

Evolution in the use of antidumping mechanism after Uruguay round

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Abstract

This paper analyzed how the main economies have used the antidumping measures (AD) after the Uruguay round, between 1995 and 2012. Therefore, some techniques were employed in order to reveal the main AD users and the trend, of using this instrument, associated to each one of them. We also tested the hypothesis that countries could converge in terms of the number of AD cases and if spatial effects could be involved in this process. Finally, a criterion was established and a model was estimated in order to identify countries that usually favor the most competitive sectors through AD practice. The results revealed that Brazil was the only heavy AD user that was counter to the general downward trend verified on the AD cases. Meanwhile, China was not only the main target of this mechanism but the cases against this country showed a growth trend also. Furthermore, we found that the number of AD cases opened by traditional and nontraditional users is converging. Finally, both the index and the estimated model have indicated that Turkey and the EU seem to be favoring the most competitive industries through the AD practice.

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Resumo

Este artigo analisou o uso do mecanismo antidumping (AD) após a rodada Uruguai, entre 1995 e 2012. Para tanto, técnicas foram empregadas no intuito de revelar os principais usuários do AD e a tendência de uso associada a estes. A hipótese de que países poderiam estar convergindo em termos da aberturas de casos AD e de que efeitos espaciais estariam envolvidos neste processo também foram testadas. Por fim, um critério foi estabelecido e um modelo foi estimado a fim de identificar países que favorecem os setores mais competitivos via AD. Os resultados revelaram que o Brasil foi o único grande usuário que esteve na contramão da tendência geral de queda na abertura de casos AD. Enquanto isso, a China não apenas foi o principal alvo deste mecanismo como os casos AD, iniciados contra este país, apresentaram uma tendência de crescimento. Verificou-se ainda que o número de

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casos AD, iniciados por tradicionais e não-tradicionais usuários deste instrumento, parece estar convergindo. Por fim, tanto o índice quanto os modelos estimados indicaram que Turquia e União Europeia parecem usar o AD para favorecer as indústrias mais competitivas.

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Palavras-chave: Economia Internacional; Política Externa; Barreiras Comerciais; *Antidumping*

1. Introduction

Since the General Agreement on Tariffs and Trade (GATT) creation,¹ in 1947, the world witnessed an effective reduction of the traditional commercial barriers (Ossa, 2011). However, at the beginning of the 70s, by way of obscure rules, a new kind of protective measure, termed “non-tariff barrier” (NTB), became largely used and was object of discussion of GATT/WTO in the Tokyo Round during 1973–79 (Quinn and Slayton, 1982). The situation worsened in the 80s and the *antidumping* mechanism (AD) became known as the main NTB type in use at that time.² According to Bloningen and Prusa (2001, p. 1): “since 1980, GATT/WTO members have filed more complaints under the AD statute than under all other trade laws combined, or that more AD duties are now levied in any one year worldwide than were levied in the entire period 1947–1970.”

This scenario brought the AD measures back to the GATT/WTO negotiating table as the main subject on the agenda during the Uruguay Round (1986–1994). Prusa (1999) argues that these meetings were marked by opposition between the countries considered “traditional” users of the AD measures (headed by the USA and European Union) and the “non-traditional” ones (mostly developing countries). Due to the USA’s and the European Community’s efforts, it was not possible to restrict the use of the AD.

This result ended up increasing the use of this mechanism by nontraditional countries. According to Davis (2009, p. 3): “from the end of the Uruguay Round in the mid-1990s, other users began to emerge, and developing and emerging economies now constitute the majority of users”. However, Aggarwal (2004) states that developing countries are not yet entirely familiarized with the use of AD. Actually, they are using it as a way of retaliate the traditional users due to their excessive number of AD cases opened against developing countries. He suggests that traditional users should reduce their use against developing countries, in order to avoiding an even more excessive use of AD around the world.³ In fact, even the use of AD by new users could spread the use of this mechanism by other countries. According to Vandebussche and Zanardi (2008), there would be a “contagion effect” associated to AD. They argued that some countries could learn by seeing other nearby countries using AD. These both effects together (retaliation and contagion), could help to explain the proliferation of antidumping after Uruguay round.

Although the *antidumping* mechanism had been created for the purpose of avoiding unfair trade, preventing the big businesses from monopolizing the market, some authors defend that it is only a new way of protectionism (Nelson, 2004; Davis, 2009) that could be used for political ends (Feinberg, 1989, 2005; Araújo et al., 2001; Aggarwal, 2004;

¹ Later would become the World Trade Organization (WTO).

² Regarding the obscure character of the AD legislation, Knetter and Prusa (2003) stated that two criteria must be met for it to be considered *dumping*. First, there must be proof that the national industry suffered a great loss caused by importation. Secondly, the imported products must be commercialized at inferior prices than the “normal price” of domestic market. Since the “normal price” is usually indirectly estimated, by taking the export price charged in other countries (*the price-based method*) or via indicators associated to the production costs in the origin country (*the constructed-value method*), the result may be questionable and even manipulated by regulatory agencies, exposing the AD mechanism to pressure from the interest groups (e.g.: local businesses). Nelson (2004, p. 554–555), in discussing this mechanism, discloses that: “It is, instead, about protection and, both because it wraps itself in the mantle of fairness and because it is obscure and because its details permit greater protection to be delivered than would be the case with simple legislated protection, antidumping protection is particularly bad protection”. According to Evenett (2006, p. 733): “An important feature of the implementation of anti-dumping laws is that there is considerable room for discretion by administering officials. (...) This is not to suggest that officials are breaking the law, rather that they may be using the discretion available to them to respond to incentives to supply protection to influential domestic interests and constituencies.”

³ According to him: “AD will spread among developing countries not only due to greater liberalization pressures but also due to the fact that more and more countries would like to create an AD ability to counter the AD use against them. This may have chain effect on the use of AD and may reverse the trade gains that liberalization may ensure to them. It is therefore important to retrain the use of AD against developing countries.” (Aggarwal, 2004, p. 1053–1054).

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