41 percent higher than during 1991–95.²²

U.S. exports were subject to an average of 65 antidumping measures worldwide at any given time during 1995–2000. That level of abuse put the United States well ahead of many countries commonly associated with allegations of “unfair trade”: Korea (54), Taiwan (51), Brazil (47), and Russia (33). Measures were applied against U.S. exports by 13 of the 28 WTO members that reported having taken any measures during this period.²³ The United States was the first or second largest target of 7 of those 13 antidumping users. For anyone who believes that findings of dumping are meaningful evidence of unfair practices, the frequent targeting of U.S. exports is doubtless a deep mystery. But once it becomes clear that the connection between a finding of dumping and the existence of unfair practices is somewhere between tenuous and random, it is unsurprising that the United States—as the world’s largest exporter—must endure a large number of antidumping complaints.

A broad range of U.S. exports has felt the sting of the antidumping backlash. Exports in 14 separate categories of 21 broad industry groups have been hit by antidumping measures. Only China's exports have been targeted more broadly. As Table 5 shows, the U.S. chemical industry has been most badly victimized, with an average of 24 measures against it at any given time. In partial repayment for its own exuberant pursuit of antidumping remedies, the U.S. steel industry—along with other metal producers—comes in second on the hit list.

Among the victims of antidumping protectionism are some of the best-known names in American industry: 3M, Amara, Bethlehem Steel, Bristol-Myers Squibb, Celotex, ConAgra, Domino Sugar, Dow Chemical, Exxon Chemical, FMC, Frigidaire, Gerber, Inland Steel, International Paper, Lone Star Steel, LTV Steel, Mallinckrodt, Monsanto, Occidental Chemical, Owens Corning, Union Carbide, USX, Weyerhaeuser, and Whirlpool. Table 6 provides the details of those companies' run-ins with antidumping abroad. And those big-name firms are only the tip of the iceberg; many hundreds of U.S. firms have lost sales and whole markets because of foreign antidumping actions.

The effects of antidumping measures on U.S. exports can be devastating. A Canadian investigation of U.S. refined sugar resulted in antidumping duties ranging from 41 to 46 percent. U.S. exports fell from \$50.1 million the year before the antidumping duty to only \$4.7 million two years after the order—a 91 percent drop. Exports of polyvinyl chloride were hit with a 19 percent duty in Colombia, and exports plummeted 80 percent in two years. An Indian investigation of acrylic fiber resulted in a 6 percent duty on one producer and a 43 percent duty on everyone else; exports dropped from \$5.4 million the year before to zero two years afterward. In a Mexican case against regenerated cellulose film, U.S. firms received duty rates that averaged 31 percent. Exports of the product fell 81 percent in only three years. Details of those and other cases are provided in Appendix 8.²⁴

Because of the enormous number of antidumping cases brought by U.S. steel producers against their foreign competitors, the United States enjoys the dubious distinction of being the world's most active user of antidumping measures. And at present, even taking into account the significant and growing caseload against U.S.

Among the victims of antidumping protectionism are some of the best-known names in American industry.

Table 5
Antidumping Targets by Industry, Measures against U.S. Exports, 1995–2000

| HTS Section | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Average |
|--------------------------------------|------|------|------|------|------|------|---------|
| Chemical, allied industry products | 21 | 24 | 24 | 22 | 26 | 27 | 24.00 |
| Base metals, articles of base metal | 12 | 12 | 12 | 11 | 7 | 4 | 9.67 |
| Plastics, rubbers | 6 | 6 | 6 | 6 | 5 | 4 | 5.50 |
| Vegetable products | 4 | 5 | 4 | 6 | 6 | 5 | 5.00 |
| Wood pulp, paper, paperboard | 2 | 3 | 4 | 6 | 5 | 4 | 4.00 |
| Machinery, mechanical, elect. equip. | 3 | 5 | 5 | 4 | 3 | 3 | 3.84 |
| Textiles, textile articles | 3 | 3 | 4 | 4 | 4 | 4 | 3.66 |
| Articles of stone, plaster, cement | 3 | 3 | 4 | 4 | 4 | 4 | 3.66 |
| Prepared foodstuffs | 2 | 1 | 1 | 2 | 2 | 2 | 1.66 |
| Vehicles, aircraft, transport equip. | 1 | 1 | 1 | 1 | 1 | 1 | 1.00 |
| Optical, photo, cinema instruments | 1 | 1 | 1 | 1 | 1 | 1 | 1.00 |
| Live animals, animal products | 0 | 0 | 0 | 0 | 1 | 2 | 0.50 |
| Mineral products | 0 | 0 | 0 | 1 | 1 | 1 | 0.50 |
| Wood, articles of wood | 1 | 1 | 0 | 0 | 0 | 0 | 0.33 |
| Miscellaneous manufactured articles | 1 | 1 | 0 | 0 | 0 | 0 | 0.33 |
| Total | 60 | 66 | 66 | 68 | 66 | 62 | 64.67 |

Source: Compiled from WTO Reports in G/ADP/N series

Table 6
Major U.S. Exporters Hit by Antidumping Measures

| U.S. Exporter | Case | Original Date | Duty |
|--------------------------------------|--|---------------|---------------------------|
| Amana | Appliances (dishwashers) to Canada | 2001 | 55.80% |
| Bristol-Myers Squibb Co. | X-ray contrast media to Canada | 2000 | 74.00% |
| Celotex Corporation | Polyiso insulation board to Canada | 1997 | .01-72.28% (avg. 36%) |
| ConAgra | Frozen pot pies and frozen dinners to Canada | 1985 | 4.3-39.9% |
| Domino Sugar | Refined sugar to Canada | 1995 | 45.90% |
| Dow Chemical Company | Ethanolamines to the EC | 1994 | Minimum price undertaking |
| | Ethanolamines to Korea | 1996 | 23.13-33.94% |
| | Triethanolamine & mixtures to Australia | 1992 | 3-30% |
| Dupont | Aniline to India | 2001 | 7.88 rupees / kg |
| Exxon Chemical Company | Synthetic baler twine to Canada | 1994 | 9.40% |
| FMC Corporation | Orthophosphoric acid to Colombia | 1992 | 77.75% |
| | Sodium carbonate to the EC | 1995 | 8.90% |
| Frigidaire | Appliances (dishwashers) to Canada | 2001 | 15.90% |
| | Appliances (dryers) to Canada | 2001 | 15.30% |
| | Appliances (refrigerators) to Canada | 2001 | 5.90% |
| Gerber Products Company | Baby food to Canada | 1998 | 59.76% |
| Inland Steel Company | Corrosion-resistant steel sheet to Canada | 1994 | 5.1-12.4% |
| International Paper | A4 paper to Australia | 1994 | 0-26% |
| | Bond paper to Mexico | 1994 | 20.88% |
| LTV Steel Company | Corrosion-resistant steel sheet to Canada | 1994 | 6.2-34.1% |
| Mallinckrodt, Inc. | X-ray contrast media to Canada | 2000 | 74.00% |
| Minnesota Mining and Manufacturing | Wound closure strips to Australia | 1998 | 91-419% |
| Monsanto Chemical Company | Orthophosphoric acid to Colombia | 1992 | 77.75% |
| Occidental Chemical Corporation | Polyvinyl chloride to Australia | 1992 | 0-20% (avg. about 10%) |
| | Triethanolamine & mixtures to Australia | 1992 | 45.00% |
| Owens Corning Fiberglass Corporation | E-glass fiber to Korea | 1994 | 12.4-37.4% |
| | Fiberglass pipe insulation to Canada | 1993 | 60.00% |
| USX Corporation | Corrosion-resistant steel sheet to Canada | 1994 | 2.2-17.0% |
| Union Carbide | Ethanolamines to the EC | 1994 | Minimum price undertaking |
| | Ethanolamines to Korea | 1996 | 20.07-28.67% |
| | Graphite electrodes to India | 1998 | 19.41 rupees / kg |
| | Triethanolamine & mixtures to Australia | 1992 | 14-43% |
| Weyerhaeuser Company | A4 paper to Australia | 1994 | 0-20% |
| | Bond paper to Mexico | 1994 | 20.88% |
| Whirlpool Corporation | Appliances (dishwashers) to Canada | 2001 | 14.90% |
| | Appliances (dryers) to Canada | 2001 | 18.90% |
| | Appliances (refrigerators) to Canada | 2001 | 19.50% |

exports, the United States remains solidly a “net user”—more victimizer than victim. As of June 2000, there were 323 U.S. antidumping measures

against foreign products, as opposed to only 62 foreign measures against U.S. goods. But when U.S. cases against steel imports are excluded, a

different picture emerges: between 1995 and 1999, the United States initiated 58 nonsteel antidumping investigations, while the rest of the world initiated 79 antidumping investigations against U.S. exports.²⁵ Thus, leaving aside one small U.S. industry (of a total American work force of 140 million people, only about 200,000 work in steel mills), the United States has become a net target of antidumping measures.

Even including steel, the United States is already a net target with respect to the 34 nations that would comprise an FTAA. According to a study released by the Organization of American States, U.S. exports were the subject of 260 antidumping measures by those countries during the period 1987–2000; by contrast, only 147 U.S. measures targeted goods from those countries during that same period.²⁶ Interestingly, the two biggest targeters of U.S. exports are located in the region: they are none other than Canada and Mexico, our North American Free Trade Agreement partners.

It would be difficult to think of a more telling indicator that current antidumping rules have little or nothing to do with offsetting unfair trade. Trade barriers have been reduced to a minimum within the North American market, and with them any possibility of sustaining “artificial” price differences in the face of cross-border arbitrage. Yet it is in this free-trade zone that U.S. firms are most frequently penalized for supposedly unfair practices. Again, only if one assumes that antidumping rules are designed to ensure a level playing field is the frequency of Canadian and Mexican actions against U.S. goods a mystery. Once it is understood that those rules are rigged against exporters, the paradox is resolved: Canadian and Mexican firms are maximally exposed to U.S. competition because of the elimination of tariffs and thus have the strongest incentives to bring antidumping cases.

The Devilish Details

Earlier in this paper, we examined how current antidumping rules stack the deck against foreign exporters and in favor of protection-seeking domestic industries. As a result,

exporters are routinely punished for engaging in perfectly normal commercial practices. A review of a few exemplary dumping determinations against U.S. exporters will help to illustrate the point.²⁷

Dumping margins are routinely generated and inflated by creatively selective comparisons of home-market and export-market prices. For example, in the 1993 Canadian investigation of U.S. fiberglass pipe insulation, the authorities used only those home-market sales that surpassed a particular threshold of profitability. On a customer-by-customer basis, sales found insufficiently profitable over a 60-day period were excluded from the analysis. For two of the U.S. respondents (Schuller International and Knauf Fiber Glass), sales to a number of customers were excluded on that basis. Consequently, their dumping rates were determined by comparing all Canadian sales to only their highest-price U.S. sales. Knauf got a dumping rate of 44 percent; Schuller received a 52 percent rate.²⁸

In a later Canadian investigation—the 1997 case on U.S. concrete panels—the standard for excluding low-price home-market sales had changed. Now, for home-market sales of a particular product to be used, there had to be profitable sales to at least two unrelated customers. Because there was only one home-market customer at the same level of trade as the importer, the authorities instead used sales at lower levels of trade (that is, closer to the ultimate consumer and therefore presumably at higher prices). The U.S. exporter, Custom Building Products, was hit with a dumping rate of 36 percent.²⁹

A pair of Indian cases provide further examples of the mischief that can creep into price comparisons. In a 1997 case on acrylic fiber, the U.S. exporter, Cytec Industries, maintained a rebate program in the U.S. market under which it paid rebates to qualifying final consumers of yarn depending upon the end use of the yarn. Cytec offered no such rebates on its sales to India. Normally, rebates are deducted from the sales price to arrive at the net price, but in this case the Indian authorities refused—on the ground that the rebates weren’t offered to Indian customers. Of course, any valid assessment of

The United States is already a net target with respect to the 34 nations that would comprise an FTAA.

The South African investigation of U.S. chicken meat featured egregious manipulation of cost data.

whether price discrimination was occurring would have to examine prices in both markets net of all discounts and rebates. Instead, the authorities ruled that a key difference in the terms of Indian and U.S. sales would be ignored solely because it was a difference. Cytex was given a dumping rate of 9.3 percent.³⁰

In the 1997 investigation of graphite electrodes, Indian authorities compared Union Carbide's U.S. sales to its exports to India—not only from the United States but from several other countries as well. Of what possible relevance could it be that Union Carbide charges a different price in the United States than it does in India for goods made somewhere else? Such differences would not show that the same producer charges different prices in different markets, a fact that might possibly indicate the existence of a sanctuary home market. All it shows is that different (albeit affiliated) producers charge different prices in different markets—hardly an unusual state of affairs. Union Carbide was judged to be dumping 45 percent below “normal value.”³¹

Findings of dumping are now frequently made without any comparison of actual prices. Instead, export-market prices are compared to artificial prices, or “constructed value,” which is based on the cost of production plus some amount for profit. Such dumping findings say nothing about the possible existence of a sanctuary home market, since actual home-market price data are not used. Neither do those findings say anything about chronically below-cost export sales, since export sales prices are compared, not to the cost of production, but to cost plus profit.

The constructed-value methodology has no theoretical basis. Furthermore, use of production costs opens up a whole new arena for creative number crunching by antidumping authorities. One more Canadian case—the 1995 investigation of refined sugar—is particularly interesting in this regard. Raw sugar prices in the United States are grossly inflated by a scheme of loan-based price supports and import restrictions. American sugar refiners are thus forced to pay roughly twice the world price for raw sugar when they produce for the

domestic market. A special exemption, though, allows them to import raw sugar at world prices for production aimed at export markets. Since it is not practical to maintain physically separate inventories of high-price and world-price sugar, refiners keep detailed records to ensure that the quantity of refined sugar exported corresponds with the appropriate quantity of world-price raw sugar imported.

Under this system, the sugar refiners enjoy much lower costs for their export sales than for their domestic sales—thus allowing them to compete abroad despite the handicap of the U.S. sugar program. The Canadian antidumping authorities, however, decided that since high-price and low-price raw sugar are blended in inventory, it was not permissible for refiners to attribute only the lower cost of world-price sugar to their export sales. Accordingly, when calculating the constructed value of the exported merchandise, the authorities used a weighted average cost for raw sugar—thus substantially inflating constructed value and thereby the dumping margins. The ultimate dumping rates ranged from 41 to 46 percent.³²

The South African investigation of U.S. chicken meat in 2000 also featured egregious manipulation of cost data. The exports under investigation were predominantly of dark meat and were at prices higher than the prices charged for dark meat in the United States. Indeed, it turns out that—contrary to the situation in the United States, where white meat is the premium product—in South Africa consumers prefer dark meat and will pay extra for it. On the face of things, therefore, it would appear that there could be no dumping: here was a case where exporters earned higher prices and profits abroad than they were able to manage at home.

The South African antidumping authorities would not be thwarted so easily. They reasoned that the American preference for white meat constituted a “particular market situation” that disqualified the use of U.S. prices as the basis of normal value. Anyway, they argued, the U.S. sales of dark meat were below the cost of production and therefore failed the cost test. They were able to reach this conclusion, however,

only by disregarding American chicken producers' own accounting records and substituting their own methodology for allocating costs to different parts of the chicken.

In the American companies' normal methodology, costs are assigned to different parts on the basis of their revenue-generating power; in other words, high-value products are assigned higher costs and low-value products lower costs. The South African authorities decided instead to allocate costs on the basis of weight—thereby shifting costs away from white-meat parts and toward the dark-meat parts that were the subject of the investigation. This cost shifting achieved a dual purpose. First, it ensured that U.S. sales failed the cost test and therefore that constructed value would be used. Second, it ensured that constructed value—and therefore dumping margins—would be higher than otherwise. The two U.S. exporters—Tyson and Gold Kist—were found to be dumping by the whopping margins of 209 percent and 357 percent, respectively.³³

In all of the cases mentioned above, dumping rates were at least based on the exporters' own data, however creatively massaged. All too often, however, U.S. exports are hit with determinations made on the basis of "facts available." The facts that are available, it turns out, are almost always harshly unfavorable to exporters (since typically they are supplied by the protection-seeking domestic industry). Consider the track records in India and South Africa, for example. Of the eight Indian determinations against U.S. exports since 1995, five were based on "facts available." The average dumping margin in those five cases was 83 percent.³⁴ In South Africa, three of the four determinations against U.S. exports since 1995 were based on "facts available," with an average dumping margin of 89 percent.³⁵

Antidumping authorities have wide discretion regarding when to apply "facts available." Minor errors or omissions in voluminous and complex responses can be enough to prompt authorities to disregard all the rest of the data provided by respondents and rely instead on figures concocted by the domestic industry. Often, though, U.S. companies do not even try

to participate in foreign investigations. At best, they conclude it isn't worth the time and money to contest what they believe is a foregone conclusion; at worst, they fear that confidential price and cost data they supply to governments will somehow wind up in the hands of their competitors.

With its complexity and wide latitude for discretion, the antidumping law creates enormous potential for abuse in poorer countries that lack well-established traditions of transparency and procedural fairness—and, indeed, are prone to outright corruption. But procedural problems with antidumping enforcement, however severe, are a subsidiary issue. The fundamental problem with antidumping laws today is substantive: the present-day rules for defining unfair trade are hopelessly flawed and cannot help but generate arbitrary, protectionist outcomes.

The Looming Threat

The threat that the proliferation of antidumping measures poses to U.S. interests is likely to worsen as time goes on. There is every reason to expect that the number of countries using antidumping measures will continue to grow. As of 2000, 62 jurisdictions reported that they had antidumping legislation in place; only 28, however, have so far put their laws to use. The other 32 jurisdictions cannot be expected to remain dormant indefinitely. Other countries, meanwhile, are bound to enact their own laws.

Furthermore, the clear pattern among new antidumping users is for use to expand and broaden over time. Initially, only an intrepid few industries will brave the complexities and uncertainties of a new law. Eventually, though, other industries will catch on and take their place at the trough. The number of countries targeted tends to increase as well. To conserve on the expenses of preparing petitions, protection-seeking industries often target only their main foreign competitors at first. But antidumping measures against one country will create opportunities for third-country suppliers to fill the vacuum; domestic industries are then forced to

The antidumping law creates enormous potential for abuse in poorer countries that lack well-established traditions of transparency and procedural fairness.

The continued spread and intensification of antidumping protectionism represent a real and serious threat to the integrity of the world trading system.

Table 7

The Looming Threat: Coincidence of the Most Protected Industries of New Large Users and U.S. Exports

| | Top 4 Targeted/Protected Sectors | Percentage of Total U.S. 2000 Exports (value) to Country |
|-----------|---|--|
| Argentina | <ol style="list-style-type: none"> 1. Base metals, articles of base metal 2. Machinery, mechanical, elect. equip. 3. Vehicles, aircraft, transport equip. 4. Chemical, allied industry products | 74.1% |
| Brazil | <ol style="list-style-type: none"> 1. Base metals, articles of base metal 2. Chemical, allied industry products 3. Plastics and rubbers 4. Machinery, mechanical, elect. equip. | 75.0% |
| India | <ol style="list-style-type: none"> 1. Chemical, allied industry products 2. Plastics and rubbers 3. Textiles and textile articles 4. Base metals, articles of base metal | 23.5% |
| Mexico | <ol style="list-style-type: none"> 1. Base metals, articles of base metal 2. Chemical, allied industry products 3. Textiles and textile articles 4. Plastics and rubbers | 25.4% |
| World | <ol style="list-style-type: none"> 1. Base metals, articles of base metal 2. Chemical, allied industry products 3. Machinery, mechanical, elect. equip. 4. Textiles and textile articles | 54.8% |

file new petitions against additional countries to maintain the level of protection on which they have come to depend.

As antidumping activity trends up generally, U.S. exports are sure to feel the squeeze. Table 7 shows the disturbing overlap between the largest and fastest-growing U.S. export sectors and the hottest growth areas for antidumping actions. Note that, in potential FTAA partners Argentina and Brazil, three-quarters of U.S. exports are concentrated in those sectors most afflicted by antidumping activity. At the global level, more than half of U.S. exports are in the four industrial sectors in which antidumping protectionism is most common.

Broader American interests are also threatened by unchecked use of antidumping measures. The United States has an enormous economic stake in an open and stable world trading system—a stake that encompasses not only exports

of goods but also services exports, investment in production facilities and business operations abroad, and cross-border financial flows. Furthermore, a free and prosperous world trading system undergirds U.S. national security by lending encouragement to free markets, the rule of law, and democratic values around the globe.

The continued spread and intensification of antidumping protectionism represent a real and serious threat to the integrity of the world trading system. First of all, antidumping measures are extremely unpredictable. Even if particular industries are known to be antidumping hot spots, the timing of cases, the exact products covered, the specific countries targeted, and the dumping rates ultimately imposed by the authorities are all swathed in uncertainty. Furthermore, antidumping measures are highly disruptive: duties are often so high as to knock affected exporters completely out of the protected market.

The combination of unpredictability and disruptiveness causes antidumping to have a chilling effect on international economic integration that transcends the visible interruptions in trade it causes. It is commonplace to speak of “trade wars,” but antidumping is more a form of “trade terrorism”: eruptions of relatively small-scale mayhem that, by their sheer randomness, constitute an assault on the overall social order. In this case, the order in question is the trading system that has served as a bulwark of U.S. interests throughout the postwar era. The broadening scale and increasing frequency of trade terrorism in the name of antidumping pose a significant long-term threat to the health and integrity of that international economic order.

Conclusion

The inclusion of antidumping issues in upcoming trade negotiations has become a subject of heated controversy here in the United States. The subject has been ignited by increasingly vociferous demands from abroad that future trade talks tackle the antidumping problem. Brazilian president Fernando Henrique Cardoso has stated flatly that there can be no FTAA unless antidumping abuses are addressed in the agreement.³⁶ Similarly, dozens of countries have voiced support for antidumping negotiations in a new round of WTO talks.

The overwhelming response of U.S. government officials in both the executive and legislative branches has been to resist all efforts to put antidumping on the bargaining table. The Clinton administration adamantly opposed the inclusion of antidumping on the agenda of a new WTO round. Indeed, U.S. intransigence on this point was a major reason for the failure to launch a new round during the ill-starred WTO ministerial conference in Seattle in December 1999. Despite the change in administrations, U.S. policy has not moved noticeably: the Bush administration has declared its opposition to FTAA and WTO negotiations on antidumping.³⁷ Meanwhile, in

Congress, opposition to antidumping negotiations is ferocious. In May 61 senators signed a letter to the White House opposing any attempt to “weaken” U.S. trade laws—including the antidumping law—in any future trade negotiations.³⁸

Opposition in U.S. government circles to antidumping negotiations has focused exclusively on the effect such negotiations might have on the U.S. antidumping law—in particular, on the U.S. import-competing industries that use the law. Those relatively few American industries that depend on antidumping cases to squelch foreign competition—most notably, the steel industry—have been remarkably effective in convincing politicians that their narrow interests are a valid proxy for the larger national interest. By contrast, the interests of downstream U.S. import-using industries and consumers—who are harmed by the price increases and supply disruptions that antidumping protectionism causes—have been largely ignored.

The failure to take notice of the American victims of the U.S. antidumping law is a serious oversight. Compounding that oversight is the failure to recognize the effect of foreign antidumping laws on American interests. For many decades, only a handful of other countries took advantage of the antidumping loophole; under those circumstances, it was understandable that antidumping abuses elsewhere were out of sight and out of mind. But circumstances have changed: in recent years dozens of new countries have begun to indulge in antidumping protectionism—to the increasing detriment of U.S. exports and the larger U.S. interest in a healthy, stable trading system.

It is past time for U.S. policymakers to widen their view of antidumping’s effects to include the victims as well as the beneficiaries of the U.S. law and to recognize the significant and growing dangers posed by foreign laws. From that broadened perspective, they should see that international negotiations to address the antidumping problem are emphatically in the U.S. national interest. In WTO, or FTAA, or bilateral initiatives, U.S. trade officials should join together with like-minded governments to stem and then reverse the tide of antidumping activity.

It is past time for U.S. policymakers to recognize the significant and growing dangers posed by foreign laws.

Appendix 1: Notes on Methodology

Unless otherwise noted, the data used pertaining to antidumping measures around the world were obtained from the Web site of the World Trade Organization (<http://www.wto.org>). Under the WTO Antidumping Agreement, members are required to report their antidumping activities semiannually to the WTO's antidumping authorities. These reports are published as official documents in the G/ADP series available from the Web site.

The primary data collection efforts for this paper included retrieving, reviewing, and analyzing all year-end reports filed by every antidumping jurisdiction³⁹ covering antidumping actions from 1995⁴⁰ through 1999 as well as the mid-year reports for the first half of 2000.⁴¹ For all jurisdictions that maintained any measures against U.S. exports, mid-year reports for 1995 through 1999 were examined as well.

In many cases, the reports were filed in accordance with a format prescribed by the WTO Antidumping Agreement. The format provides separate sections for information on new or recent antidumping actions, definitive duties in place at the end of the reporting period, and price undertakings ("suspension agreements") in place at the end of the reporting period. Some countries provided more tables and more data, but many reported fewer.

The section providing for information on new or recent actions contains cells for the following data: (1) target country or territory, (2) product under investigation or review, (3) initiation date, (4) provisional date and measures, (5) definitive date and measures, (6) undertaking date and measures, (7) reasons for no final measures, (8) trade volume, (9) dumped imports as a percentage of domestic consumption, (10) volume of trade investigated, and (11) basis of the determination. The sections pertaining to definitive duties and undertakings contain cells for (1) target country or territory, (2) product under definitive measure, and (3) date of definitive measure.

There is wide variation in the amount and quality of data presented in each country's reports, and there is also variation within partic-

ular countries' reports over time. For example:

1. Some countries reported only definitive measures in force, while others reported only current actions.
2. Some countries listed separate definitive measures (undertaking and definitive duties) for the same case because some of the respondents were subject to the undertaking and others were not.
3. Some countries referred to a particular product by one name in one report but by a slightly different name in other reports.
4. Some countries listed current actions or definitive measures against the same products from the same countries but gave different names to the subject products.
5. Some countries listed multiple antidumping measures against products that other countries ultimately bundled together under one action.
6. Some countries listed actions or measures against the European Union, while others listed them against specific European Union member states. Related to this issue is the fact that the European Union brings antidumping actions collectively, but its members are usually targeted individually.

Those inconsistencies are mentioned because they have the potential to affect the analysis. When the European Union is listed as opposed to its individual member states, the analysis of primary antidumping targets is potentially skewed. And since the European Union acts as one entity in bringing antidumping actions, whereas the United States, for example, brings cases against EU member states individually, comparing antidumping use of the two tends to exaggerate the relative U.S. use. When a country lists multiple measures for a product that another country consolidates under one, the analysis of primary users is potentially skewed. When different case names are assigned to the same product, the analysis of commonly targeted products is potentially skewed.

Most of these problems were addressed in our analysis of the data. Others remain but for purposes of the present analysis are largely innocuous. To the extent that statistics affected by underlying data problems are cited in the paper, appropriate reference is provided.

Appendix 2:
Antidumping Targets of WTO Users,
Total Measures in Place, 1995–2000

| Rank | Country | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Average |
|------|----------------|------|------|------|------|------|------|---------|
| 1 | China | 143 | 148 | 180 | 193 | 202 | 207 | 178.83 |
| 2 | Japan | 76 | 77 | 74 | 78 | 84 | 82 | 78.50 |
| 3 | United States | 60 | 66 | 66 | 68 | 66 | 62 | 64.67 |
| 4 | Korea | 53 | 54 | 44 | 49 | 57 | 65 | 53.67 |
| 5 | Taiwan | 40 | 41 | 45 | 52 | 61 | 66 | 50.83 |
| 6 | Brazil | 48 | 51 | 52 | 45 | 42 | 43 | 46.83 |
| 7 | Germany | 34 | 31 | 31 | 33 | 37 | 41 | 34.50 |
| 8 | Russia | 24 | 25 | 35 | 34 | 40 | 37 | 32.50 |
| 9 | Thailand | 19 | 23 | 25 | 32 | 31 | 34 | 27.33 |
| 10 | France | 19 | 19 | 22 | 23 | 33 | 36 | 25.33 |
| 11 | Italy | 21 | 18 | 21 | 25 | 32 | 30 | 24.50 |
| 12 | Ukraine | 19 | 19 | 21 | 21 | 26 | 26 | 22.00 |
| 13 | India | 15 | 15 | 15 | 21 | 29 | 35 | 21.67 |
| 14 | Canada | 19 | 19 | 19 | 19 | 20 | 18 | 19.00 |
| 15 | United Kingdom | 16 | 17 | 15 | 14 | 20 | 21 | 17.17 |
| 16 | Mexico | 11 | 15 | 17 | 17 | 19 | 21 | 16.67 |
| 17 | Malaysia | 13 | 15 | 16 | 16 | 17 | 17 | 15.67 |
| 18 | Indonesia | 10 | 11 | 12 | 17 | 20 | 21 | 15.17 |
| 19 | Singapore | 17 | 18 | 16 | 13 | 13 | 13 | 15.00 |
| 20 | Netherlands | 12 | 13 | 13 | 13 | 15 | 17 | 13.83 |
| 21 | Romania | 13 | 14 | 13 | 13 | 18 | 12 | 13.83 |
| 22 | Spain | 10 | 9 | 9 | 12 | 17 | 21 | 13.00 |
| 23 | Belgium | 11 | 10 | 9 | 10 | 16 | 17 | 12.17 |
| 24 | South Africa | 7 | 10 | 11 | 11 | 12 | 15 | 11.00 |
| 25 | Sweden | 9 | 9 | 8 | 12 | 14 | 14 | 11.00 |
| 26 | Venezuela | 12 | 11 | 10 | 11 | 10 | 11 | 10.83 |
| 27 | Hong Kong | 10 | 11 | 9 | 9 | 10 | 12 | 10.17 |
| 28 | Poland | 9 | 8 | 10 | 10 | 11 | 10 | 9.67 |
| 29 | Turkey | 9 | 9 | 6 | 8 | 10 | 13 | 9.17 |
| 30 | Kazakhstan | 8 | 8 | 8 | 8 | 10 | 8 | 8.33 |
| 31 | Argentina | 9 | 8 | 7 | 7 | 7 | 7 | 7.50 |
| 32 | Finland | 4 | 5 | 4 | 9 | 10 | 13 | 7.50 |
| 33 | Hungary | 9 | 7 | 8 | 5 | 7 | 6 | 7.00 |
| 34 | Austria | 3 | 2 | 2 | 6 | 8 | 12 | 5.50 |
| 35 | Denmark | 5 | 4 | 4 | 5 | 6 | 9 | 5.50 |
| 36 | Australia | 5 | 6 | 5 | 6 | 5 | 5 | 5.33 |
| 37 | Belarus | 4 | 5 | 4 | 5 | 5 | 5 | 4.67 |
| 38 | Greece | 3 | 3 | 2 | 4 | 7 | 8 | 4.50 |
| 39 | Bulgaria | 4 | 4 | 5 | 4 | 5 | 3 | 4.17 |
| 40 | Portugal | 1 | 1 | 2 | 4 | 7 | 8 | 3.83 |
| 41 | Chile | 1 | 2 | 3 | 5 | 6 | 5 | 3.67 |
| 42 | Czech Republic | 3 | 3 | 4 | 2 | 4 | 6 | 3.67 |
| 43 | Ireland | 2 | 1 | 1 | 2 | 6 | 8 | 3.33 |
| 44 | Yugoslavia | 5 | 4 | 2 | 3 | 3 | 3 | 3.33 |

continued

Appendix 2—*continued*

| Rank | Country | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Average |
|------|-----------------|------|------|------|------|------|------|---------|
| 45 | Philippines | 4 | 3 | 3 | 3 | 3 | 3 | 3.17 |
| 46 | New Zealand | 3 | 3 | 3 | 4 | 2 | 2 | 2.83 |
| 47 | Egypt | 1 | 1 | 3 | 3 | 4 | 4 | 2.67 |
| 48 | Luxembourg | 1 | 1 | 1 | 2 | 4 | 6 | 2.50 |
| 49 | Israel | 3 | 2 | 2 | 2 | 3 | 2 | 2.33 |
| 50 | Kyrgyzstan | 3 | 3 | 2 | 2 | 2 | 2 | 2.33 |
| 51 | Lithuania | 3 | 3 | 2 | 2 | 2 | 2 | 2.33 |
| 52 | Moldova | 3 | 3 | 2 | 2 | 2 | 2 | 2.33 |
| 53 | Uzbekistan | 3 | 3 | 2 | 2 | 2 | 2 | 2.33 |
| 54 | Croatia | 1 | 3 | 2 | 2 | 2 | 3 | 2.17 |
| 55 | Norway | 2 | 2 | 3 | 2 | 2 | 2 | 2.17 |
| 56 | Bangladesh | 2 | 2 | 2 | 2 | 2 | 2 | 2.00 |
| 57 | Latvia | 2 | 2 | 1 | 1 | 3 | 3 | 2.00 |
| 58 | Macedonia | 3 | 3 | 2 | 1 | 1 | 2 | 2.00 |
| 59 | Estonia | 2 | 2 | 1 | 1 | 2 | 2 | 1.67 |
| 60 | Pakistan | 1 | 1 | 2 | 2 | 2 | 2 | 1.67 |
| 61 | Slovak Republic | 0 | 0 | 1 | 1 | 4 | 4 | 1.67 |
| 62 | Armenia | 2 | 2 | 1 | 1 | 1 | 1 | 1.33 |
| 63 | Azerbaijan | 2 | 2 | 1 | 1 | 1 | 1 | 1.33 |
| 64 | Georgia | 2 | 2 | 1 | 1 | 1 | 1 | 1.33 |
| 65 | Tajikistan | 2 | 2 | 1 | 1 | 1 | 1 | 1.33 |
| 66 | Turkmenistan | 2 | 2 | 1 | 1 | 1 | 1 | 1.33 |
| 67 | Czechoslovakia | 3 | 2 | 1 | 1 | 0 | 0 | 1.17 |
| 68 | Slovenia | 1 | 2 | 1 | 1 | 1 | 1 | 1.17 |
| 69 | Colombia | 1 | 1 | 1 | 1 | 1 | 1 | 1.00 |
| 70 | Iran | 1 | 1 | 1 | 1 | 1 | 1 | 1.00 |
| 71 | Kenya | 1 | 1 | 1 | 1 | 1 | 1 | 1.00 |
| 72 | Saudi Arabia | 2 | 2 | 0 | 0 | 1 | 1 | 1.00 |
| 73 | Bosnia | 0 | 1 | 1 | 1 | 1 | 1 | 0.83 |
| 74 | Ecuador | 1 | 1 | 1 | 1 | 0 | 0 | 0.67 |
| 75 | Liechtenstein | 0 | 0 | 1 | 1 | 1 | 1 | 0.67 |
| 76 | Montenegro | 2 | 2 | 0 | 0 | 0 | 0 | 0.67 |
| 77 | Serbia | 2 | 2 | 0 | 0 | 0 | 0 | 0.67 |
| 78 | Trinidad | 0 | 0 | 1 | 1 | 1 | 1 | 0.67 |
| 79 | Zimbabwe | 0 | 0 | 1 | 1 | 1 | 1 | 0.67 |
| 80 | Paraguay | 1 | 1 | 0 | 0 | 0 | 1 | 0.50 |
| 81 | Vietnam | 0 | 0 | 0 | 1 | 1 | 1 | 0.50 |
| 82 | Honduras | 0 | 0 | 0 | 0 | 1 | 1 | 0.33 |
| 83 | Uruguay | 1 | 1 | 0 | 0 | 0 | 0 | 0.33 |
| 84 | Algeria | 0 | 0 | 0 | 0 | 0 | 1 | 0.17 |
| 85 | Costa Rica | 0 | 0 | 0 | 0 | 1 | 0 | 0.17 |
| 86 | Cuba | 0 | 0 | 0 | 0 | 0 | 1 | 0.17 |
| 87 | Iceland | 0 | 0 | 1 | 0 | 0 | 0 | 0.17 |
| | Developed | 315 | 315 | 315 | 350 | 408 | 427 | 355.00 |
| | Developing | 573 | 598 | 620 | 654 | 729 | 760 | 655.67 |
| | Total | 888 | 913 | 935 | 1004 | 1137 | 1187 | 1010.67 |

Appendix 3: All WTO Antidumping Users, Most Protected, and Most Targeted Industries, by Country

| Country | Most Protected Industry | Avg Number of Measures in Force per Period | Most Targeted Industry | Avg Number of Measures against per Period |
|------------|-------------------------------------|---|--------------------------------------|--|
| Argentina* | Base metals, articles of base metal | 10.33 | Base metals, articles of base metal | 7.00 |
| Australia | Chemical, allied industry products | 19.00 | Base metals, articles of base metal | 2.83 |
| Austria | Base metals, articles of base metal | 42.17 | Wood pulp, paper, paperboard | 2.00 |
| Belgium | Base metals, articles of base metal | 42.17 | Chemical, allied industry products | 4.17 |
| Brazil* | Base metals, articles of base metal | 10.83 | Base metals, articles of base metal | 29.83 |
| Canada* | Base metals, articles of base metal | 44.50 | Base metals, articles of base metal | 10.33 |
| Chile | Base metals, articles of base metal | 1.00 | Vegetable products | 1.50 |
| Colombia | Chemical, allied industry products | 4.67 | Vegetable products | 0.67 |
| Denmark | Base metals, articles of base metal | 42.17 | Prepared foodstuffs | 1.67 |
| Egypt* | Base metals, articles of base metal | 2.00 | Base metals, articles of base metal | 1.67 |
| Finland | Base metals, articles of base metal | 42.17 | Wood pulp, paper, paperboard | 4.50 |
| France | Base metals, articles of base metal | 42.17 | Chemical, allied industry products | 7.67 |
| Germany* | Base metals, articles of base metal | 42.17 | Base metals, articles of base metal | 10.17 |
| Greece | Base metals, articles of base metal | 42.17 | Wood pulp, paper, paperboard | 1.33 |
| Guatemala | Articles of stone, plaster, cement | 0.67 | | 0.00 |
| India | Chemical, allied industry products | 19.00 | Base metals, articles of base metal | 7.83 |
| Indonesia | Base metals, articles of base metal | 1.17 | Wood pulp, paper, paperboard | 2.50 |
| Ireland | Base metals, articles of base metal | 42.17 | Wood pulp, paper, paperboard | 1.33 |
| Israel | Wood pulp, paper, paperboard | 1.83 | Chemical, allied industry products | 1.00 |
| Italy* | Base metals, articles of base metal | 42.17 | Base metals, articles of base metal | 8.17 |
| Japan | Textiles, textile articles | 1.00 | Machinery, mechanical, elect. equip. | 19.17 |
| Korea | Chemical, allied industry products | 7.00 | Base metals, articles of base metal | 17.67 |
| Luxembourg | Base metals, articles of base metal | 42.17 | Wood pulp, paper, paperboard | 1.33 |
| Malaysia | Wood pulp, paper, paperboard | 3.50 | Machinery, mechanical, elect. equip. | 4.17 |
| Mexico* | Base metals, articles of base metal | 33.33 | Base metals, articles of base metal | 5.50 |

continued

| Country | Most Protected Industry | Avg. Number of Measures in Force per Period | Most Targeted Industry | Avg. Number of Measures against per Period |
|-----------------|---------------------------------------|--|---------------------------------------|---|
| Netherlands | Base metals, articles of base metal | 42.17 | Prepared foodstuffs | 3.00 |
| New Zealand | Prepared foodstuffs | 6.83 | Base metals, articles of base metal | 1.67 |
| Nicaragua | Prepared foodstuffs | 0.33 | | 0.00 |
| Peru | Textiles, textile articles | 1.67 | | 0.00 |
| Philippines | Chemical, allied industry products | 0.33 | Plastics, rubbers | 1.00 |
| Poland | Chemical, allied industry products | 0.50 | Base metals, articles of base metal | 5.50 |
| Portugal | Base metals, articles of base metal | 42.17 | Wood pulp, paper, paperboard | 1.67 |
| Singapore | Base metals, articles of base metal | 2.00 | Machinery, mechanical, electr. equip. | 3.50 |
| South Africa | Chemical, allied industry products | 22.83 | Base metals, articles of base metal | 6.67 |
| Spain* | Base metals, articles of base metal | 42.17 | Base metals, articles of base metal | 5.17 |
| Sweden* | Base metals, articles of base metal | 42.17 | Base metals, articles of base metal | 6.17 |
| Thailand* | Base metals, articles of base metal | 1.17 | Base metals, articles of base metal | 5.83 |
| Trinidad | Live animals, animal products | 0.50 | Base metals, articles of base metal | 0.67 |
| Turkey | Machinery, mechanical, electr. equip. | 6.33 | Base metals, articles of base metal | 4.50 |
| United Kingdom* | Base metals, articles of base metal | 42.17 | Base metals, articles of base metal | 5.33 |
| United States | Base metals, articles of base metal | 144.67 | Chemical, allied industry products | 24.00 |
| Venezuela* | Base metals, articles of base metal | 3.83 | Base metals, articles of base metal | 8.83 |

*An asterisk indicates that the country's most protected industry is also the most targeted abroad.

Appendix 4: Products That Are Both Protected at Home and Targeted Abroad

| Country | Product | Foreign Target | Foreign Plaintiff |
|-----------|--|--|-------------------|
| Argentina | Cold-rolled plate / Cold-rolled sheet / Cold-rolled carbon steel flat products | Australia, Brazil | United States |
| | Portland cement | Germany | Brazil |
| Australia | Canned pears | China | United States |
| Austria | Seamless steel pipes and tubes | Croatia, Ukraine, Czech Republic, Hungary, Poland, Romania, Russia, Slovak Republic | India |
| Belgium | Sheets and plates of iron or steel / Carbon steel plate | Macedonia, Montenegro, Serbia, Slovenia | Canada |
| | Thermal paper / Thermal sensitive paper | Japan | India |
| Brazil | Bicycle tires | China, Taiwan, Thailand | Argentina |
| | Polyvinyl chloride | Mexico, United States | Australia |
| | Triethanolamine | United States | Australia |
| Canada | Corrosion-resistant steel sheet / Corrosion-resistant steel flat products | Australia, Brazil, France, Germany, Japan, Korea, New Zealand, Spain, Sweden, United Kingdom, United States | United States |
| | Hot-rolled carbon steel plate / Hot-rolled carbon steel flat products | Brazil, China, Finland, India, Indonesia, Italy, Korea, Mexico, Russia, Singapore, Slovak Republic, South Africa, Spain, Thailand, Ukraine | United States |
| | Refined sugar / Sugar and syrup | Denmark, Germany, Netherlands, United Kingdom, United States | United States |
| Denmark | Sheets and plates of iron or steel / Carbon steel plate | Macedonia, Montenegro, Serbia, Slovenia | Canada |

continued

Appendix 4—continued

| Country | Product | Foreign Target | Foreign Plaintiff |
|-----------|--|---|---------------------|
| | Thermal paper / Thermal sensitive paper | Japan | India |
| Egypt | Stainless steel sinks | Greece, Spain | South Africa |
| Finland | Sheets and plates of iron or steel / Carbon steel plate | Macedonia, Montenegro, Serbia, Slovenia | Canada |
| | Thermal paper / Thermal sensitive paper | Japan | India |
| France | Ball bearings / Antifriction ball bearings | Japan | United States |
| | Thermal paper / Thermal sensitive paper | Japan | India |
| Germany | Ball bearings / Antifriction ball bearings | Japan | United States |
| | Photo albums / Photo albums with pocket sheets | China | Canada |
| | Seamless steel pipes and tubes / Standard seamless line and pressure pipe | Croatia, Ukraine, Czech Republic, Hungary, Poland, Romania, Russia, Slovak Republic | United States |
| | Sheets and plates of iron or steel / Carbon steel plate | Macedonia, Montenegro, Serbia, Slovenia | Canada |
| | Thermal paper / Thermal sensitive paper | Japan | India |
| | Urea / Solid urea | Russia, Venezuela | United States |
| Greece | Thermal paper / Thermal sensitive paper | Japan | India |
| India | Hot-rolled coils, sheets, plates, strips / Hot-rolled carbon steel plate / Hot-rolled coil | Kazakhstan, Russia, Ukraine | Canada, Philippines |
| | Potassium permanganate | China | EU |
| Indonesia | Hot-rolled carbon steel plate | China, Russia, Ukraine | Canada |
| Ireland | Thermal paper / Thermal sensitive paper | Japan | India |

| Country | Product | Foreign Target | Foreign Plaintiff |
|--------------|--|---|------------------------------|
| Italy | Ball bearings / Antifriction ball bearings | Japan | United States |
| | Polyester staple fiber / Polyester synthetic staple fibers | Belarus | Turkey |
| | Sheets and plates of iron or steel / Carbon steel plate | Macedonia, Montenegro, Serbia, Slovenia | Canada |
| | Thermal paper / Thermal sensitive paper | Japan | India |
| Korea | Disposable lighters | China | Argentina, EU |
| Luxembourg | Thermal paper / Thermal sensitive paper | Japan | India |
| Mexico | Non-refillable pocket lighters / Disposable lighters | China | EU |
| | Polyvinyl chloride | United States | Argentina, Australia, Brazil |
| | Steel plate in sheets / Cut-to-length carbon steel plate | Brazil, Russia, Ukraine, United States | United States |
| Netherlands | Thermal paper / Thermal sensitive paper | Japan | India |
| Portugal | Thermal paper / Thermal sensitive paper | Japan | India |
| South Africa | Flat-rolled steel plates and sheets | Russia, Ukraine | EU |
| | Self copy paper | Germany, United Kingdom | Australia |
| Spain | Potassium permanganate | China, India, Ukraine | United States |
| | Sheets and plates of iron or steel / Carbon steel plate | Macedonia, Montenegro, Serbia, Slovenia | Canada |
| | Thermal paper / Thermal sensitive paper | Japan | India |
| Sweden | Ball bearings / Antifriction ball bearings | Japan | United States |

continued

Appendix 4—*continued*

| Country | Product | Foreign Target | Foreign Plaintiff |
|----------------|--|---|-------------------------|
| | Thermal paper / Thermal sensitive paper | Japan | India |
| Thailand | Clear and tinted float glass / Clear float glass / Float glass | Indonesia | Australia, South Africa |
| Turkey | Polyester synthetic staple fibers | Belarus, Indonesia, Italy, Korea, Russia, Taiwan, Romania | EU |
| United Kingdom | Ball bearings / Antifriction ball bearings | Japan | United States |
| | Thermal paper / Thermal sensitive paper | Japan | India |
| United States | 3.5" microdisks | Japan | EU |
| | Cold-rolled carbon steel flat products | Argentina, Brazil, China, Germany, Indonesia, Japan, Korea, Netherlands, Russia, Slovak Republic, South Africa, Taiwan, Thailand, Turkey, Venezuela | Canada, Mexico |
| | Corrosion-resistant carbon steel flat products | Australia, Canada, France, Germany, Japan, Korea | Canada |
| | Cylindrical roller bearings / Roller bearings | France, Germany, Italy, Japan, Sweden, United Kingdom | South Africa |
| | Oil country tubular goods / Oil and gas well casing | Argentina, Canada, Israel, Italy, Japan, Korea, Mexico, Taiwan | Canada |
| | Sugar and syrup | Belgium, France, Germany, Canada | Canada |
| Venezuela | Cold-rolled carbon steel flat products | Kazakhstan, Russia, Ukraine | United States |

Appendix 5: Antidumping Measures in Force, WTO Antidumping Users and Targets, 1995–2000

| | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | Total | Chg 95-00 |
|--------------------------|------|------|------|------|------|------|-------|-----------|
| <i>New Users</i> | | | | | | | | |
| Targeting new | 165 | 197 | 224 | 270 | 331 | 355 | 1542 | 115.15% |
| Targeting traditional | 72 | 80 | 93 | 123 | 175 | 210 | 753 | 191.67% |
| <i>Traditional Users</i> | | | | | | | | |
| Targeting new | 485 | 479 | 474 | 463 | 481 | 484 | 2866 | -0.21% |
| Targeting traditional | 166 | 157 | 144 | 148 | 150 | 138 | 903 | -16.87% |
| New (as target) | 650 | 676 | 698 | 733 | 812 | 839 | 4408 | 29.08% |
| New (as user) | 237 | 277 | 317 | 393 | 506 | 565 | 2295 | 138.40% |
| Traditional (as target) | 238 | 237 | 237 | 271 | 325 | 348 | 1656 | 46.22% |
| Traditional (as user) | 651 | 636 | 618 | 611 | 631 | 622 | 3769 | -4.45% |
| Total | 888 | 913 | 935 | 1004 | 1137 | 1187 | 6064 | 33.67% |

Notes: Traditional users = United States, Canada, European Union, Australia, New Zealand; new users = everyone else. Measures for which target is identified as the European Union have been counted 15 times—once for each EU member.

Appendix 6: Antidumping Initiations against U.S. Exports, January 1995–June 2000

| | Argentina | Australia | Brazil | Canada | Chile | China | Colombia | Costa Rica | EU |
|-------|-----------|-----------|--------|--------|-------|-------|----------|------------|----|
| 1995 | 3 | 1 | 0 | 3 | 0 | 0 | 0 | 0 | 2 |
| 1996 | 2 | 1 | 3 | 2 | 1 | 0 | 0 | 1 | 0 |
| 1997 | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 3 |
| 1998 | 0 | 2 | 2 | 0 | 0 | 0 | 1 | 0 | 0 |
| 1999 | 1 | 0 | 2 | 2 | 0 | 1 | 0 | 0 | 1 |
| 2000 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| Total | 8 | 4 | 7 | 9 | 1 | 2 | 1 | 1 | 7 |

| | India | Indonesia | Israel | Korea | Mexico | South Africa | Taiwan | Venezuela | Total |
|-------|-------|-----------|--------|-------|--------|--------------|--------|-----------|-------|
| 1995 | 1 | 0 | 2 | 0 | 2 | 1 | 0 | 0 | 15 |
| 1996 | 3 | 0 | 1 | 3 | 2 | 4 | 0 | 0 | 23 |
| 1997 | 0 | 1 | 0 | 2 | 2 | 0 | 0 | 1 | 13 |
| 1998 | 1 | 0 | 1 | 0 | 4 | 1 | 0 | 0 | 12 |
| 1999 | 3 | 0 | 0 | 0 | 2 | 1 | 2 | 1 | 16 |
| 2000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Total | 8 | 1 | 4 | 5 | 12 | 7 | 2 | 2 | 81 |

Appendix 7: Antidumping Measures in Force against U.S. Exports, January 1995–June 2000

| | Argentina | Australia | Brazil | Canada | Chile | China | Colombia | Costa Rica | EU |
|----------|-----------|-----------|--------|--------|-------|-------|----------|------------|----|
| Pre-1995 | 0 | 6 | 6 | 15 | 0 | 0 | 3 | 0 | 1 |
| 1995 | 1 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 1 |
| 1996 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 |
| 1997 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 |
| 1998 | 1 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 1 |
| 1999 | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 |
| 2000 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 |
| Total | 3 | 8 | 8 | 24 | 0 | 1 | 5 | 0 | 4 |

| | India | Indonesia | Israel | Korea | Mexico | New Zealand | South Africa | Taiwan | Venezuela | Total |
|----------|-------|-----------|--------|-------|--------|-------------|--------------|--------|-----------|-------|
| Pre-1995 | 1 | 0 | 0 | 1 | 14 | 1 | 2 | 0 | 2 | 52 |
| 1995 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 8 |
| 1996 | 0 | 0 | 1 | 3 | 2 | 0 | 0 | 0 | 0 | 9 |
| 1997 | 2 | 0 | 0 | 0 | 2 | 0 | 2 | 0 | 0 | 8 |
| 1998 | 2 | 0 | 1 | 0 | 4 | 0 | 0 | 0 | 0 | 12 |
| 1999 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 7 |
| 2000 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 2 | 7 |
| Total | 7 | 0 | 3 | 4 | 26 | 1 | 5 | 0 | 4 | 103 |

Appendix 8: Effect of Antidumping Measures on U.S. Exports

| Country | Product | HTS Codes | Year of AD Measure | Premeasure Export Value | Postmeasure Export Value | Change in Export Value | Method * |
|-----------|---------------------------------|--|-----------------------|----------------------------|-----------------------------|---------------------------|----------|
| Argentina | Telephone cable | 854420 | 1994 | 27,827,864 | 19,962,391 | -28.26% | -1 to +1 |
| Australia | Polyvinyl chloride | 390410 | 1992 | 3,769,427 | 2,578,004 | -31.61% | -1 to +1 |
| Australia | Triethanolamine & mixtures | 292213 | 1992 | 83,842 | 55,313 | -34.03% | -1 to +1 |
| Australia | Trifluralin technical | 292143 | 1993 | 670,716 | 0 | -100.00% | -1 to +1 |
| Brazil | Aluminum chloride, anhydrous | 282732 | 1992 | 355,251 | 0 | -100.00% | -1 to +2 |
| Brazil | Polyvinyl chloride | 390410 | 1992 | 9,709,631 | 1,089,042 | -88.78% | -1 to +1 |
| Brazil | Triethanolamine | 292213 | 1993 | 1,000,671 | 437,408 | -56.29% | -1 to +1 |
| Canada | Copper and brass pipe fittings | 741210, 741220 | 1993 | 34,227,952 | 33,246,165 | -2.87% | -1 to +1 |
| Canada | Corrosion-resistant steel sheet | 721030, 721049, 721220, 721230, 722591, 722592, 722599, 722693, 722694 | 1994 | 101,165,183 | 70,584,079 | -30.23% | -1 to +1 |
| Canada | Gypsum board | 680911, 680919 | 1993 | 15,283,476 | 1,851,568 | -87.89% | -1 to +2 |
| Canada | Iceberg lettuce | 070511 | 1992 | 82,893,779 | 79,235,797 | -4.41% | -1 to +2 |
| Canada | Machine tufted carpeting | 570320 | 1992 | 194,330,621 | 149,439,895 | -23.10% | -1 to +1 |
| Canada | Polyiso insulation board | 392113 | 1997 | 42,158,548 | 35,878,482 | -14.90% | -1 to +2 |
| Canada | Refined sugar | 170191, 170199, 170290 | 1995 | 50,090,422 | 4,658,476 | -90.70% | -1 to +2 |
| Canada | Synthetic baler twine | 560741 | 1994 | 5,902,159 | 485,580 | -91.77% | -1 to +2 |
| Colombia | Ethyl acetate | 291531, 291535 | 1994 | 1,304,554 | 563,560 | -56.80% | -1 to +1 |
| Colombia | Homopolymer polypropylene | 390210 | 1994 | 8,166,494 | 4,129,013 | -49.44% | -1 to +2 |
| Colombia | Orthophosphoric acid | 280920 | 1992 | 215,816 | 0 | -100.00% | -1 to +1 |
| Colombia | Polyvinyl chloride | 390410 | 1999 | 3,348,050 | 682,087 | -79.63% | -1 to +1 |
| EU | Microdisks (3.5 inch) | 852230 | 1996 | 142,732,877 | 129,801,189 | -9.06% | -1 to +2 |
| EU | Polysulphide polymers | 400299 | 1998 | 102,434,520 | 93,143,736 | -9.07% | -1 to +2 |
| EU | Sodium carbonate | 283620 | 1995 | 25,689,031 | 18,574,293 | -27.70% | -1 to +1 |
| India | Acrylic fiber | 550330 | 1997 | 5,424,778 | 0 | -100.00% | -1 to +2 |
| India | Bisphenol-A | 290723 | 1997 | 669,320 | 40,807 | -93.90% | -1 to +1 |
| India | Graphite electrodes | 854590 | 1998 | 48,701 | 6,033 | -87.61% | -1 to +1 |
| India | Newspint | 480100 | 1998 | 5,353,145 | 944,499 | -82.36% | -1 to +2 |
| Israel | Gypsum board | 680911, 680919 | 1996 | 1,662,529 | 110,340 | -93.36% | -1 to +2 |
| Israel | Medium density fibreboard | 441111, 441119, 441121, 441129, 441131, 441139, 441191, 441199 | 1998 | 3,701,277 | 360,780 | -90.25% | -1 to +2 |
| Israel | PVC | 390410 | 1999 | 3,731,901 | 942,078 | -74.76% | -1 to +1 |
| Korea | Choline chloride | 292310 | 1996 | 63,319 | 16,200 | -74.42% | -1 to +2 |
| Korea | E-glass fibre | 701911, 701912, 701919, | 1994 | 1,357,459 | 390,833 | -71.21% | -1 to +1 |
| Korea | Ethanolamines | 292211, 292212, 292213, 701931 | 1996 | 2,993,379 | 1,598,405 | -46.60% | -1 to +2 |

continued

| Country | Product | HTS Codes | Year of AD Measure | Pre-Measure | | Post-Measure | | Change in Export Value | Method * |
|-----------|------------------------------------|---|-----------------------|--------------|--------------|--------------|--------------|---------------------------|----------|
| | | | | Export Value | Export Value | Export Value | Export Value | | |
| Mexico | Acrylic fiber | 550330, 550630 | 1991 | 12,152,959 | | 276,726 | | -97.72% | -1 to +2 |
| Mexico | Bond paper | 482351, 482359 | 1998 | 42,802,986 | | 24,462,795 | | -42.85% | -1 to +1 |
| Mexico | Caustic soda | 281511 | 1995 | 1,383,829 | | 833,681 | | -39.76% | -1 to +1 |
| Mexico | High fructose corn syrup | 170260 | 1998 | 59,584,824 | | 43,332,734 | | -27.28% | -1 to +2 |
| Mexico | Hydrogen peroxide | 284700 | 1993 | 3,718,162 | | 436,681 | | -88.26% | -1 to +1 |
| Mexico | Plastic syringes | 901831 | 1992 | 54,825,196 | | 29,511,472 | | -46.17% | -1 to +2 |
| Mexico | Polyvinyl chloride | 390410 | 1991 | 7,051,154 | | 4,141,519 | | -41.26% | -1 to +2 |
| Mexico | Regenerated cellulose film, coated | 392071, 392072, 392073, 392079, 392114 | 1997 | 28,109,516 | | 5,395,680 | | -80.80% | -1 to +2 |
| Mexico | Swine for slaughter | 010310, 010391, 010392 | 1999 | 17,794,755 | | 6,028,575 | | -66.12% | -1 to +1 |
| S. Africa | Acetaminophenol | 292429 | 1999 | 1,677,003 | | 849,518 | | -49.34% | -1 to +1 |
| S. Africa | Aldicarb | 380810 | 1997 | 7,446,329 | | 7,380,844 | | -0.88% | -1 to +2 |
| S. Africa | Suspension PVC | 390410 | 1997 | 1,239,562 | | 136,390 | | -89.00% | -1 to +2 |
| Venezuela | Crystal polystyrene | 390311 | 1994 | 497,975 | | 0 | | -100.00% | -1 to +1 |
| Venezuela | High impact polystyrene | 390319 | 1994 | 3,168,846 | | 111,377 | | -96.49% | -1 to +2 |

*Method indicates whether the export comparison was between one year prior to and one year after or one year prior to and two years after the measure.

Notes

1. Brink Lindsey, "The U.S. Antidumping Law: Rhetoric versus Reality," Cato Institute Trade Policy Analysis no. 7, August 16, 1999. The discussion in this section draws heavily upon that paper.
2. An analysis of 107 affirmative U.S. dumping determinations over a three-year period found only 2 that were based on a comparison of all home-market and all U.S. prices. All other determinations relied on a selective use of home-market prices, third-country prices, artificial prices known as "constructed value," or "facts available." Ibid., pp. 8–9.
3. Ibid., p. 8.
4. J. Michael Finger, ed., *Antidumping: How It Works and Who Gets Hurt* (Ann Arbor: University of Michigan Press, 1993), p. 16.
5. Ibid., p. 26.
6. According to an analysis of 107 affirmative U.S. dumping determinations made over a three-year period, the average dumping margin where normal value was based on all home-market prices was 7.36 percent. When some home-market sales were excluded as below cost, the average dumping margin rose to 17.95 percent. When constructed value was used as the basis of normal value, the average dumping margin was 35.70 percent. Lindsey, p. 8.
7. Article XII of the GATT provided for trade restrictions to safeguard the balance of payments—a loophole that developing countries were allowed to exploit more or less unconditionally. Furthermore, Article XVIII of the GATT further recognized the right of poorer countries to employ trade restrictions in the name of development planning.
8. The term "traditional users" will be used throughout this paper. It refers collectively to the United States, Canada, the European Union, Australia, and New Zealand.
9. These figures count the countries of the European Union as a single user.
10. World Trade Organization, *2000 Annual Report* (Geneva: WTO, 2000), p. 46.
11. The figure of 2,483 investigations initiated during 1990–99 was extracted from United Nations Conference on Trade and Development, "Impact of Anti-Dumping and Countervailing Duty Actions," TD/B/COM.1/EM.14/2, October 24, 2000, p. 26. Cited hereinafter as UNCTAD Report. By contrast, a total of 1,558 investigations were initiated between January 1980 and June 1989. Finger, p. 4.
12. UNCTAD Report, p. 26.
13. The slight reduction in initiations should not be perceived as a move away from the use of antidumping measures. Rather, it reflects strong economic growth (and a corresponding reduction in the likelihood of proving injury to a domestic industry) experienced in many countries, in particular the United States, during this period.
14. UNCTAD Report, p. 26.
15. Throughout the rest of this paper, statistics regarding antidumping measures in force are based on the authors' analysis of semiannual reports on antidumping activity filed with the WTO by WTO members. See Appendix 1 for an overview of how those data were collected and analyzed.
16. Unless otherwise indicated, definitive antidumping measures include minimum price undertakings and refer only to measures taken by WTO members.
17. Industry groups correspond to the "section" level of the Harmonized Tariff Schedule.
18. Details are provided in Appendix 3. Note, however, that in that appendix members of the European Union are broken out separately.
19. UNCTAD Report, p. 22.
20. Note that some countries bring antidumping cases against members of the European Union individually, while others bring cases against the European Union as a whole. To reconcile those differences, we treated measures against the European Union as 15 measures against the 15 EU members. If measures against EU exports are treated as a single measure, total measures against traditional users went up 18 percent between 1995 and 2000, and total measures by new users against traditional users increased 117 percent.
21. Note that these appendices include initiations and measures by China and Taiwan—non-WTO members—against U.S. exports.
22. During 1996–2000 an average of 65.6 foreign antidumping measures were in effect against U.S. goods, compared to 46.6 during 1991–95.
23. One of the 28 was the United States, which should be excluded from any ratio of countries bringing measures against the United States.
24. We have not attempted to calculate the effect of antidumping measures on specific U.S. exports. Instead, we have simply reported cases in which U.S. export data show a significant decline in exports after the imposition of antidumping measures. Of course, in many cases the negative

effect of antidumping measures on U.S. exports is masked in the export data by the intervention of other factors (for example, the inclusion of non-subject merchandise in the tariff headings in question). Appendix 8 compares exports one year before imposition of an antidumping measure to exports either one or two years after the imposition of the measure. The export data used were aggregated at the six-digit level of the Harmonized Tariff Schedule.

25. Information on U.S. antidumping initiations was derived from the U.S. Department of Commerce Web site, <http://ia.ita.doc.gov/stats/petinit.htm>. For initiations against U.S. exports, see Appendix 6.

26. José Tavares de Araujo Jr., Carla Macario, and Karsten Steinfatt, "Antidumping in the Americas," Organization of American States, Washington, March 2001, p. 3.

27. We examine here only dumping determinations, not injury determinations. Our discussion is based on analysis of official notices of determinations in antidumping investigations. It is difficult enough to glean from official notices what antidumping authorities have actually done when calculating dumping margins; it is virtually impossible to discern from those notices what were the major issues that determined the outcome of the injury analysis. Since it is the determination of dumping that evaluates the alleged "unfairness" of U.S. exporters, those determinations are of primary interest here in any event.

28. Canada, Department of National Revenue, Preformed Fibreglass Pipe Insulation with a Vapour Barrier, Originating in or Exported from the United States of America, Final Determination, October 20, 1993.

29. Canada, Department of National Revenue, Final Determination of Dumping of Certain Concrete Panels, Reinforced with Fibreglass Mesh, Originating in or Exported from the United States of America, May 27, 1997.

30. India, Ministry of Commerce, Anti Dumping Investigation Concerning Imports of Acrylic Fibres from Thailand, Korea RP and USA—Final Findings, October 14, 1997.

31. India, Ministry of Commerce, Anti Dumping Investigation of Graphite Electrodes from USA, Austria, France, Germany, Italy, Spain, China PR and Belgium—Final Findings, March 27, 1998.

32. Canada, Department of National Revenue, Final Determination of Dumping of Refined Sugar from the United States of America, Denmark, the Federal

Republic of Germany, the Netherlands, the United Kingdom and the Republic of Korea, October 5, 1995.

33. South Africa, Board on Tariffs and Trade, Report No. 4088: Investigation into the Alleged Dumping of Meat of Fowls of the Species *Gallus Domesticus*, Originating in or Imported from the United States of America: Final Determination, 2000.

34. The determinations based on "facts available" included those in the investigations of aniline, bisphenol-A, oxo alcohols, sodium cyanide, and styrene butadiene rubber. The figure of 83 percent was derived from, with one exception, the ad valorem rates stated in the official notices of final determinations. For the rate in the bisphenol-A case, the ad valorem equivalent of the specific rate listed in the final determination was calculated using import prices listed in that determination.

35. The determinations based on "facts available" included those in the investigations of acetaminophenol, aldicarb, and suspension polyvinyl chloride. The figure of 89 percent was derived from the ad valorem rates stated in the official notices of final determinations.

36. Marcela Sanchez, "Leaders Say Access to U.S. Market Is Essential; Trade Seen as Key to Latin America," *Washington Post*, April 22, 2001.

37. "Zoellick Says U.S. Opposes Ag Subsidies, Trade Remedy Talks in FTAA," *Inside U.S. Trade*, May 11, 2001; and Daniel Pruzin, "U.S. Maintains Firm Line against Changes to Antidumping Rules in Qatar Preparations," *International Trade Reporter*, June 7, 2001.

38. Gary G. Yerkey, "Senators Urge President Bush Not to Weaken U.S. Trade Laws," *International Trade Reporter*, May 10, 2001.

39. Some countries did not file any documents but reported to the authorities that they had taken no actions during the relevant time period. Other countries did not file documents for all periods, and still others did not file any documents at any time.

40. This period was chosen because it corresponds with the formal commencement of the World Trade Organization.

41. When data collection for this paper began, most countries had filed their reports corresponding to the period January–June 2000. During the drafting of this paper, reports for the July–December 2000 period began trickling into the WTO files. On this publication date, the July–December 2000 reports are still unavailable for many countries, so for the sake of consistency, the analysis of definitive actions carries through the January–June 2000 period.

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