

Policy Analysis

No. 17

July, 1996

The Dumont Institute for Public Policy Research, 236 Johnson Avenue, Dumont, NJ
07628 Telephone: (201) 501-8574 e-mail: info@dumontinst.com
http://www.dumontinst.com

Some Recent U.S. Antidumping Cases Against Korea¹

Robert W. McGee

Yeomin Yoon

This paper presents an overview of antidumping laws, summarizes some recent antidumping cases that have been filed in the United States against Korean companies, and discusses some moral aspects of initiating an antidumping investigation that have been ignored by other researchers and commentators.

Introduction

Although economists disagree on many things, one area of general agreement is that free trade is the best policy. Adam Smith (1776) was one of the first, but by no means the last economist to take this position. If economists can be criticized for their position, it is because they base their conclusions on utilitarian reasoning -- the greatest good for the greatest number -- while ignoring human rights issues. It is true that free trade is a

¹ Research for this paper was supported by a W. Paul Stillman School of Business Summer Research Grant. We would like to thank Jay Maccari for his research assistance. An earlier version of this Policy Analysis was published in Korea's Turn To Globalization and Korea - U.S. Economic Cooperation, Division of Research, W. Paul Stillman School of Business, Seton Hall University, 1996, pp. 73-86.

positive-sum game because there are more winners than losers. Studies have found that free trade creates more jobs than it destroys. Denzau (1987) concluded that the 1984 voluntary restraint agreement on steel protected 16,900 jobs in the steel industry but eliminated 52,400 jobs in the industries that use steel. In other words, more than three jobs were lost for every job protected. Mendez (1986), using different assumptions, estimated the gains and losses to be 27,072 and 40,927, respectively. Hufbauer, Berliner and Elliott (1986) measured the cost of each job saved for 31 industries. Protectionism consistently destroys more jobs than it saves.

The world's economy is still shackled with trade restraints despite the overwhelming evidence that free trade is the best policy. It is a classic case of rent-seeking, the process whereby some special interest seeks the assistance of government to feather its nest at the expense of the general public. The Public Choice School of Economics has devoted more than three decades to the study of this phenomenon (Buchanan and Tullock, 1962). Yet rent-seeking persists, because the special interests are still able to convince policymakers that their case is a special one and/or because there is no organized opposition to their protectionist proposals.

The protectionist argument is an illustration of what Hazlitt (1946) calls the mother of all economic fallacies, the failure to look at the effects that a policy has on all groups, or the failure to look at both the short-run and long-run effects of a policy. In the case of protectionism, for example, it is very easy to argue that jobs will be lost if some protectionist policy is not implemented. Advocates can point to the unemployment lines to show how many people lost their jobs because of the failure of domestic policymakers to protect some particular industry.

Frederic Bastiat (1964) pointed out the fallacy of this sophistry in the 1840s. What is easy to see is the number of jobs that stand to be lost because of a particular policy. What is more difficult to see is the number of jobs that would be destroyed -- or that would never come into existence -- if some special interest were protected.

The Republic of Korea has come under increasing attack by protectionists in the United States in recent years. A favorite tool of domestic (U.S.) protectionists has been the antidumping laws.² Domestic manufacturers in various industries have gone running to the Commerce Department for protection against an alleged invasion of cheap products from Korea. As a result of the recently concluded Uruguay Round of GATT and the creation of the World Trade Organization (WTO), antidumping laws are expected to become an even more powerful tool of protectionists, as the antidumping philosophy spreads to countries that previously had no antidumping laws, and as tariffs and quotas take on less importance. This paper summarizes recent antidumping cases that have been initiated against Korea and makes policy recommendations.

An Overview of Antidumping Theory and Practice

The theory behind the antidumping laws is an interesting one. A foreign producer selling a product in the domestic market can be accused of dumping if it either sells below the cost of production or sells its product for a lower price in the domestic market than in some foreign market. If found guilty of dumping, the foreign producer can be assessed a penalty and/or excluded from the domestic market. As a practical matter, nearly all the antidumping actions that have ever been filed in the United States have been filed by a domestic producer that feels the pinch of competition and wants to use the force of government to prevent foreigners from capturing any portion of the domestic market.

² The theory and practice of antidumping is too complex to go into here. For some lengthy technical and legal discussions, see McGee (1994; 1993); Boltuck and Litan 1991).

Aside from the fact that companies almost never sell their products for less than the cost of production -- they would go out of business if they engaged in such practices for any lengthy period of time -- even if it could be proven that they did so, it does not follow that they should be punished for selling for less than production cost. Doing so would benefit consumers, who would pay lower prices for foreign products. The general public benefits by low prices. The only parties who are harmed are a few domestic producers, who stand to lose sales if the practice is allowed to continue. Thus, antidumping laws cannot be justified on any majoritarian concept of utilitarianism because those who gain from the practice greatly exceed the losers.

The second pillar of the antidumping laws -- selling for lower prices in the domestic economy -- also will not hold up to a utilitarian analysis. If a foreign producer can be punished for charging a lower price in the United States than in some other market -- and they can -- then there is tremendous incentive to charge American consumers higher prices in order to avoid triggering an antidumping investigation. Again, domestic consumers suffer because the possibility of being investigated for violating the antidumping laws pressures foreign producers to charge higher prices on the domestic market.

In addition to having a faulty theoretical foundation, the way the antidumping laws are interpreted and applied also leaves much to be desired. There are no checks and balances. The Commerce Department has the power to request unlimited amounts of information. It can dictate the time-frame for the production of documents and the format the documents will take. If it is not completely satisfied with the information it receives, it can disregard everything and use the "best information available" (BIA), which often consists of unreliable information that is supplied by the party that initiated the action (Palmer 1986).

In one particularly outrageous abuse of power, the Commerce Department demanded on a Friday afternoon that Matsushita produce 3,000 pages of Japanese financial documents, translated into English, by the following Monday morning. Rather than comply, it withdrew from the small business telephone market in the United States, thereby abandoning more than \$50 million in export sales (Bovard 136). In another case, the Commerce Department rejected all the data provided by SKF, a Swedish bearings manufacturer because about one percent of the sales data from its German subsidiary was in an unacceptable format. SKF had provided data on more than 100 million separate sales -- more than three tons and 150,000 pages worth (Bovard 137).

There are also a number of measurement problems. A shift in exchange rates can cause a foreign company to be found guilty of dumping even if it sells its product for the same price worldwide (Palmer 1988; Kaplan, Kamarck and Parker 1988). This result can obtain in other instances, too, because of the way in which fair value is determined. For example, when the Commerce Department compares foreign and domestic prices, it compares the average price in a foreign market to domestic prices for particular sales. If the product is sold for a range of prices, some prices in the domestic market are bound to be higher than the average foreign market price, and some lower. Whenever the domestic price is lower than the average foreign market price, the foreign producer can be found guilty of dumping (Caine 1981). The Court of International Trade has said that the Commerce Department's price comparison method is not reasonably fair.³ Yet it continues to use this method to determine antidumping margins.

Antidumping Cases Involving Korea

³ NAR, S.P.A. v. United States, 707 F. Supp. 553 (CIT 1989).

Several antidumping cases have been initiated by various U.S. domestic producers in recent years. This trend is likely to continue, and even increase, as antidumping laws take on increasing importance. Korea is likely to remain a favorite target for these actions as it continues to strengthen its position in the international economy.

Alcohol

An investigation involving the possible dumping of polyvinyl alcohol was initiated in March, 1995 as the result of a petition filed by Air Products and Chemicals, Inc., one of three domestic producers of polyvinyl alcohol.⁴ Using figures provided by the petitioner, the Commerce Department determined the antidumping margin to be 187.43 percent.⁵

Computer Chips⁶

Based on a petition filed in April, 1992 by Micron Technology, Inc. of Boise, Idaho, the Commerce Department launched an investigation of computer dynamic random access memory (DRAM) chips of one megabit or more.⁷ The targets of the investigation were Hyundai Electronics Co., Ltd., Hyundai Electronics America, Goldstar Electron Co.Ltd., Goldstar Electron America, Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc.⁸ All three companies were found guilty. Preliminary dumping margins ranged as follows:

Hyundai, 94.29% to 170.89% for one meg; 278.63% to 282.51% for four meg

⁴ 60 Fed. Reg. 17054, April 4, 1995, reprinted in USITC Pub. 2883, at B-6.

⁵ 60 Fed. Reg. 17054, April 4, 1995, reprinted in USITC Pub. 2883, at B-6.

⁶ For some in-depth discussions of this antidumping action, see Yoon (1994); McGee and Yoon (1994).

⁷ 57 Fed. Reg. 18163, April 29, 1992, reprinted in USITC Pub. 2519, at B-2; 57 Fed. Reg. 21231, May 19, 1992, reprinted in USITC Pub. 2519, at B-4. Also discussed in USITC Pub. 2629.

⁸ 57 Fed. Reg. 21231, May 19, 1992, reprinted in USITC Pub. 2519, at B-4; 58 Fed. Reg. 15481, March 23, 1993, reprinted in USITC Pub. 2629, at A-27.

Goldstar, 132.11% to 165.29% for one meg; 273.25% for four meg

Samsung, 0.62% to 3.83% for one meg; 93.18% to 97.39% for four meg⁹

Final antidumping margins were reduced considerably. The final weighted-average margins were: 4.97% for Goldstar; 7.19% for Hyundai; 0.74% for Samsung; and 3.19% for all others.¹⁰

Flat-Rolled Carbon Steel

One of the most publicized countervailing duty and antidumping actions involved flat-rolled carbon steel products from Korea and about a score of other countries.¹¹ The investigations were initiated as a result of petitions filed by Armco Steel Co; Bethlehem Steel Corp.; Geneva Steel; Gulf States Steel, Inc., of Alabama; Inland Steel Industries, Inc.; Laclede Steel Co.; LTV Steel Co., Inc.; Lukens Steel Co.; National Steel Corp.; Sharon Steel Corp.; USX Corp./U.S. Steel Group; and WCI Steel, Inc.¹² The countervailing duty action alleged that there were certain equity infusions into the Pohang Iron & Steel Company (POSCO) in 1981 and from 1986 to 1988, and that government transfers of land to POSCO for the Pohang facility amounted to subsidies.¹³ The Dongkuk Steel Company, Inc. and the Union Steel Manufacturing Company, Ltd. were also determined to have received subsidies. Some of these subsidies included preferential access to foreign loans, unlimited deduction for overseas entertainment expenses and preferential utility rates. The subsidies ranged between 2.34% and 4.64%.¹⁴

⁹ 57 Fed. Reg. 21231, May 19, 1992, reprinted in USITC Pub. 2519, at B-4.

¹⁰ 58 Fed. Reg. 15481, March 23, 1993, reprinted in USITC Pub. 2629, at A-27.

¹¹ USITC Pubs. 2549 and 2664, Volumes I and II. For a discussion of this case, see Mascola (1994).

¹² 57 Fed. Reg. 30231, July 8, 1992, reprinted in USITC Pub. 2549, at A-4 and 57 Fed. Reg. 32870, July 24, 1992, reprinted in USITC Pub. 2549, at A-5.

¹³ 57 Fed. Reg. 32971, July 24, 1992, reprinted in USITC Pub. 2549, at A-6.

¹⁴ USITC Pub. 2664, Vol. II, E-6, 7, 11, 12 15, 16 and 18.

The Commerce Department investigated sales of two of the five Korean companies named in the antidumping petition -- Dongkuk and POSCO. It made affirmative determinations for all firms and products investigated.¹⁵

Nitrocellulose

The Commerce Department's investigation of industrial nitrocellulose was launched as the result of a petition filed by Hercules Incorporated of Wilmington, Delaware in September, 1989.¹⁶ Miwon Company, Ltd. and all other companies were assessed an antidumping margin of 66.30%.¹⁷

Oil Country Tubular Goods

Oil country tubular goods are defined as goods used in drilling oil and gas wells and for transporting oil and gas to the surface.¹⁸ This petition was initiated by Bellville Tube Corp., Bellville, TX; IPSCO Steel, Inc., Camanche, IA; Koppel Steel Corp., Beaver Falls, PA; Maverick Tube Corp., Chesterfield, MO; North Star Steel Ohio, Youngstown, OH; USX Corp, Pittsburgh, PA; and USS/Kobe Steel Co., Lorain, OH.¹⁹ The companies that were targeted by the petition were not listed in the Federal Register. The companies that were listed in opposition to the antidumping duties at the public conference included: Hyundai Pipe Co., Ltd.; Pusan Steel Pipe Co., Ltd.; Union Steel Manufacturing Co., Ltd.; Dongbu Steel Co., Ltd.; Korea Steel Pipe Co., Ltd.; Tubos Reunidos, S.A.; Voest-Alpine Stahrohr Kindberg, GmbH and Voest-Alpine Steel Corp.²⁰ The antidumping or

¹⁵ USITC Pub. 2664, Vol. II, E-24.

¹⁶ 54 Fed. Reg. 42537, October 17, 1989, reprinted in USITC Pub. 2231, at A-8; 55 Fed. Reg. 19367, May 9, 1990, reprinted in USITC Pub. 2295, at A-2; 55 Fed. Reg. 9761, March 5, 1990, reprinted in USITC Pub. 2295, at A-5.

¹⁷ 55 Fed. Reg. 21054, May 22, 1990, reprinted in USITC Pub. 2295, at A-14.

¹⁸ Pub. 2803, I-6.

¹⁹ 59 Fed. Reg. 34864, July 7, 1994, reprinted in USITC Pub. 2803, at A-3; 59 Fed. Reg. 37962, July 26, 1994, reprinted in USITC Pub. 2803, at A-5.

²⁰ Pub. 2803, at B-4-5.

countervailing duty margins assessed against the Korean companies ranged from 2.68% to 12.23%.²¹

Pipes & Pipe Fittings

A number of actions have been filed against Korean pipes and pipe fittings in recent years. In one action involving certain carbon steel butt-weld pipe fittings from Korea and a few other countries,²² the preliminary alleged antidumping margins for Korea were estimated to be between 72.36% and 207.89%.²³ The final weighted average margin was determined to be 207.89%.²⁴ The petition was filed by the U.S. Fittings Group, an ad hoc trade association.²⁵ The major Korean company under investigation was Taekwang Bend Ind. Co., Inc., which accounted for more than 60% of all Korean pipe fittings of this category.²⁶

An earlier investigation involved stainless steel butt-weld pipe fittings.²⁷ This petition was filed by the Flowline Division of Markovitz Enterprises, Inc., of New Castle, PA.²⁸ The target of the investigation, Asia Bend Company, did not respond to the Commerce Department's questionnaire.²⁹ The preliminary antidumping margins assessed

²¹ 59 Fed. Reg. 37965, July 26, 1994, reprinted in USITC Pub. 2803, at A-8.

²² USITC Pubs. 2767 and 2870. The merchandise covered in this investigation included certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters, imported in either finished or unfinished condition. 60 Fed. Reg. 10551, February 27, 1995, reprinted in USITC Pub. 2870, at B-21.

²³ 59 Fed. Reg. 14159, March 25, 1994, reprinted in USITC Pub. 2767, at A-6.

²⁴ 60 Fed. Reg. 10552, February 27, 1995, reprinted in USITC Pub. 2870, at B-22.

²⁵ 59 Fed. Reg. 14148, March 25, 1994, reprinted in USITC Pub. 2767, at A-5.

²⁶ 60 Fed. Reg. 10552, February 27, 1995, reprinted in USITC Pub. 2870, at B-22.

²⁷ USITC Pubs. 2534 and 2601. The product subject to this investigation was stainless steel butt-weld pipe fittings, finished or unfinished, with an inside diameter under 14 inches. 57 Fed. Reg. 26645, June 15, 1992, reprinted in USITC Pub. 2534, at B-4.

²⁸ 57 Fed. Reg. 22487, May 28, 1992, reprinted in USITC Pub. 2534, at B-3; 57 Fed. Reg. 26645, June 15, 1992, reprinted in USITC Pub. 2534, at B-4.

²⁹ 57 Fed. Reg. 61882, December 29, 1992, reprinted in USITC Pub. 2601, at A-10.

were between 11.6% and 21.2%.³⁰ The final weighted average margin assessed was 21.2%.³¹

The final determination of an investigation involving certain welded stainless steel pipes was reached in late 1992.³² The petitioners were Avesta Sandvik Tube Co., Inc.; Bristol Metals; Damascus Tubular Products; Trent Tube Division of Crucible Materials Corp; and the United Steelworkers of America.³³ The parties listed in opposition to the antidumping duties at the public conference (which may not include all of the target companies) were Lucky Metals Corp., Pusan Steel Pipe Co., Ltd. and the Sammi Metal Products Co., Ltd.³⁴ The dumping margins assessed were as follows: 7.75% for Sammi Metal Products Co., Ltd.; 2.55% for Pusan Steel Pipe Co., Ltd; 6.83% for all others.³⁵

Another pipe case was resolved a few weeks previously. This case involved certain circular, welded, non-alloy steel pipes and tubes.³⁶ The investigation was launched as the result of a petition filed by Allied Tube and Conduit Corp., Harvey, IL; American Tube Co., Phoenix, AZ; Bull Moose Tube Co, Gerald, MO; Century Tube Corp., Pine Bluff,

³⁰ 57 Fed. Reg. 26646, June 15, 1992, reprinted in USITC Pub. 2534, at B-5.

³¹ 57 Fed. Reg. 61882, December 29, 1992, reprinted in USITC Pub. 2601, at A-10.

³² USITC Pub. 2585. The pipe under investigation was welded austenitic stainless steel pipe. Such pipe is generally used to transmit liquids or gases. Applications include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, general food processing lines, automotive paint lines and paper process machines. 57 Fed. Reg. 33521, July 29, 1992 and 57 Fed. Reg. 53693, November 12, 1992, reprinted in USITC Pub. 2585, at A-3 and 5, respectively.

³³ 57 Fed. Reg. 33522, July 29, 1992, reprinted in USITC Pub. 2585, at A-4; 57 Fed. Reg. 53693, November 12, 1992, reprinted in USITC Pub. 2585, at A-5.

³⁴ USITC Pub. 2585, at B-4.

³⁵ 57 Fed. Reg. 53705, November 12, 1992, reprinted in USITC Pub. 2585, at A-17.

³⁶ USITC Pub. 2564. The pipe covered in this investigation was welded, non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized or painted) or end finish (plain end, bevelled end, threaded or threaded and coupled. Such pipe is intended for low pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems and other related uses. 57 Fed. Reg. 21428, May 20, 1992, reprinted in USITC Pub. 2564, at A-3.

AR; Sawhill Tubular Division, Cyclops Corp., Sharon, PA; Laclede Steel Co., St. Louis, MO; Sharon Tube Co., Sharon, PA; Western Tube and Conduit Corp., Long Beach, CA; and Wheatland Tube Corp., Collingswood, NJ.³⁷ Companies listed in opposition to the antidumping duties at the hearing included Korea Iron and Steel Association; Hyundai Pipe Co., Ltd.; Korea Steel Pipe Co., Ltd.; Pusan Steel Pipe Corp.; Union Steel Manufacturing Co.; and Dongbu Steel Co.³⁸ The antidumping duties assessed were as follows: Hyundai Steel Pipe Co., Ltd., 5.60%; Korea Steel Pipe Co., Ltd., 6.21%; Masan Steel Tube Co., 11.63%; Pusan Steel Pipe Co., Ltd., 4.91%; all others, 5.97%.³⁹

Saccharin

This petition was initiated by PMC Specialties Group of Rocky River, Ohio, the sole domestic producer of saccharin, in November 1993.⁴⁰ The unnamed target companies were found guilty. The dumping margin, based on figures provided by the petitioner, was 133%.⁴¹ The decision was reversed on appeal. The final investigation found no dumping.⁴²

Steel Wire Rope

This action was initiated by a group of domestic steel wire rope and specialty cable manufacturers.⁴³ The targets of the investigation were Korea Iron & Steel Wire, Ltd; Man Ho Rope Mfg. Co., Ltd.; and Young Heung Iron and Steel Co., Ltd.⁴⁴ After a detailed

³⁷ 57 Fed. Reg. 21428, May 20, 1992, reprinted in USITC Pub. 2564, at A-3.

³⁸ USITC Pub. 2564, at A-11.

³⁹ 57 Fed. Reg. 42953, September 17, 1992, reprinted in USITC Pub. 2564, at B-16.

⁴⁰ 58 Fed. Reg. 65335, December 14, 1993, reprinted in USITC Pub. 2716, at A-3.

⁴¹ 58 Fed. Reg. 65336, December 14, 1993, reprinted in USITC Pub. 2716, at A-4.

⁴² Interview with N. David Palmeter, July 29, 1995.

⁴³ USITC Pub. 2613, at B-3. The steel wire rope included in this investigation consisted of ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire. 58 Fed. Reg. February 23, 1993, reprinted in USITC Pub. 2613, at A-10.

⁴⁴ 58 Fed. Reg. 11030, February 23, 1993, reprinted in USITC Pub. 2613, at A-10.

investigation, the antidumping margins were determined to be between 0.10% and 1.51%.⁴⁵

Sweaters

This investigation was initiated as a result of the petition filed by the National Knitwear and Sportswear Association.⁴⁶ In September, 1990, the USITC found that the domestic industry was harmed by the foreign imports,⁴⁷ but that determination was later reversed.⁴⁸

Summary

	<u>Dumping Margins</u>
Polyvinyl alcohol (1995)	187.43%
DRAM chips (1993)	0.74 - 7.19%
Flat-rolled carbon steel (1993)	2.34 - 4.64%
Industrial nitrocellulose (1990)	66.3%
Oil country tubular goods (1994)	2.68 - 12.23%
Carbon steel butt-weld pipe fittings (1995)	207.89%
Stainless steel butt-weld pipe fittings (1992)	21.2%
Welded stainless steel pipes (1992)	2.55 - 7.75%
Circular, welded, non-alloy steel pipes & tubes (1992)	4.91 - 11.63%
Saccharin (1993)	0%
Steel wire rope (1993)	0.10 - 1.51%
Sweaters (1992)	0%

⁴⁵ 58 Fed. Reg. 11039, February 23, 1993, reprinted in USITC Pub. 2613, at A-19.

⁴⁶ USITC Pub. 2577, at 4 and I-4. For a discussion of this case, see Davis and May (1991).

⁴⁷ 57 Fed. Reg. 47352, October 15, 1992, reprinted in USITC Pub. 2577, at A-2; USITC Pub. 2312.

⁴⁸ USITC Pub. 2577, at 45-46.

Ten of the twelve cases brought against Korean companies in recent years have resulted in antidumping duties being assessed. In several other cases that were settled before reaching this stage of the process, it is reasonable to expect that the cases were resolved only after the alleged offending companies agreed to raise their prices in the future. So these statistics, although overwhelming -- the average antidumping margin assessed was almost 43%⁴⁹-- may understate the effect that the initiation of antidumping actions have had on Korean producers. The mere threat of an antidumping action places a chilling effect on price competition.

Some Moral Issues

All antidumping actions, by their very nature, are special interest in nature because they protect a few domestic producers at the expense of the general public. Numerous studies have found that the losses from such protection outweigh the gains. So antidumping laws cannot be justified on any utilitarian grounds. Yet the practice continues.

The fact that various protectionist policies are harmful, on balance, has been known and documented for decades, if not hundreds of years. But few, if any, of the various studies that have been done on this subject have addressed the moral issues involved with protectionism in general and antidumping laws in particular. The reason for this omission is obvious, at least to economists, who pride themselves on taking a wert-frei or value-free approach to their research. Yet the omission is glaring, at least to the present authors, who see trade policy from an interdisciplinary perspective.

⁴⁹ The 43% figure was computed by adding the 12 antidumping margins and dividing by 12. Where there were a range of margins, the mid-point margin was chosen.

The glaring omission in present trade policy is that it completely omits any thought about human rights, specifically, the rights to property and contract. Yet both contract and property rights must necessarily be disparaged whenever some government places restrictions on acts between consenting adults -- trade between buyer and seller in this case.

All trade is ultimately between individuals. When some government adopts a quota policy, some individuals will not be able to buy the product in question from an otherwise willing seller because the law prohibits the product from crossing the border. In addition, because the quantity supplied is artificially cramped, the price of the units that do cross the border will be higher than would be the case in a free trade regime. The supply curve shifts to the left. Tariffs differ from quotas only in that they do not restrict the quantity that can cross the border. Tariffs act like a tax, which increases the price that domestic consumers must pay if they want the product in question.

Using antidumping laws as a tool of trade policy has results similar to that of quotas and tariffs. The supply of the foreign product is likely to be reduced, either because the targeted foreign producers are prohibited from doing business in the domestic market or because, to avoid future penalties, they must raise their price to prohibitive levels. Even when the quantity supplied to the domestic market does not drop much, the price that domestic consumers must pay is increased because foreign producers feel compelled to raise their prices to avoid future charges of dumping.

The antidumping laws have become a potent weapon in the arsenal of domestic producers. All they have to do is send a letter to the Commerce Department complaining about some alleged wrong that has been done to them by some foreign producer. The Commerce Department will take the ball and run with it from there. The targeted foreign producer(s) may have to spend millions of dollars in their defense. If the target companies

do not produce information that complies precisely with Commerce Department demands, Commerce Department and ITC officials can use data provided by the domestic producers that initiated the action, regardless of how unreliable or inaccurate that information might be.

The moral issue that has been ignored for decades is simply this: Is it ever justified, on moral grounds, to initiate an antidumping action? The answer is that initiating an antidumping action can only be justified if the rights of the person filing the action have been violated. If that is the case, then the domestic producer whose rights have been violated has the right to defend itself using whatever weapons it has at its disposal, including the antidumping laws.

Which brings us to the distinction between being harmed and having rights violated. Competitors are often harmed as the result of free trade. If consumers decide to buy a foreign product instead of a domestically-made product, domestic producers are harmed. But it does not follow that their rights are violated. If consumers decide to buy a competitor's product, they have the right to do so. Consumers have the right to enter into contracts and trade their property. The rights of domestic producers can never be violated by this practice because they have no inherent claim on the property and contract rights of consumers. Preventing consumers from entering into such contracts violates consumer rights.

The fact that the government is the agent preventing such transactions from occurring does not change the morality of the situation. Domestic producers that ask the government to violate the rights of consumers so that they can benefit by making sales that they could not make in a free marketplace are basically guilty of both theft and the destruction of property. They are guilty of theft because the use of governmental force

causes prices to rise, either because of tariffs, quotas or enforcement of the antidumping laws. Some of this price rise finds its way into the coffers of the domestic producers.

Domestic producers are guilty of destruction of property because triggering the antidumping laws forces foreign producers to expend perhaps millions of dollars in legal fees and information gathering costs to defend themselves. What difference does it make to the bottom line whether the foreign producer spends a million dollars defending itself in an antidumping action or spends a million dollars to rebuild a warehouse that some domestic producer has torched? When a domestic producer goes running to the Commerce Department, demanding that it launch an antidumping investigation, the effect is exactly the same as if the domestic producer lit a match to the foreign producer's warehouse. Property is dissipated. If torching a competitor's warehouse is immoral, how does the act all of a sudden become moral if you ask the government to light the match for you?

The only conclusion that can be drawn, then, is that the individuals who represent the domestic producers are acting immorally whenever they go running to the Commerce Department to initiate an antidumping investigation. The fact that they may be helping their employer by doing so is completely irrelevant. One can also help an employer by stealing from the competition, assassinating their officers or blowing up their factories.

Summary and Conclusion

U.S. trade policy is counterproductive. The cases cited in this article are only a few of many examples that could be given.

The creation of the World Trade Organization did not eliminate either quotas or tariffs. Indeed, some provisions, such as the one that strengthens antidumping laws, have made world trade more protectionist.

Antidumping laws are basically schemes to protect domestic producers from foreign competitors. They are weapons that domestic producers use to stifle competition. They cannot be justified on utilitarian grounds because the losses exceed the gains. They destroy more jobs than they save. They protect domestic manufacturers at the expense of consumers. They cause prices to be higher than would be the case in a free trade regime. They cause the economy to work less efficiently because resources are misallocated, thus reducing the rate of economic and job growth.

They cannot be justified on human rights grounds, either, because they violate both property and contract rights. Antidumping laws prevent consenting adults from trading what they have for what they want at a mutually agreeable price. The people of both the Republic of Korea and USA would be better off if U.S. policymakers would refuse to bring antidumping actions against Korean companies. Not only would the economies of both countries benefit, but tension between Korea and the USA would also be reduced.

REFERENCES

- Bastiat, Frederic (1964), "What Is Seen and What Is Not Seen," in Selected Essays on Political Economy, 1-50, Irvington-on-Hudson, NY: Foundation for Economic Education, previously published in Oeuvres Complètes de Frédéric Bastiat, Paris: Guillaumin et Cie, 4th ed., 1878.
- Boltuck, Richard and Robert E. Litan, editors (1991), Down in the Dumps: Administration of the Unfair Trade Laws, Washington, DC: The Brookings Institution.
- Bovard, James (1991), The Fair Trade Fraud, New York: St. Martin's Press.
- Buchanan, James M. and Gordon Tullock, The Calculus of Consent, Ann Arbor: University of Michigan Press.
- Caine, Wesley K. (1981), "A Case for Repealing the Antidumping Provisions of the Tariff Act of 1930," Law & Policy in International Business 13: 681-726.
- Davis, Mark David and Jeffrey Allen May (1991), "Recent Stitches in the Department of Commerce's Cost of Production Analysis: The MMF Sweaters Antidumping Case and

- Commerce's Treatment of Interest Expense," *George Washington Journal of International Law & Economics*, 25:115-130.
- Denzau, Arthur T. (1987), *How Import Restraints Reduce Employment*, St. Louis, MO: Washington University, Center for the Study of American Business.
- Hazlitt, Henry (1946), *Economics in One Lesson*, New York: New York: Harper & Brothers.
- Hufbauer, Gary Clyde; Diane T. Berliner and Kimberly Ann Elliott (1986), *Trade Protection in the United States: 31 Case Studies*, Washington, DC: Institute for International Economics.
- Kaplan, Gilbert B.; Lynn G. Kamarck and Marie Parker (1988), "Cost Analysis under the Antidumping Law," *George Washington Journal of International Law & Economics* 21:357.
- Mascola, Robert (1994), "Unfair Trade in Steel from Korea? The International Trade Commission's Treatment of Cross-Border Dedicated Supplier Relationships," *Harvard International Law Journal*, 35: 201-212, Winter.
- McGee, Robert W. (1994), *A Trade Policy for Free Societies: The Case Against Protectionism*, Westport, CT: Quorum Books.
- McGee, Robert W. (1993), "The Case to Repeal the Antidumping Laws," *Northwestern Journal of International Law & Business*, 13: 491-562, Spring.
- McGee, Robert W. and Yeomin Yoon (1994), "Trade Policy in the Computer Industry: Time for a Change," *Temple International and Comparative Law Journal* 8: 219-256.
- Mendez, Jose A. (1986), "The Short-Run Trade and Employment Effects of Steel Import Restraints," *Journal of World Trade Law* 20:554-566, September-October.
- Palmeter, N. David (1986), "Torquemada and the Tariff Act: The Inquisitor Rides Again," *International Lawyer* 20: 641.
- Palmeter, N. David (1988), "Exchange Rates and Antidumping Determinations," *Journal of World Trade* 22: 73.
- Smith, Adam (1776; 1937), *An Inquiry Into the Nature and Causes of the Wealth of Nations*, New York: Random House.
- United States International Trade Commission (1989), *Industrial Nitrocellulose from Brazil, Japan, People's Republic of China, Republic of Korea, United Kingdom, West Germany, and Yugoslavia*, Publication 2231, November.
- United States International Trade Commission (1990), *Industrial Nitrocellulose from Brazil, Japan, the People's Republic of China, the Republic of Korea, the United Kingdom, and West Germany*, Publication 2295, June.
- United States International Trade Commission (1990), *Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan*, Publication 2312, September.
- United States International Trade Commission (1992), *DRAMs of One Megabit and Above from the Republic of Korea*, Publication 2519, June.

United States International Trade Commission (1992), Certain Stainless Steel Butt-Weld Pipe Fittings from Korea and Taiwan, Publication 2534, July.

United States International Trade Commission (1992), Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, Publication 2549, August.

United States International Trade Commission (1992), Certain Circular Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Publication 2564, October.

United States International Trade Commission (1992), Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan, Publication 2577, November.

United States International Trade Commission (1992), Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, Publication 2585, December.

United States International Trade Commission (1993), Certain Stainless Steel Butt-Weld Pipe Fittings from Korea, Publication 2601, February.

United States International Trade Commission (1993), Steel Wire Rope from the Republic of Korea and Mexico, Publication 2613, March.

United States International Trade Commission (1993), East Asia: Regional Economic Integration and Implications for the United States, Publication 2621, May.

United States International Trade Commission (1993), DRAMs of One Megabit and Above From the Republic of Korea, Publication 2629, May.

United States International Trade Commission (1993), Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom; Volume I: Determinations and Views of the Commission, Publication 2664, August.

United States International Trade Commission (1993), Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom; Volume II: Information Obtained in the Investigations, Publication 2664, August.

United States International Trade Commission (1994), Saccharin From China and Korea, Publication 2716, January.

United States International Trade Commission (1994), Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela, Publication 2767, April.

United States International Trade Commission (1994), Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Publication 2803, August.

United States International Trade Commission (1995), Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela, Publication 2870, April.

United States International Trade Commission (1995), Polyvinyl Alcohol from China, Japan, Korea, and Taiwan, Publication 2883, April.

Yoon, Yeomin (1994), "The Korean Chip Dumping Controversy: Are They Accused of Violating an Unjust Law?" North Carolina Journal of International Law & Commercial Regulation 19: 247-266, Winter.