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Rolf Weidemann*

The Anti-Dumping Policy of the European Communities

*In the recent discussion of EC anti-dumping rules and their application allegations have intensified that this instrument, provided by the GATT to counteract unfair trade practices, has increasingly been used by the Community to raise new trade barriers reflecting the amplification of protectionist intentions and resulting as a matter of fact in a restriction of imports contrary to the provisions and the scope of GATT.
Is this a realistic assessment?*

Particularly in the light of the completion of the internal Community market in 1992, eliminating the remaining national trade restrictions, attention has been focussed on the anti-dumping instrument as a prospective replacement for certain policy instruments which will disappear with the intended demolition of internal and external trade walls which are incompatible with the completion of the internal Community market. Growing concern has been voiced describing the anti-dumping actions of the Community as a protectionist steam-roller, the chief protectionist weapon of the Commission, the cannons of the future "Fortress Europe" etc. and attempts have been made to demonstrate the increased frequency and aggressiveness of the Commission's anti-dumping actions and their enhanced trade restrictive effects.¹

The purpose of this article is to show the limitations of anti-dumping actions under the existing GATT and Community rules in respect of their use or abuse as a device to pursue dissimulated protectionist policy goals, and to contribute to a more realistic appraisal of the instrument. This appraisal should assist in softening both these apprehensions, and the expectations – normally expressed less vocally – of those in favour of a more protectionist application than hitherto of anti-dumping measures.

A meaningful judgement on possible trade restrictive effects of anti-dumping measures cannot be limited to

considering how such measures affect the dumped imports concerned. Otherwise the "findings" are at best a statement of the obvious: by eliminating an unfair competitive advantage, anti-dumping measures increase the price of the dumped imports and consequently tend to negatively affect their volume. A quantification of the effect of anti-dumping measures is certainly useful. It is however necessary to take into account the full complexity of the anti-dumping procedures and their micro and macro economic environment.

The effect of anti-dumping intervention on the related trade flows depends on the reaction of exporters, importers, customers and the complaining industry which may be different according to products concerned, market structure, production cost, other supply facilities, and strategical decisions like replacing exports of finished goods by assembly operations within the Community. Import volumes and prices are also largely influenced by macro economic variables like exchange rate fluctuations and differing trends of the economic cycles in the importing and exporting country and on third country markets. All these factors together play a role in the variation of import flows and are practically inseparable. The attribution to a single variable like the anti-dumping action is in many cases therefore already insufficient to explain the change in the import volume and price for a single product under anti-dumping investigation as numerous examples can show.

* Commission of the European Communities, Brussels, Belgium. The views expressed are those of the author in his personal capacity. The article is adapted from a presentation made by the author at the European Institute for Advanced Studies in Management on 20 October 1989 in Brussels.

¹ Cf., inter alia, Patrick A. Messerlin: The EC Antidumping Regulations: A First Appraisal, in: Weltwirtschaftliches Archiv, Vol. 125, No. 3, 1989, pp. 563-587.

The analysis becomes even more unreliable if trade flows of incomparable products, at different periods, are aggregated and compounded into an unweighted index time series.² Neither the trends nor the order of magnitude of change shown allow a reasonable interpretation with regard to the effects of the anti-dumping measures taken by the Community as a whole.

At any rate, even if it were proven that dumped imports are reduced to the extent restoring the situation before dumping took place as a natural consequence of anti-dumping measures this does not allow far reaching conclusions as to a possible GATT defying protectionist character of anti-dumping actions as such.

The deliberations which follow now turn to two central aspects of the role of anti-dumping actions in international trade: (a) the guarantees contained in GATT and EC anti-dumping rules against abuse of that instrument for protectionist purposes and (b) the overall influence of such actions on the trade flows to the Community.

Anti-dumping Provisions of the GATT

The General Agreement on Tariffs and Trade (GATT) is based on the acceptance of the principles of the classical economists, that the wealth of nations is increased through free trade on a non-discriminatory basis, by the leading trading nations of the world. Although far from having established perfect conditions of free trade the system has progressed through the various negotiation rounds towards an increasing liberalization of trade, the benefits of which to the parties of the agreement are undeniable and unquestioned. The classical concept that the free and fair play of competitive forces tends to produce optimal resource allocation and increased wealth is succinctly embodied in the preamble to the agreement. The contracting parties recognize that the general goals are to be achieved by arrangements directed to

- the substantial reduction of tariffs and other barriers to trade and
- the elimination of discriminatory treatment in international commerce.³

It is evident that the latter two conditions are an inseparable entity and that the elimination of discriminatory practices is not only directed to the conduct of governments but concerns as well and with

particular emphasis the behaviour of the individual operators in international trade whose economic power may in certain cases exceed that of some smaller countries. It is an elementary condition that a system of trade liberalization based on non-discrimination can only work satisfactorily if the individual constituting elements are subject and adhere to the same rules of the game. In this context the condemnation of dumping and its countervailability under certain limiting conditions as set out in Article VI of the Agreement is a natural consequence and indispensable complement of the requirement of non-discrimination embodied in the most favoured nation clause of Article I of the Agreement. Thus the provisions against dumping are not a mere escape valve that has crept into the system as a concession to fend off protectionist reservations of the participating governments but are an essential and consistent element of the system.

Given the multilateral standard of the agreement and its principal objective to enhance the wealth of the trading community as a whole there is no reason to consider discriminatory trade practices by private commercial enterprise as different from those applied by governments. Consequently the anti-dumping provisions of the GATT are more appropriately interpreted as an obligation upon members than as an exception to GATT rules.⁴

Under the GATT rules a product is considered to be dumped if it is sold for export at a lower price than on the domestic market of the exporter. The concept is a straightforward application of the pricing conditions in perfectly competitive markets which exclude by definition any price discrimination between customers. The dumping definition condemns such price differentiation between domestic and foreign customers as an indication of a discriminatory and unfair exploitation of a natural or artificially produced restriction of competition. The strict application of this concept in international trade where the competitive situation is in general, for a multitude of reasons, more or less imperfect, is indeed a harsh condition. What has repeatedly been attacked as a built-in bias and protectionist tilt of the rules against the exporter, is in reality a tough but necessary consequence of the requirement to eliminate discriminatory practices and to remain systematically consistent with the overall goals of the Agreement.

Given the wide terms of the GATT dumping definition precautions have been taken to prevent an arbitrary use

² Method applied e.g. by P. Messerlin.

³ General Agreement on Tariffs and Trade, Basic Instruments and Selected Documents, Volume IV, Geneva 1969.

⁴ Cf. J. H. Jackson: World Trade and the Law of GATT, New York 1969, p. 411.

of the instrument and to limit the application of defensive measures through stringent procedures and conditions. These "safeguards" are the result of intense discussions in the GATT over several decades which have always aimed at striking a balance between the ideal of preventing unfair trade practices and the need to limit the application of defensive measures and their effects to the minimum considered necessary.

This is reflected in the rules and procedures laid down in the Agreement on implementation of Article VI of the GATT, also called the GATT Anti-Dumping Code. Its principal objectives are spelled out in its preamble. Whilst dumping is clearly condemned it is recognized that "anti-dumping practices should not constitute an unjustifiable impediment to international trade".

In the following, the nature of the most significant safeguard conditions is discussed on the basis of their transposition into Community legislation.

EC Rules and Constraints on their Use

Community legislation on anti-dumping has been adopted in full conformity with the provisions and spirit of the GATT and reflects the balance of rights and obligations established by the Anti-dumping Code. It not only contains all safeguards of the Anti-dumping code but has introduced some important additional conditions limiting the scope of anti-dumping action. The following points are of particular importance.

□ A decisive element in restraining anti-dumping interventions is the introduction of the injury test as a second necessary condition for the application of defensive measures. The standing practice of the Community to take action only to the extent considered necessary to remove the injury, ensures not only that interventions are reduced to those cases where dumping has a significant injurious effect, but also that the impact on trade is kept to a minimum in order to restore fair trading relations.

PUBLICATIONS OF THE HWWA-INSTITUT FÜR WIRTSCHAFTSFORSCHUNG-HAMBURG

Kay-Michael Schanz

AUSLANDSVERSCHULDUNG UND DIE ROLLE VON IWF, BIZ UND PARISER CLUB

Inhalt und Grenzen der Verpflichtungen des Internationalen Währungsfonds sowie der Bank für Internationalen Zahlungsausgleich und der Teilnehmer des Pariser Clubs

Large octavo,
369 pages, 1988,
price paperbound DM 65,-
ISBN 3 87895 344 5

The discussion on foreign debts often neglects or ignores the legal aspects of the participation of the IMF, the Paris Club and the BIS in the solving of debt problems, in particular the question to what extent these institutions are legally obliged to support debtors and creditors. These problems are dealt with in this study by Kay-Michael Schanz, written as his doctoral thesis for the faculty of law of the Johann Wolfgang Goethe University, Frankfurt. The method of procedure of the Paris Club in particular is closely connected with the question of the necessity of an international law on debt rescheduling. The author develops various approaches to an international arbitration procedure which raises the hope that rescheduling can be speeded up.

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□ For the purpose of determining dumping as well as for the assessment of injury the Community applies a narrow interpretation of the GATT provisions on like products. This precludes bundling of investigations for products which are close substitutes or directly competitive. The effects are to limit the scope for complaints and to ensure that the range of anti-dumping measures is kept to a minimum.

□ A significant distinctive feature of Community legislation not provided for in the GATT Code is that anti-dumping measures can only be taken if the interest of the Community calls for intervention. This means that if appropriate presentations are made the legitimate expectation of a Community industry to be defended against unfair competition is weighed against such factors as the interests of consumers or processors before measures are applied.

□ Community legislation follows the provisions of the GATT Code in that the initiation and the conduct of investigations and the application of measures is subject to the observance of binding procedural rules ensuring the fairness and transparency of the procedures and preventing their arbitrary and excessive use.

□ Although the GATT Code permits the authorities to open an anti-dumping investigation on their own initiative in special circumstances, the Community has never followed this course. Instead it is standing practice to open an investigation only on receipt of a satisfactory complaint on behalf of a major proportion of the Community industry affected and following consultations with the Member States. The complaint has to contain sufficient preliminary evidence of dumping, injury and a causal link between the dumping and the injury. The failure to supply all the elements required or lack of representativity of the complainants leads to the rejection of the complaint.

□ The burden of proof with regard to the substantiation of the injury caused by the dumped imports lies on the complaining Community industry. Community producers have to submit pertinent evidence that they have suffered injury caused by dumping and to allow verification of their accounting records. Lack of cooperation in supplying the necessary information or non-confidential summaries if confidentiality has been claimed normally entails that the information is disregarded. If the Commission is not provided with the necessary information by a major proportion of the Community industry the Commission will not initiate or terminate the proceeding.

□ Exporters and importers as well as the complainants and representatives of the exporting country are entitled to inspect all information which has been made available to the Commission and is relevant to the defence of their interest. If a party has claimed confidentiality of its information submitted to the Commission a meaningful non-confidential summary is to be submitted in order that the right of defence of any other party is not unduly curtailed.

□ The prior disclosure of findings is a feature of Community legislation which has been introduced to assist the parties in defending their interests during an investigation although this is not a requirement of the GATT Code. Under these provisions, the exporters and importers are informed of the essential facts and considerations on which it is proposed to recommend the imposition of definitive anti-dumping duties. These parties are then given a further period of time within which to make further representations if they so wish.

Little Scope for Policy Interference

Taken together the factors mentioned above strongly limit the global effects on trade, which anti-dumping actions as a whole might otherwise be liable to have. They also take the edge off the instrument's use by the authorities as a commercial policy device to accomplish protectionist intentions.

The requirement to demonstrate injury in combination with the complexity of the administrative procedure leads to a significant restriction in the number of complaints lodged by the Community industry. Filing of a complaint can normally only be expected if import volumes of a product accelerate considerably in a relatively short period causing a significant shift in market share in favour of the imported product. These circumstances can be considered exceptional in relation to the totality of Community import trade taken product by product and country by country. The number of potentially successful complaints is further reduced by the strict scrutiny with regard to their admissibility and to the evidence of dumping and injury they contain with the result that almost half of the complaints received are rejected. If anti-dumping action is taken, the product by product and country by country approach leads to scattered and pinpointed interventions. In addition trade volumes are normally affected in a neutral fashion, since the limitation of measures only to what is necessary for removing injury tends to restore the position existing prior to the dumping which has taken place. Under these circumstances, and given the overriding influence of other economic variables on trade flows, the global effects of cumulated anti-dumping actions are generally

limited. It is difficult to imagine that the instrument could become a tool of choice in pursuing sweeping protectionist commercial policy objectives.

The need for a complaint substantiated by evidence, the heavy procedural requirements and the largely unpredictable results of anti-dumping action with regard to the prospective application of measures and their magnitude entail that the Community institutions do not have the control over the instrument which would be a precondition for its use as a commercial or industrial policy tool. It is practically impossible to produce the necessary selectivity with regard to products or to industrial branches for which protection may be envisaged, nor is it possible to target the instrument against specific countries or whole trading zones with the intention of curbing imports. Equally, on the level of the individual procedure the scope for policy interference is rather limited. The administrative procedure is based on facts which because of the procedural transparency and the disclosure of findings, are basically known to all parties concerned and determine whether and to what extent measures are to be taken. The administration cannot effectively deviate from these facts for other policy reasons without risking a challenge before the European Court of Justice by one

or the other party claiming that it is being deprived of its rights.

Impact on Trade Flows

As explained above, anti-dumping actions are micro-economic interventions. The total number of 349 anti-dumping investigations initiated by the Community between 1980 and 1988 is a set of heterogenous elements comprising a variety of products like pharmaceuticals and base chemicals, 500 W vacuum cleaners and 5000 KW marine diesels, typewriters, wrist watches, steel plates, hydraulic excavators etc. The trade value concerned varies between a couple of million and over 1000 million ECU and the exporting companies range from small and medium sized to big multinationals.

The narrow definition of like products entails that in many cases the products concerned by anti-dumping investigations constitute only segments of one or several customs tariff positions which define the most detailed possible breakdown of the EUROSTAT trade statistics by products. In consequence the imports of a product line under anti-dumping investigation are very often statistically confounded with other products falling under the same tariff code. Further products may have

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Stefan Brand

ERSCHÖPFBARE RESSOURCEN UND WIRTSCHAFTLICHE ENTWICKLUNG

– Theoretische Analyse und empirische Untersuchung anhand von
42 ressourcenreichen Entwicklungsländern –

Large octavo,
347 pages, 1989,
price paperbound DM 49,-
ISBN 3-87895-364-X

At first glance the availability of resources seems to have nothing but advantages for the development of a country; the scarcity of capital is ameliorated and the financing of essential imports is taken care of. Nevertheless, there are numerous countries which, in spite of the existence of significant resources, have not succeeded in translating these into economic development. This study first ascertains the theoretical grounds determining the success of development policy in countries rich in resources and then confronts them with empirical findings. Finally, recommendations for development policy measures are derived from the analysis.

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been regrouped or split out of a tariff position such that the corresponding time series of the trade flow shows breaks which cannot be attributed to the anti-dumping action.

Besides these statistical imprecisions, which can in certain cases considerably distort the picture, the influence of other economic and non-economic variables has to be taken into account. It cannot be neglected that exchange rate variations like that of the US dollar or the Japanese yen, the evolution of the economic situation with regard to demand, capacity utilization and prices in the Community, the exporting country and other world markets are factors which may largely outweigh the effects of an anti-dumping measure. The reaction to an anti-dumping action also depends greatly on the strategic importance which the Community market may have for a company involved. In certain cases companies have ceased exports immediately after the opening of an investigation; in other cases exports continued unabatedly or even increased further after the imposition of duties.

Given the above factors it is obvious that the change in trade flows cannot solely be attributed to the impact of anti-dumping interventions as attempted by P. Messerlin's analysis. A close examination of individual

cases reveals that the change in the related trade volumes may vary between complete interruptions, various degrees of slow down, and further progress, independently of the type of outcome to the case, i.e. termination without measures, acceptance of undertaking and even the imposition of duties. This shows that other factors may have an overriding influence which cannot be neglected. The problem is also not solved by aggregating the trade flows related to a sufficiently great number of cases because it cannot be expected that the influence of determinants other than the anti-dumping action will be constant or compensate sufficiently to allow a meaningful conclusion. In reality a confrontation of the evolution of total import trade of the Community with third countries broken down by major trading zones and the anti-dumping actions taken between 1980 and 1988 relative to their trade share (cf. Table 1) reveals that despite the relative concentration of anti-dumping actions in certain areas visible trade impeding effects of the cumulated anti-dumping action cannot be detected.

Industrialized Countries and NICs

Industrialized and newly industrialized countries accounted for 53% of all anti-dumping procedures initiated by the Community between 1980 and 1988 and

Table 1
Community Trade and Anti-dumping Action, 1980-88

	Community imports						Anti-dumping cases initiated		Relative share of anti-dumping cases	
	(billion ECU)			Share of EC imports (in %)			% change of imports 1988/80	total number of cases 1980-88	share of cases (in %) 1980-88	1980-1988
	1980	1988	Average 1980-88	1980	1988	Average 1980-88				
	1	2	3	4	5	6	7	8	9	10 = (9:6)
Total EEC, all countries	282.5	383.7	348.1	100	100	100	+ 36	348	100	1
CLASS 1										
Industrialized countries	130.3	236.7	183.9	46.1	61.7	52.8	+ 82	132	38	0.7
of which										
Japan	14.0	41.0	26.2	5.0	10.7	7.5	+193	27	8	1.1
USA + Canada	54.1	76.3	66.8	19.2	19.9	19.2	+ 41	31	9	0.5
Yugoslavia	2.2	5.8	4.0	0.8	1.5	1.1	+164	26	7	6.3
Others	60.0	113.6	86.9	21.1	29.6	25.0	+ 89	48	14	0.6
CLASS 2										
Developing countries	129.2	115.3	132.9	45.7	30.1	38.2	- 11	75	21	0.6
of which										
Asian NIEs ¹	9.9	24.3	14.8	3.5	6.3	4.3	+145	29	8	2.0
South American NIEs ²	11.1	15.5	16.4	3.9	4.0	4.7	+ 40	24	7	1.5
Others	108.2	75.5	101.8	38.3	19.7	29.2	- 30	22	6	0.2
CLASS 3										
Countries with state trade	23.0	31.8	31.3	8.1	8.3	9.0	+ 38	141	41	4.5

¹ Hong Kong, Singapore, South Korea, Taiwan.

² Argentina, Brazil, Mexico, Venezuela.

Source: EUROSTAT, Commission of the European Communities.

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62% of total Community imports, over that period the relative share⁵ of anti-dumping cases being less than unity at 0.9.

This covers however considerable divergencies which appear if those countries and trading zones are singled out which showed high growth rates of their imports to the Community and shift in trade share in their favour. The newly industrialized Asian economies, Japan and, surprisingly, Yugoslavia taken together increased their exports to the Community between 1980 and 1988 by 172.4% and more than doubled their share of Community trade which climbed from 9.2% to 20.4% in the same period. These countries alone were subject to 24% of all the anti-dumping cases initiated, to be

⁵ Share of anti-dumping cases in % divided by average share of Community imports in %.

compared with an average trade share of 13 %, the relative share being at 1.9 more than 3 times higher than that of the remaining group of countries whose imports increased distinctly more slowly (64%). This suggests that in trade with other market economies the likelihood of an anti-dumping action being initiated is to a certain extent related to the thrust and dynamics with which imports are pushed to increase and a favourable shift in trade share is obtained. This is plausible insofar as the largely overproportionate progression of imports and acquisition of trade shares in particular by Japan and other newly industrialized Asian economies is under normal competitive conditions difficult to explain without attributing a strong influence to the price factor. This together with the high volume increase constitutes the basic conditions necessary for the filing of a complaint by the Community industry.

Table 2
Yugoslavia's Total Trade with the EC and Trade under Anti-dumping Investigation, 1980-1988
(million ECU)

	1980	1981	1982	1983	1984	1985	1986	1987	1988
Total EC imports from Yugoslavia	2.184	2.227	2.801	3.586	4.358	4.815	4.891	5.251	5.765
% change		+2.0	+25.7	+28.0	+21.5	+10.5	+1.6	+7.3	+9.8
Imports under AD-investigation	87	112	149	217	270	338	371	415	463
% change		+28.7	+33.0	+45.6	+24.4	+25.2	+9.8	+11.9	+11.6
% part of total imports	4.0	5.0	5.3	6.1	6.2	7.0	7.6	7.9	8.0
Imports not under AD-Investigation	2.097	2.115	2.652	3.369	4.088	4.477	4.520	4.836	5.302
% change		+0.9	+25.3	+27.0	+21.3	+9.5	+1.0	+7.0	+9.6
% part of total imports	96	95	94.7	93.9	93.8	93.0	92.4	92.1	92.0

S o u r c e : EUROSTAT, Commission of the European Communities.

Table 3
Community Anti-dumping Measures and Investigations

	1980	1981	1982	1983	1984	1985	1986	1987	1988	80-88
1. Investigations in progress	71	31	48	52	33	40	45	22	41	
2. Investigations initiated	25	47	55	36	48	36	24	39	39	349
3. Investigations concluded by measures	53	16	42	45	31	12	29	16	18	262
4. Investigations terminated	12	14	9	10	10	19	18	4	8	104
5. Measures expired	—	—	—	—	—	-33	-8	-34	-54	129
6. Measures in force ¹	53	69	111	156	187	166 (199)	187 (228)	169 (244)	133 (262) ^a	—

¹ Measures in force before 1980 not considered.

^a Stock of active measures without application of the sunset clause.

S o u r c e : Commission of the European Communities.

The comparison of anti-dumping actions initiated by the Community and trade evolution by countries shows that Yugoslavia had by far the heaviest exposure to anti-dumping actions.

Between 1980 and 1988 it was subject to almost as many anti-dumping cases as Japan (26 against 27). Relative to its trade share its exposure was about 6 times higher than that of Japan. Given this heavy exposure to anti-dumping action any trade restrictive effects which anti-dumping actions might have should show up in an analysis of the import trade flows of the Community with Yugoslavia. The overall picture reveals that despite the heavy exposure of Yugoslavia, its import trade with the Community progressed by 164% between 1980 and 1988, the second highest growth rate next to Japan, and its trade share almost doubled in the same period.

Taking the cumulated import flows of the 26 products concerned by anti-dumping investigations in isolation and in comparison with the trade flows of the products not affected (cf. Table 2) shows that the anti-dumping intervention had no visible braking effect. On the contrary, in each consecutive year imports of the products under anti-dumping investigations increased distinctly faster than those not affected.

Developing and State Trading Countries

With regard to developing countries other than the newly industrialized ones the exposure to anti-dumping action is rather accidental. The initiation of an anti-dumping proceeding happens mostly in connection with other countries because of the obligation under Community law not to discriminate between exporters. Thus only 6% of all anti-dumping proceedings initiated between 1980 and 1988 involved developing countries compared to an average trade share of 29%. In a number of cases imports from developing countries got involved because production or assembly facilities for products under investigation had been set up in these countries, by companies whose headquarters were based in another industrialized country. Taken together anti-dumping action in this area can be considered negligible.

In relations with state trading countries the anti-dumping instrument takes on a different character. Systematically the general principles of trade liberalization under fair competitive conditions of the GATT do not apply by definition to the planned non-market economies. Under these conditions the anti-dumping action of the Community mainly bridges the discrepancies which necessarily occur between the

price and cost orientated markets in the Community and the planning objectives of the state trading economies. This explains why a great number of the anti-dumping actions of the Community has been directed to this area. The absence of any generally protectionist considerations in this field, and the mainly correctional function of the actions is demonstrated by the fact that 88% of the proceedings have been concluded by the acceptance of undertakings or terminations without imposition of measures; only in 12% of the proceedings have anti-dumping duties been imposed.

The Sunset Clause

The number of new investigations annually initiated (cf. Table 3) shows that after having reached a peak in 1982 with 55 cases, presumably related to the economic recession following the second oil shock, new initiations have oscillated around an average of 37 cases per year. There is no indication of an increased recourse to anti-dumping action by the Community in the late 1980s as sometimes has been alleged. The indeterminate life of anti-dumping measures taken would imply however the danger that, in the long run, by way of a progressive cumulation of active measures, unwanted protectionist effects might have been generated by the system. In order to prevent this risk provisions were adopted by Community legislation under which measures only remain in force for a period of five years from the date they were last introduced or modified (sunset clause). As can be seen from Table 3 the stock of active measures constantly increased till 1984 when the total impact of active measures reached its peak. The introduction of the sunset provisions in 1985 distinctly curbed this trend. By the end of 1988 129 anti-dumping measures had expired leading to a sizeable reduction of the measures in force and their cumulated impact on trade.

Anti-dumping action is a policing rather than a policy instrument. It is designed and applied to neutralize the unfair exploitation by private enterprises of artificial advantages stemming from trade restrictions and to restore equal opportunity to the injured party. The GATT rules and derived Community law are balanced so as to guarantee the regulatory and disciplinary effect of the instrument as a device for reducing barriers to free trade by private enterprise and thus contributing to the overall goals laid down in the preamble of the GATT. This is achieved as long as the restrictions and controls built into the Agreement are respected thus preventing any use of the anti-dumping instrument for the realization of protectionist policy objectives which are not in conformity with the GATT.