

Safeguards and Antidumping in Latin American Trade Liberalization

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Abstract

The binding of tariff rates and adoption of the General Agreement on Tariffs and Trade/World Trade Organization-sanctioned safeguards and antidumping mechanisms provided the basis to remove a multitude of instruments of protection in the Latin American countries discussed in this paper. At the same time, they helped in maintaining centralized control over the management of pressures for protection in agencies with economy-wide accountabilities. The World Trade Organization's procedural requirements (for example, to follow published criteria, or participation by interested parties) helped leaders to change the culture of decision-making from one based on relationships to one based

on objective criteria. However, when Latin American governments attempted to introduce economic sense—such as base price comparisons on an economically sensible measure of long-run international price rather than the more generous constructed cost concept that is the core of WTO rules—protection-seekers used the rules against them. They pointed out that World Trade Organization rules do not require the use of such criteria, nor do procedures in leading users (industrial countries) include such criteria. In sum, the administrative content of the rules supported liberalization; the economic content did not.

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This paper reports on success – success in the removal of trade barriers so as to integrate Latin American economies into the international economy. More particularly, this paper is about how several Latin American governments created and managed safeguards and antidumping mechanisms as part of this liberalization.

The paper summarizes the results of a project of studies that looked into how each of seven Latin American countries—Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, and Peru—have used these trade instruments. Each country study was conducted by analysts from that country. Many of the analysts were high government officials during their country’s liberalization, so they have hands-on experience with the construction and the management of these instruments.

The study reversed the usually approach to examining application of safeguards and antidumping. Rather than judge Latin American performance against WTO rules – examining if Latin American officials followed the technicalities of measuring dumping, injury, and so forth – we examined the rules against Latin American performance. We accept that Latin American leaders who led and took responsibility for liberalization were committed to it, then evaluate how adoption of GATT/WTO sanctioned antidumping and safeguard mechanisms helped or hindered their achievement of their objectives. We asked the authors of the country studies to examine how each country’s creation and use of these mechanisms as tools of policy management, for example,

- What role policy managers saw for these instruments as part of a liberalization program
- How the use of these instruments has contributed to maintaining a dynamic toward openness to international trade
- Where these instruments have caused problems
- How policy managers have dealt with the problems.

Because safeguards and antidumping are instruments that, by their nature, impose import restrictions, identifying where policy managers have found discipline over application (for instance, within the economic content of the rules or through the deterrent effect of the information requirements imposed on petitioners and on the government), was of particular interest in the analyses.

In this summary, we provide first our reflections on each country study. (The studies themselves are also available as Working Papers.) Next, we review the overall use of trade defense measures and then go on to review several other cross-cutting issues. We compare the policy-making institutions of the seven countries, focusing on how World Trade Organization (WTO) rules for those mechanisms contributed to the liberalization effort and how those rules might be made even more supportive of the liberalization effort.

I. REFLECTIONS ON THE COUNTRY STUDIES

Even though many elements that we highlight in these reflections are present in more than one country's experiences, we chose the material in the reflections so that what we draw from one study overlaps minimally with what we draw from another, thus bringing out the comparative advantage lesson from each study. There is much more material in each country study than we have included in our reflections; the reflections should serve as an invitation to read the studies, not as a substitute for reading them.

Political Economy of Antidumping and Safeguards in Argentina, by Julio J. Nogués and Elías Baracat (WPS3587)

In 1989, Argentina began a series of economic reforms that were revolutionary in speed, scope, and depth. Major sectors of the economy that were previously dominated by public enterprises were privatized, and foreign investment was put on an equal footing with domestic investment. All import licensing requirements were removed. Tariff rates that had averaged 40 percent in the

mid-1980s fell to an average of 14 percent by the mid-1990s. On imports from within Mercosur (Mercado Común del Sur, or Southern Cone Common Market), most tariffs fell to zero by the mid-1990s. The adoption of GATT/WTO-sanctioned trade remedies – antidumping and safeguard mechanisms – was a small but significant part of the reform package.

In drafting the regulations and in creating the institutional mechanisms that would administer them, Argentina made a serious attempt to incorporate good economics into their structures and to establish discipline over their use. A presumption built into the mechanisms was that adhering to WTO requirements would strengthen the government's position in resisting domestic pressures for protection.

That presumption turned out to be false.

Imports increased sharply after the initial trade reforms, an increase resulting as much from setting the exchange rate at a level that proved in time to be unsustainable as from the removal of import restrictions. The business community subsequently applied pressures to use the instruments of protection that remained, particularly antidumping.

Antidumping

The government's strategy was to delay decisions on antidumping initiations while the new regulatory and institutional frameworks were being completed. In a well-publicized speech to the business community in April 1992, Minister of Economy Domingo Cavallo was emphatic in announcing that the government would refrain from using antidumping measures until the price level had stabilized. The main policy objective at the time was to tame inflation, and the government considered import competition an important source of price discipline. Although the government received 135 petitions between 1988 and 1994, it opened only 69 investigations.

Complaints about the administration of the antidumping mechanism convinced the government that it should update that mechanism. The first step was to modify Argentine law in accordance with the Tokyo Round antidumping code. During the preparation of operational regulations for the antidumping mechanism, the Unión Industrial Argentina submitted a draft that more or less followed U.S. practice. The government, however, adopted a more liberal code that included several provisions that could serve as the basis for limiting use. (Such provisions were allowed, but not required, by the GATT code.) Among these provisions were:

- A lesser duty rule that allows the government to limit antidumping duties to the level necessary to prevent injury when that level is below the observed margin of dumping
- A method of imposing antidumping duties that makes it easy for exporters to know what price they must charge to avoid those duties
- A national interest clause that allows the government to deny antidumping measures, even when dumping and injury determinations are positive.

The second step in reforming the antidumping mechanism was to create a technically oriented commission to administer injury investigations—the Comisión Nacional de Comercio Exterior (CNCE). A major piece of evidence influencing the government's assessment of the need for a technically-oriented commission was the finding from analysis of existing antidumping systems that the injury test provided more of an opportunity to apply discipline than did the determination of dumping. The legal definition of dumping differs so much from its intuitive or economic definition (pricing for export below home market price) that dumping in the legal sense has been found in virtually every investigation in every country that had antidumping regulations in place.

The CNCE, created in 1994, functions under the Ministry of Economy. To ensure their competence and their independence from the Commissioners, recruitment of the technical staff was delegated to a private consulting company. Members of the technical staff prepare an injury report, and then the commissioners decide if the evidence supports a positive injury determination. The CNCE's decisions are made by a majority vote of its president and the four commissioners. Following an affirmative determination, the CNCE assesses the need for and recommends to the Minister of Economy the introduction of appropriate measures.

Contrary to what the government hoped to achieve, macroeconomic circumstances in Argentina overcame the capacity of WTO-sanctioned trade remedies and of the technical analysis supplied by the CNCE to discipline the application of trade restrictions. The trade liberalization policies and the overvaluation of the exchange rate led to a strong increase of imports, from less than US\$5 billion in the late 1980s to more than US\$30 billion in the late 1990s. With this increase in imports came large-scale displacement of domestic production. For the first time in several decades, the unemployment rate reached 10 percent in 1993, increasing to 20 percent by 1995.

After adopting the new antidumping regulations and creating the CNCE, Argentina became one of the world's most intense users of antidumping measures. From 1995 to 1999, Argentina applied 65 antidumping measures, exceeded only by the European Union (105), the United States (104), and South Africa (75).

Although the old antidumping rules had provided little discipline over when restrictions could be imposed, they had likewise provided minimal restraint on the government's discretion not to take action. Under the new rules with their deadlines and standards for content of a petition, the government could not indefinitely postpone the initiation of investigations. Moreover, in the distressed economic situation that existed in Argentina, many industries could meet the standards for relief. Sound technical analysis of the facts found that many industries were being injured by import competition and that, under the rules, were deserving of protection. The new mechanism thus provided minimal political leverage for the government to resist protectionist pressure. Particularly in 1999–2001, when the economy was in recession and the peso was severely overvalued, the government was unable to set aside the technical determinations. A high percentage of investigations ended with decisions to impose restrictions.

Safeguards

In establishing a safeguard mechanism, the government attempted to follow the spirit as well as the letter of the WTO Safeguards Agreement. An industry that petitions for protection must present a plan for investment and structural reforms to demonstrate how it will overcome its competitive disadvantage. Moreover, the CNCE is authorized to take into account the requested actions' potential cost to import users.

The CNCE turned down eight of the first nine safeguard petitions it received; through 2002 returned only 3 affirmative determinations. Consumer cost and the petitioner's not providing a convincing plan for recovery were often the basis for not initiating an investigation or for a negative determination. From the perspective of a protection seeker, the safeguard instrument became a less-attractive alternative than the antidumping mechanism.

The positive side of the story is that the hard-won trade liberalization, in large part, was maintained. Since devaluation, Argentina initiated 14 antidumping investigations in 2002, 1 in 2003, and 7 in the first half of 2004.

Lessons

Discipline has come, in part, from the widespread realization that isolation is not an effective economic policy. As to Argentina's accepting the discipline of international rules, the economic content of the rules has not been a source of discipline. In a situation of macroeconomic balance, injury analysis separates the few from the many. In a situation of macroeconomic imbalance, the many are judged deserving of protection.

The most important lesson we draw from this study is that, in spite of Argentina's macroeconomic imbalance and its currency crisis, WTO rules did prevent the proliferation of protection instruments that has characterized previous crises in Argentina—a proliferation that, in the past, had made discipline impossible to maintain.

Antidumping and Safeguard Mechanisms: The Brazilian Experience, 1988–2003, by Honorio Kume and Guida Piani (WPS3562)

By the late 1980s, the import-substitution industrialization process and recurrent exchange rate crises had led to the accumulation of many severe import controls in Brazil: such as lists of forbidden items, enterprise-specific limits on foreign purchases, shipment-by-shipment authorizations for imports of steel, and information technology products. Tariff rates were high, many surcharges were applied, benchmark customs values could be applied if officials sensed there were irregularities in import prices. Exemptions from duties were available in some circumstances. Application of these restrictions and exceptions was done through processes that allowed wide discretion to government officials, with decisions often made at the sectoral level.

Reforms

Although other Latin American countries have opened their economies rapidly, usually under the leadership of one administration, Brazil has conducted reform under several presidencies. In 1988 and 1989, the Sarney government was able to achieve some tariff reduction, and in March 1990, shortly after coming to office, the Collor de Melo administration introduced a degree of flexibility to exchange-rate management, suspended the program for enterprise-specific limits on foreign purchases, and eliminated a number of special import regimes. The government also announced a tariff reform that by mid-1993 brought down the average rate on industrial products to 20 percent.

As in other Latin American countries, control of inflation was a major factor behind the decision to reduce import barriers. The Plan Real, initiated in July 1994 by the Franco administration and continued during most of the two terms of the Cardoso administration, had inflation as its most prominent target. (From 1964 to 1994, prices in Brazil had risen by 1 quadrillion percent, with 1 quadrillion being 10^{15} , or 1 million multiplied by 1 billion.) Fiscal and monetary reforms were the plan's most prominent elements, but the concern to discipline prices brought additional support for trade liberalization. Under the Plan Real, the Brazilian tariff average (unweighted) that was more than 50 percent ad valorem in 1987 declined to 11 percent by 1994.

By the end of 1994, the inflow of foreign capital attracted by the plan's privatization program brought substantial appreciation of the real exchange rate. This inflow of foreign capital, along with the accumulation of import liberalizations, brought a more than threefold increase of imports, and with this increase came intense pressure for protection from several sectors. Mercosur arrangements limited possible increases of tariff rates; even so, the average tariff rose by 1999 to almost 15 percent. The government applied safeguard actions on toys and textiles and, in some sectors, used administrative measures such as import deposit requirements or strict application of phytosanitary requirements to respond to protectionist pressures.

In 1999, the Brazilian currency, the Real, was allowed to float freely; it quickly declined by more than 40 percent. Since then, tariff reduction has been renewed, and by the end of 2003, the average tariff was less than 11 percent.

Administering Institutions

Policy formation in Brazil often requires an extended process of working toward consensus among a number of government agencies and the sectoral interests each represents. Administration of the antidumping, safeguards, and countervailing duties instruments reflects this approach to governance. Currently, investigations are conducted by the Department of Commercial Defense (DECOM) within the Ministry of Development, Industry, and Foreign Trade.

When DECOM's technical findings (dumping, injury, a causal link) are affirmative, the Brazilian Chamber of Foreign Trade (CAMEX) reaches a decision on trade defense measures by majority vote. CAMEX is an overview agency governed by a Council of Ministers. This council

is composed of the ministers of Finance; Development, Industry and Foreign Trade; Foreign Affairs; Agriculture; and Planning and Budget, as well as the Civil Cabinet minister. The minister of Development, Industry and Foreign Trade presides.

Within CAMEX, protectionist and openness interests are balanced by the inclusion both of ministries with sectoral interests and those with economy wide interests. Those with sectoral interests are more inclined to view trade restrictions as support for jobs and production in Brazil. The Ministry of Finance's economy wide responsibilities and its continuing concern about trade openness as a means to control inflation make it a major force in favor of disciplined use. Brazil's leadership position in international negotiations also comes into play. Brazil has a strong record in opposition to the unjustified use of antidumping and to its inclusion in regional arrangements.

The content of Brazil's antidumping (and other trade defense) regulations also reflects the Brazilian mode of conducting government affairs. In 1995, when Brazil modified its trade defense regulations to comply with the Uruguay Round agreements, it added several provisions that were allowed, but not mandated, by the agreements, for example,

- A national interest provision that would permit CAMEX not to impose a restriction when the trade defense investigation reached an affirmative determination
- A lesser duty rule that would allow an antidumping duty to be less than the dumping margin.

Experience

Antidumping is by far the most often used commercial defense measure. From 1995 through June 2004, Brazil notified the WTO of 114 initiations and 59 measures. (Half of Brazil's antidumping cases ended without restrictive action, compared with less than 40 percent across all WTO members.) Steel, chemicals, and plastics are the most frequently affected sectors. During the same time period, Brazil has taken safeguard action in only two cases, against toys and against coconuts, and has not initiated a countervailing duty investigation since 1995. As in other Latin American countries that have created trade defense mechanisms as part of a trade liberalization program, Brazil has administered antidumping measures with attention to separating the effect of exposure to normal international competition from the effect of exposure to abnormal business practices. In half of Brazilian investigations, normal value—the value

against which export price is compared to determine whether there is dumping—was estimated on the basis of international prices quoted in specialized publications or specialized information services.

Another outcome that the country study reports is a relatively high use of the lesser duty rule—the application of an antidumping measure that is smaller than the observed dumping margin. Overall, Brazilian antidumping duties have averaged about 60 percent of estimated dumping margins. The balancing of interests in CAMEX is largely a matter of the degree of protection provided. Of the 86 cases that the authors studied that did not lead to protective measures, only 2 cases came to that result because of a determination of other, overriding interests.

There is, however, a worrying finding. The Brazil study looks into one question on which the other studies did not concentrate: Have antidumping measures supported the monopoly power of domestic enterprises? The authors found that 41 percent of antidumping restrictions applied to a product for which there was only one domestic producer and 80 percent protected industries in which there were five or fewer Brazilian producers.

Lessons

Since it was first established in the late 1980s, the Ministry of Development, Industry, and Foreign Trade has become more powerful in the administration of the antidumping mechanism while the Ministry of Finance has become less influential. The consensual nature of Brazil's decision-making process, however, mitigates against that change marking a significant shift toward the imposition of import restrictions. The Brazilian process demands consideration of many petitions, but it conditions petitioners to accept a relatively high rate of rejection. It also conditions the acceptance of a modified outcome, hence the high rate of application of duties that are lower than dumping margins.

Keeping Animal Spirits Asleep: The Case of Chile, by Sebastián Sáez (WPS3587)

For a short period in the early days of its economic reform and liberalization program, Chile applied a number of contingent protection measures. Since 1995, however, Chile has imposed only six antidumping measures, six countervailing measures, and seven safeguard measures, none more than 12 months in length. As of December 2003, none remained in effect.

Among WTO members who use contingent protection instruments, Chile has perhaps the most tightly disciplined management of these instruments. That discipline stems from a prevailing politics that sees open trade policy as part of a reduction of government control over the economy—a transformation that enjoys wide support—and as an institutional structure that transforms this philosophy into a workable administrative system.

Chile's Economic Reforms

Chile's trade opening was part of a broader macroeconomic stabilization process, and economic reforms, in turn, were part of a large-scale institutional transformation that encompassed the country's political regime and general economic framework as well as the role of the state in the economy and in social policy.

Chile's reforms began in 1973, more than a decade earlier than those in other Latin American countries. By 1978, a tariff made up of widely varying rates that averaged more than 90 percent ad valorem had been replaced by a uniform 10 percent rate (with few exceptions). Other trade restrictions such as quotas, import prohibitions, and advance deposit requirements were eliminated.

Even with tariff rates reduced to 10 percent, the government had a skeptical attitude toward contingent protection and other mechanisms that would even temporarily suspend adjustment to the new trade regime.

Initial Experience

By the early 1980s, however, the Chilean real exchange rate had notably appreciated, and many industries pressed for relief from import competition. The government viewed antidumping measures as having little economic rationale and the antidumping mechanism as being too easily captured by protectionist interests.

Safeguards, likewise, were seen as having questionable economic justification. Moreover, GATT rules required that any country that imposed a safeguard action must provide compensation—in the form of equivalent reduction of restrictions on other products—to principle-supplier exporting countries. If not, exporting countries would have the right to retaliate against, in this case, Chilean exports.

The government did, however, consider the correction of distortions a valid reason for intervention in the economy. (A distortion exists when the price of a product does not equal its private cost of production in a competitive environment.) A foreign subsidy might therefore be a valid reason for trade protection.

In 1981, Chile created a Subsidies Commission within its central bank (BCCH) and soon became an active user of antisubsidy measures. On the basis of a finding of the commission, the Minister of the Economy could impose tariff surcharges up to the 35 percent rate that was Chile's ceiling binding under the GATT. The commission could also recommend, and the minister could apply, minimum custom values for assessing duties.

Chile had signed the Tokyo Round subsidies code, but its commitment to a GATT ceiling binding of 35 percent allowed the latitude for tariff rate adjustments within that ceiling without the need for a code-complying finding of subsidy and injury. Chile took approximately 60 actions in the early 1980s. Most of these were against four countries—Argentina, Brazil, Peru, and Spain—and they led to considerable friction.

During the early 1980s, trade and current account deficits increased considerably, and the fixed exchange rate regime became unsustainable. In March 1983 Chile shifted to across-the-board measures to manage its trade situation, temporarily doubling its tariff rate and, most important, allowing the peso to float.

Administration of these trade policy mechanisms at the time was a compromise among the technicalities of the GATT subsidy code, the resources available to conduct investigations, and the economic objectives of the government. The resource demands for establishing a subsidy in accord with the demands of the GATT code meant that formal countervailing measures were taken infrequently. The GATT required that tariff surcharges be applied to all imports from all sources, independent of whether their prices were distorted. Hence, when the source of distortion-bearing imports provided a small share of Chile's imports, the remedy applied was usually a minimum customs value.

Current Instruments and Administration

In 1989, the National Commission on Distortions (CND) succeeded the National Commission for Price Distortions through Imports, which had succeeded the original Subsidies

Commission. The CND is responsible for investigations related to all aspects of safeguard, antidumping, and countervailing measures. The commission's members include

- One from the National Economic Prosecutor's Office, who chairs
- Two from the BCCH
- One each from the Ministries of Finance, Agriculture, Foreign Relations, and Economy
- One from the National Directorate of Customs.

The CND is served by a Technical Secretariat, which is lodged in and under the budget of the central bank. If the commission determines that the statutory requirements for action are met, it must adopt a resolution recommending the appropriate tariff surcharges. The resolution, along with the background information and conclusions of the investigation, are transmitted to the president of Chile, who makes a final decision through a decree of the Ministry of Finance. The discipline in the system comes from its structure, the statutory limits under which it operates, and, most important, strong public support in favor of an open economy.

Structural Sources of Discipline

There are several structural sources of discipline over the use of trade defense measures, including the following:

- General interest agencies of government dominate the contingent protection process. The final decision is by the president. The only sectoral interest ministry with a seat on the CND is the Ministry of Agriculture. Agriculture is one of Chile's most trade-sensitive industries, and exceptional protection instruments have been designed for agricultural products.
- The CND is chaired by a representative of the National Economic Prosecutor's Office. That office is independent from any other governmental organization or service, particularly from the authorities and courts before which it fulfills its functions. It is responsible not only to see that competition law is enforced but also to actively promote competition in the Chilean economy.
- The Technical Secretariat of the CND is lodged in and under the budget of the BCCH, an institution that has little attachment to sectoral interests.
- A floating exchange rate regime has consistently avoided overvaluation of the peso since the early 1980s.

- A low uniform tariff (with few exceptions) implies that contingent protection measures create strong reactions from final producers and consumers.

Statutory Discipline

- There is statutory discipline over the use of trade defense measures as follows: Chilean law allows only tariff surcharges. Neither import quotas nor price undertakings can be used.
- The president cannot impose an action more restrictive than that recommended by the CND.
- The maximum length for which a measure may be imposed is one year. Extension requires an entirely new investigation, resolution, and decision.
- CND decisions are by majority of the votes cast. However, if the recommended surcharge will increase the tariff above the bound rate, then the approval of three-quarters of the members of the commission is required.
- An antidumping or countervailing duty must not exceed the margin of distortion calculated by comparing the prices of dumped with nondumped (or subsidized with unsubsidized) imports. The objective is to remove the distortion to competition rather than to prevent displacement of domestic production.
- Consumers are recognized as interested parties. Regulations allow full participation during the course of an investigation by any person who may feel affected.

Widespread Support

The structure of the contingent protection system described here is not one that carried over from the military regime. The laws that govern the use of contingent protection all date from the 1990s after the country returned to democratic government. The law that introduced safeguards is from 1999 when the Chilean Congress demanded it in exchange for supporting the reduction of the uniform tariff to 6 percent.

Lesson

The trade regime has become a basic part of the new institutional structure of Chile's economy, and its stability and consistency toward openness have supported and been supported by the transition to democratic government. This support is the strongest source of discipline. The key lesson we draw from Chile's example is that, even in international trade, good economics, if skillfully managed, can be good politics.

Application of Safeguards and Antidumping Duties in Colombia, by Mauricio Reina and Sandra Zuluaga (WPS3615)

During the second half of the last century, Colombia applied an industrialization strategy based on import substitution, as did most Latin American countries. While this strategy promoted some diversification of production, it also fostered concentrated property structures, high prices, low product quality, and few incentives for modernization. The high cost of imports made production based on foreign raw materials unsustainable.

Faced with this situation, the government implemented a trade liberalization policy that began at the end of the 1980s and was consolidated during the early 1990s. An import licensing arrangement that based import quotas largely on the volume of domestic production was abandoned, and the percentage of tariff positions subject to quantitative restrictions fell from 73 percent to 1 percent. The economy's nominal average tariff fell from near 100 percent to 11 percent, but escalation maintained high rates of effective protection for some processing activities. Colombia deepened its integration in the Andean Community, where most tariff rates have been reduced to zero, and concluded trade agreements with several countries, including Chile, Mexico, and the República Bolivariana de Venezuela. These trade reforms were accompanied by strong currency devaluations, and at the present time, the real rate of exchange is deemed to be close to its equilibrium level.

In the agricultural sector, the Andean Community countries maintain a system of variable levies that protect approximately 150 tariff positions for which the implicit average tariff is in the order of 60 percent. Reina and Zuluaga, authors of the study, report that a good share of Colombia's agricultural sector has managed to remain outside the liberalization trends that began in 1990.

Part of the politics of liberalization was the establishment of legal antidumping and safeguard instruments to deal with the foreign competition previously neutralized by the high overall level of protection. Table 1 lists instruments and reports their frequencies of use. (Colombia has undertaken no countervailing duty investigations.)

The normal safeguard mechanism follows the WTO Safeguards Agreement and is usually referred to as a WTO safeguard. A petitioner for a WTO safeguard action is subject to extensive WTO-based requirements to provide the information necessary to demonstrate injury or threat of injury. This information must be certified by a public accountant. In addition, the applicant must

submit an adjustment program that lists the steps it will take to modernize and adapt to the new competitive conditions. Antidumping regulations were revised in 1995 to incorporate the discipline of the Uruguay Round agreements.

Larger enterprises in Colombia have adopted use of the trade defense instruments, much as similar enterprises have done in other countries. Of the 37 antidumping cases that have been completed, 26 have been from the steel, chemicals, and petrochemicals industries. Throughout the world, these industries have been frequent petitioners for antidumping actions.

Other sectors, however, have not been satisfied with the usability of the safeguard and antidumping instruments. The experience of the textiles and apparel sector is illustrative. Even though tariffs on textile and apparel imports are relatively high (average 18 percent), trade liberalization produced a substantial increase of imports, and with the increase in imports came an increase in complaints about evasion of import duties (smuggling) and imports from Asia at very low prices. The sector soon became a user of the trade defense mechanisms: Three antidumping investigations and six safeguard investigations were undertaken on its behalf.

Preliminary measures as a result of these investigations brought a request from several Asian exporters for WTO consultations, but the matter was dropped when the measures expired and were not renewed. In 1997, the government, concerned that protection for the textile industry would disadvantage apparel producers, worked out an industry development plan with the industry that included temporary tariff reductions on capital goods and raw materials, stronger enforcement of smuggling controls, and modification of safeguard and antidumping procedures—within WTO Safeguards Agreement parameters—to expedite investigations and introduce flexibility into the criteria for application.

Experiences such as these brought forward a perceived need for an instrument that imposes less stringent administrative and substantive standards. In response, the government in 1999 established a second safeguard mechanism, called a special safeguard, or safeguard by reason of disruption. This instrument allows an increase of the tariff rate up to the level of Colombia's WTO ceiling binding, an action that does not violate Columbia's obligations under the GATT and the WTO agreements. Thus, the investigation and determination do not have to meet the requirements of the WTO safeguards agreement for the increased import duty to be legal by WTO's standards. The special safeguard's standard—disruption—is interpreted as the

existence of imports in unfair conditions such as low prices or an important increase of quantities. It does not require an adjustment plan, but this restriction can be in place for a maximum of two years and is not extendable. The study's authors, Reina and Zuluaga, found in their interviews that the business community considers this instrument to be user-friendly.

The largest number of safeguard actions by Colombia has come under another form of safeguard—the provision in the Andean Community that allows for suspension of the benefits from the free trade area, imposing the tariff rate applicable to imports from outside the community. On a provisional basis, actions such as these may be taken unilaterally but cannot be retained without the approval of the Community Secretariat. The study's authors learned from interviews that the secretariat review requires approximately four months to complete. The rules for this safeguard impose no limit on how long a measure—if approved—may be in place. Approval may, however, impose such a limit. Table 1 documents the popularity of the less stringent instruments.

Colombia has undertaken four investigations for Andean Community safeguards on agricultural products, with restrictions in place intermittently from 1996 through 2003. These measures became an issue within the Andean Community and led to the creation of a special arrangement in the Ministry of Agriculture to administer contingent duties.

While the worldwide statistics show one safeguard case for every 55 antidumping cases, the ratio for Colombia is nearly one to one. Moreover, 13 of 20 safeguard applications were not dependent on the Safeguards Agreement for their WTO legality.

Lesson

In Colombia's case, we find that the substantive content of the WTO rules on trade defense instruments has not been sufficiently valuable to overcome the administrative demands that these instruments put on the government and the business community. Thus, Colombia's experience has involved a unique element—the development and use of safeguard instruments that impose lesser administrative demands. As to the use of these instruments to restrict trade, the number of restrictions is in line with the numbers observed for other countries in the study. Moreover, the instruments have limits on the level of protection that can be applied. A special safeguard cannot increase the tariff above Colombia's WTO bound rate, and an Andean Community safeguard cannot increase the level of protection above the rate applied to imports from outside the community.

Antidumping Policies and Safeguard Measures in the Context of Costa Rica's Economic Liberalization, by Ricardo Monge-González and Francisco Monge-Ariño (WPS3591)

The Costa Rican economic crisis in the early 1980s sparked an extensive review of the country's situation. From this review came a decision to move away from the import-substitution policies then in place and, instead, to exploit the economy's comparative advantages in the international economy. Initially, the strategy was to provide higher fiscal incentives, intended to reduce the antiexport bias in its trade restrictions. Soon after this decision, the government introduced an important reduction of import barriers along with other structural reforms that increased the openness of the economy to foreign trade and capital flows. The government devalued the colón and adopted a flexible exchange-rate regime. Since the mid-1980s, the real exchange rate has been stable. The policy changes attracted considerable foreign investment.

Reforms in Costa Rica were complemented by the United States' Caribbean Basin Initiative of 1984. Under this initiative, a significant share of Costa Rican exports enjoy zero tariffs in the United States.

Costa Rica's average most-favored nation (MFN) tariff by 2001 had fallen below 7 percent, though rates are considerably higher for agricultural products than for industrial products. As part of its market access commitments under the WTO Agreement on Agriculture, Costa Rica established tariff quotas for various agricultural products (for example, certain dairy and poultry products), and in almost all cases, the fill levels have been low. Moreover, Costa

Rica has introduced several special safeguard measures based on the WTO Agreement on Agriculture.

Costa Rican exports, approximately US\$1 billion in 1984, had expanded to US\$6 billion by 2003. This export growth was accompanied by an important diversification away from coffee, bananas, sugar, and beef. Other products accounted for 39 percent of total exports in 1982, but grew to 87 percent of total exports by 2003. Meanwhile, the services sector, particularly tourism, became a significant earner of foreign exchange. At the macroeconomic level, increased trade contributed to overall gross domestic product (GDP) growth; with growth came reduced unemployment and a substantial reduction in the share of the population below the poverty line.

Regulations and Organization

Costa Rican regulations on unfair trade practices have been reviewed and adapted to the agreements that were signed within the framework of the Uruguay Round. Costa Rica has also adopted the Regulations on Unfair Business Practices of the Central American Common Market, or Mercado Común Centroamericano, which provide for antidumping action by one member against exports from another member and for common action against exports from an outside country. Bilateral arrangements with Canada, Chile, the Dominican Republic, and Mexico recognize the rights of the parties to take antidumping action under the GATT and WTO agreements.

In 1995, to administer safeguard and unfair trade instruments, the government created an Office of Unfair Trade Practices and Safeguard Measures, reporting to the Ministry of Economy, Industry, and Trade (MEIC). Because of relatively high operating costs in relation to the number of petitions, the government closed this office in 2000 and assigned its responsibilities to the Legal Office of the MEIC. Technical investigations are done by the Economics Department of the MEIC. Unlike the other countries discussed here, Costa Rica has no specialized agency to administer antidumping and safeguard investigations.

Experience

Costa Rica appears to be a country where import-substitution industries, particularly in the manufacturing sector, have accepted the challenges of adopting an open economy model of

development. Costa Rica's experience comprises eleven contingent protection cases: six antidumping petitions and five safeguard petitions.

Of the six antidumping complaints, two were dropped because the complainant did not submit the information required to support an investigation. No dumping or injury was found in two cases, and in one case, injury was found but attributed to causes other than imports. In the one case that reached an affirmative final determination, by the time the investigation was completed imports had dropped virtually to zero. An antidumping duty of 0 percent was imposed.

The outcome of one of these cases demonstrates the government's concern to promote competition. When a petitioner requested that an investigation be terminated because it had reached an agreement with the exporter, MEIC continued the investigation under its own initiative. MEIC in time concluded that no import restriction was warranted, and then notified the Commission to Promote Competition so that it could investigate the arrangement between the parties involved. In another instance, the investigation revealed that the problem was under-invoicing and smuggling; the problem was handled through the appropriate legal institutions.

Of the five applications for safeguard action, only one has resulted in a restrictive measure being imposed. The National Cabuya Board applied in September 1995 for an investigation against imports of coarse fiber bags, used primarily to package coffee for export. The subsequent investigation did verify a substantial increase of imports of bags. It found also a substantial increase of coffee exports, but not one sufficient to explain the increase of imports of bags without a substantial displacement of Costa Rican production. The MEIC imposed a provisional measure, a duty increase to 140 percent, but asked the producers of bags for a commitment to improve and expand their capacity. When after six months domestic producers had not initiated that action, the provisional measure was withdrawn.

The few requests for protection that the government has been called on to manage are an obvious indication that the business community is an active partner in the new economic strategy. Though many Costa Rican enterprises began under the umbrella of the previous import-substitution model, many have succeeded in transforming into exporters, including two enterprises that applied for antidumping protection a decade ago. Another indication is that, although the MEIC has issued a decree to establish a new office to specialize in unfair trade and

safeguard matters, there has not been sufficient pressure from the business community for it to be created. Administration of matters such as these remains with the MEIC's Legal Office and Economics Department.

Lessons

In Costa Rica as in Chile, the major element in the explanation of why antidumping and safeguard action has been minimal is that the business community is an active partner in the new economic strategy. (The fact that sensitive agricultural products remain highly protected should not be overlooked.) In this environment, the government is able to provide a strictly disciplined industrial policy. An industry actively seeking to achieve international levels of productivity and product quality will be supported whereas an industry seeking protection from international competition will not. Also important is the record of good macroeconomic management by the government. The real exchange rate has been stable, and the rate of inflation has been low. There has been no challenge in Costa Rica to take on macroeconomic problems with microeconomic tools.

Antidumping and Safeguard Measures in the Political Economy of Liberalization: The Mexican Case, by Luz Elena Reyes de la Torre and Jorge G. González (WPS3684)

Creating instruments of commercial defense was part of the bargain that the Mexican government struck with industry to win its support for opening the economy to international competition. At the same time, the government recognized that care must be taken to ensure that the commercial defense "monster" remained chained to the service of the trade liberalization program and did not develop a momentum of its own.

There was some risk that it would. Antidumping, at least in rhetoric, was intended to sort fair from unfair international competition. The government was aware that the instrument was tainted by its protectionist use in other countries, hence its reluctance to unquestioningly follow procedures as they had evolved in traditional users.

The Mexican case explains how the government developed operational techniques to sort unwanted competition from the competition that would serve their policy objectives: benefit consumers and stimulate the efficiency of the economy. The WTO rules' tolerance for import

restrictions is more generous than is the concept that the Mexican government concluded would serve the national economic interest.

The Mexican case demonstrates the need for the technical capacity to operate commercial defenses correctly. It also demonstrates the need for skilled political management to take an emergency action that would save political support for trade liberalization without allowing that action to shift the central tendency of the system—in other words, to ensure that an exception remain an exception.

International Competition—Normal versus Abnormal

Two examples illustrate how the Mexican government has made operational the concept of separating normal international competition from unfair or distorted competition. In the first example, diiodohydroxyquinoline is an ingredient in a medicine important in Mexico. It is produced only in Germany, India, and Mexico, and the Mexican producer who brought an antidumping case against the Indian producer is an affiliate of a German producer. The Indian market was at the time highly protected. Therefore, the home market price was considerably above the normal international price—the price that the Mexican government considered appropriate to distinguish normal international competition from dumping. The Mexican government's decision was to impose a duty of US\$4.09 per kilo rather than the full dumping margin of US\$15.56 per kilo. In its investigation, the government concluded that a duty equal to the full dumping margin would drive the Indian supplier out of the Mexican market and eliminate competition there. In such situations, Mexico applies the lesser duty rule.

In the second example, after conducting an investigation of imports of bond paper, the government concluded that the suppliers accused of dumping were doing so to meet the price set by more efficient suppliers. The government imposed no antidumping duty, the conclusion being that injury suffered by Mexican producers resulted from their having to compete with normal international competition rather than with dumping.

In the schema in table 2, the diiodohydroxyquinoline case would fall in the second row; the bond paper case, in the third. Only in the first situation described in the first row of the table would the Mexican government apply an antidumping duty.

Emergency Measures

In mid-1993, the Mexican government was in a critical stage of its liberalization program. North American Free Trade Agreement (NAFTA) negotiations—ostensibly completed in 1992—had been reopened in early 1993 by the insistence of the new U.S. administration of President Bill Clinton that parallel agreements on labor and on the environment be included. The Mexican government had to maintain the national consensus needed to complete negotiation of the treaty and to gain its approval by its Congress

By this time, Mexican trade barriers had been significantly reduced, and inflation had brought approximately 30 percent appreciation of the real exchange rate. Imports by 1992 were five times their level in 1987, an increase of more than 30 percent per year. Industry pressed hard for the government to keep its promise to apply antidumping measures to provide relief in this emergency situation. Were the government not to respond, it would risk loss of credibility for the system of contingent protection and, with it, the ongoing trade liberalization program.

The most focused pressure came from the Mexican steel industry. It was familiar with antidumping procedures, having been the target of U.S. and European measures several times. The industry presented a package of petitions that covered nearly all basic products and supplying countries. The Mexican government, however, was reluctant to act on these petitions. Use of antidumping measures by the U.S. government to protect its steel industry had played a major role in capture there of the instrument for protectionist purposes. Moreover, an increase of steel prices would be a burden on user industries and exporters.

At the same time, producers of a broad range of final goods—including clothing, toys, shoes, and electrical appliances—came forward with intense complaints about low-priced imports, particularly from China. These producers, however, were minimally organized and unfamiliar with antidumping procedures.

The government's strategy included immediate action on a range of final goods from China. As soon as the government self-initiated investigations on more than 3,000 tariff lines, it installed preliminary duties that ranged from 129 percent to more than 1,000 percent. (Because part of the discipline the government had built into its antidumping rules included strict standards on the information a petitioner must supply, it would have been time-consuming, perhaps impossible, for these producers to pull together a package of petitions.) Product coverage was

carefully selected to exclude duties on any products used as inputs by Mexican producers. Moreover, China was not at the time a GATT contracting party; hence, Mexico's duties would violate its international commitments.

In contrast with their immediate action on the package of final goods, the government delayed action on petitions from the steel industry. Although most investigations were opened in 1993, the measures that were applied came near the end of 1995. In the interval, the government examined carefully where Mexican production could be expanded with minimal increase of cost to users. It also created a system of certificates of final use to exempt critical inputs from duties but, at the same time, ensure that these products did not substitute for products that Mexican producers could supply. The duties imposed were much lower than those imposed on final goods, mostly in the range of 30 to 50 percent ad valorem.

Mexico's 83 antidumping initiations in 1993 were more than the number for any other country. However, after devaluation of the peso in December 1994 relieved pressure for use of commercial defense measures, Mexico averaged 8 initiations per year from 1995 through June 2004, as compared with 40 by India, 37 by the United States, 30 by the European Union. The emergency action was indeed an exception.

Lessons

Creating and using contingent protection instruments has been a fundamental part of establishing the new open economy of Mexico. The political promise that the government made to industry at the beginning of Mexican liberalization was to provide relief from unfair competition while otherwise expecting Mexican industry to compete with the best in the world. The administrative unit and procedures established in Mexico show how the good sense of this promise can be translated into sound and impartial professional action. Mexican experience demonstrates that good policy management requires more than technical skill. The political acumen to judge when to emphasize the technical dimensions and when not to, was critical.

Antidumping Mechanisms and Safeguards in Peru, by Richard Webb, Josefina Camminati, and Raúl León Thorne (WPS3658)

Peru began its recent economic reforms in the face of a particularly severe economic and political crisis. Inflation raged in triple digits, and domestic production had fallen drastically. A collapse of public revenues brought severe reduction of public services, including courts,

schools, and police. Increasing terrorism from Sendero Luminoso and Túpac Amaru groups added to the decline of public order. The multiple exchange rate system, along with high and distorted tariff rates, created effective rates of protection of more than 250 percent for some sectors and negative rates for others. Import prohibitions applied to 540 tariff lines that covered almost one-fourth of domestic production; another 534 tariff lines were subject to quantitative restrictions.

The trade reforms that began after Alberto Fujimori became president differed from previous reforms in several ways. In the election campaign of 1990, the liberal message—principally from unsuccessful candidate Mario Vargas Llosa—was no longer dismissed as a front for business interests. Liberalization was widely accepted as a way to advance the public interest, not simply as a desperate means to take on an economic crisis. (Fujimori had not campaigned on a liberal platform, but his practical perception of the emergency situation led him toward liberal policies.)

The government wanted to do more than just remove existing restrictions. It wanted to institutionalize trade policy decisions as well as install technical criteria and a unified evaluation system for protection requests. Previously, decisions on tariff rates, levels of quantitative restrictions, and import bans as well as decisions about which enterprises would receive tariff exemptions had been made by sector officials who operated with almost complete discretion. The lack of structure generated business uncertainty and permitted a high level of political interference.

Institutional Reform and Indecopi

The centerpiece of institutional reform was the Indecopi (Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual, or National Institute for the Defense of Competition and the Protection of Intellectual Property). Indecopi was created in 1993 to administer the new economic rules and actively defend the market system against the lobby-based political erosions that had undermined previous reforms.

Indecopi is headed by a president and an Executive Board who are appointed by the president of Peru. The work of Indecopi is done by seven commissions, independent of one another, whose members are appointed by the Executive Board. The establishing regulation

requires that each member be an experienced technical expert in the field that his or her commission will regulate. Each commission is served by a Technical Secretariat.

Role of the Indecopi Commissions

The Indecopi commissions are the major public organs for maintaining a competitive market economy in Peru. The Commission on Technical Standards, for example, is responsible not only for maintaining systems of standards but also for ensuring that businesses do not use them to retard competition.

The Commission for Control of Dumping and Subsidies (CDS; La Comisión de Fiscalización de Dumping y Subsidios), created in 1991, was made a part of Indecopi when it was established. When the CDS was created it incorporated the requirements of the relevant GATT codes; it has since incorporated the Uruguay Round agreements into its criteria and procedures. The CDS is the investigating and deciding agency on matters of antidumping and countervailing duties. On safeguards, however, the CDS conducts the investigation, but the decision rests with the Multisector Commission, which is made up of representatives of the Ministries of Economy and Finance, Industry, and Production for the sector on behalf of which the investigation was conducted.

The antidumping-safeguard procedural difference reflects a difference in the economics that lies between the two instruments. Dumping and subsidies are considered to be practices that create distortions to be evaluated against technical criteria. Under the economic philosophy of the system, a distortion merits correction; it creates an inequality between private versus social costs and benefits. A safeguard action responds, however, to what is considered a political situation. Technical analysis is needed to gauge the extent of injury and to assure that it results from import competition. Nevertheless, the decision must balance the importance of the various effects that will follow from the proposed action on consumers, production, and employment, not only on the sector that petitioned for protection but also on other sectors and on other dimensions of the national interest such as the viability of the politics of openness. An industry that petitions for safeguard relief not only must document an increase of imports and consequent injury but also must submit (a) an adjustment plan and (b) an economic report that quantifies the impact of the requested measure on final and intermediate consumers and on the public interest.

Outcome

The CDS and the other Indecopi commissions have provided an example of how public decisions can be made in a transparent manner, in accord with objective, published criteria. They have won the confidence of the public as different from the traditional bureaucracy, both in the quality of their work and in the public's perception of whom they serve. The public media played an important role, publicizing commission decisions that favored consumers and commission efforts to facilitate the operations of small businesses.

As to the CDS in particular, in its early years, it established a pattern of disciplined procedure. As noted in table 3, from 1993 to 2000, the CDS imposed an average of only 1.4 antidumping measures per year. Moreover, standards for the content of a petition kept the number of investigations relatively low.

With the change in 2001 to the government of Alejandro Toledo (and already during the temporary government of Valentín Paniagua in 2000), the industrial lobby strove to identify the removal of import restrictions as being among the excesses of the Fujimori government and discredit the hard-line technical and independent approach to determining trade policy that the Indecopi and the CDS represent.

A safeguard petition on behalf of the textiles and clothing sector became an important vehicle for the pressure. The protection seekers opted for a safeguard petition because it offered greater possibility to minimize the technical input and bring trade union and other political pressures to bear. In the debate over whether to protect textiles and clothing producers, the major argument against restriction has been the damage to the Peruvian economy that retaliation from China would bring. This argument is being advanced by export industries, their trade unions, and the Embassy of China in Peru. As this country study was completed in August 2004, the option toward which the government was inclined was to shift from transitional safeguards against China (allowed under China's terms of accession to the WTO) to generalized safeguards.

The change of government also initiated a struggle to replace Indecopi's commissioners. The new commissioners have closer ties to industry, and they have focused on enterprise insolvency resulting from the 1997 banking crisis and have redirected resources toward issues of enterprise restructuring. Matters of market structure and free competition have received less attention.

As to decisions on trade issues, there has been an increase in the share and in the number of cases with restrictive outcomes. The numbers, however, are still low. Authors Webb, Camminati, and Thorne report that, although decisions are now more influenced by the industrial sector, the technical quality of investigations has not been lost.

Lessons

The positive lesson we draw from Peruvian experience is the example it provides of a unified, independent, and technically oriented decision structure. Peru's experience demonstrates that such an institution is not impervious to political pressure; however, the institution has maintained its technical integrity. Equally important, the idea of a unified decision structure rather than a sector specific approach has prevailed.

Not all the political considerations that have entered into trade policy determinations have pushed in the protectionist direction. In the debate over whether to protect textiles and clothing producers, the major argument against restriction is the damage to the Peruvian economy that retaliation from exporters would bring. This argument is being advanced by export industries, their trade unions, and the embassies of exporting countries.

II. SCOPE AND BACKGROUND OF THE REFORMS

Each of the reform experiences began in periods of macroeconomic crisis; hence, a major part of the dynamic behind them was to control inflation and restore macroeconomic balance. Microeconomic reforms included much more than removal of trade restrictions. Major sectors of the economy previously dominated by public enterprises were privatized; foreign investment rules were liberalized. In many countries, commercial legal codes were extensively revised, with new emphasis on creating and maintaining competition in domestic markets. With respect to trade policy, although the application of extensive import restrictions during the second half of the last century had promoted some diversification of production, it also had fostered concentrated property structures, high prices, low product quality, and few incentives for modernization.

Trade liberalization was novel in speed, depth, and scope. Import licensing requirements and quantitative restrictions were almost entirely removed. Applied tariff rates that had averaged 50 percent or more in the 1970s and 1980s have fallen by three-fourths and, in Chile and Costa

Rica, to well below 10 percent. Regional arrangements such as Mercosur, the Andean Community, the Central American Common Market, and NAFTA have been mechanisms for additional liberalization. (For example, two-thirds of Mexico's imports are from the United States and are thereby duty-free under NAFTA.) Separate protection regimes were maintained for agriculture in several countries, but import-sensitive manufactured goods were not excluded from the liberalization. There was no Multifiber Arrangement, no special arrangement for textiles and clothing among these countries.

In their economic histories, the seven countries had passed through several cycles of protection and openness. Although it is common to describe the periods of protection as application of an import-substitution strategy, swings toward protection are more accurately described as accumulations of political victories by protection- and subsidy-seeking interests – not as a coherent applications of any particular economic strategy¹. Many different import control instruments were in use: tariffs, surcharges, benchmark customs values, enterprise-specific limits on foreign purchases, and import prohibitions. Application of restrictions was done through processes that allowed wide discretion to government officials, with decisions often made at the sectoral level. Safeguards and antidumping—as GATT and WTO rules define them—were rarely used. With almost all tariff lines unbound through the GATT, WTO, or other international agreements, the international sanction that use of such instruments would have provided was not needed.

The reforms of the 1980s and 1990s took place as these countries increasingly saw the advantages of active participation in the GATT and WTO systems. At the Uruguay Round, they accepted ceilings on almost all tariff lines; hence, for any duty increase beyond these bindings, they would need the clearance that use of a GATT- or WTO-sanctioned instrument would provide. Moreover, there was widespread realization that, to prevent the eventual erosion of this round of liberalization, new institutions for managing trade policy would be needed—institutions

1. Thirty years ago, Bela Balassa began the preface to his pathbreaking study, *The Structure of Protection in Developing Countries* (1971), by noting that an import-substitution policy was the rationale for the trade policies of many developing countries. He went on to point out that whatever the intrinsic merits of this policy, its application has rarely been based on a consistent program of action. Rather, the existing system of protection in many developing countries can be described as the historical result of actions taken at different times and for different reasons. These actions have been in response to the particular circumstances of the situation, and have often been conditioned by the demands of special interest groups. The authorities have generally assumed a permissive attitude toward requests for protection and failed to inquire into the impact of the measures applied on other industries and on the allocation of resources in the national economy. (xv)

that would help to control the emergence of many instruments and unify the application of the instruments into a policy process that would bring forward the economic logic of how openness would support economic development. The two sides of the issue reinforced each other: while the need for reform suggested the value of active WTO membership, active WTO membership required the use of approved instruments.

Thus, these liberalizations differed from past ones in more than their scope and depth. An important element was to institutionalize the changes that were made through the acceptance of GATT and WTO bindings and the adoption of WTO-sanctioned trade defense or contingent protection instruments.

Creating trade defense mechanisms was often part of the bargain to gain industry acceptance of liberalization. Industries find trade defense mechanisms attractive because a safeguard mechanism can slow the pace of liberalization where its impact turns out to be particularly severe. In principle, an antidumping mechanism will allow domestic industries to be exposed to normal international competition but, at the same time, be protected from unfair competition.

From the perspective of maintaining the momentum of liberalization, these mechanisms, once in place, should serve as a means to accommodate and isolate pressures that might otherwise grow into large-scale threats; they should allow the possibility of one step back to preserve two steps forward. In each country, trade liberalization did generate substantial increases of imports, hence the need for mechanisms to manage these pressures. Thus, maintaining an economically sensible trade policy was, in significant part, a matter of managing pressures for exceptions—for protection for a particular industry—so that the exceptions remained exceptions and the decision process reinforced, rather than undermined, the politics of liberalization.

An additional virtue of these mechanisms is that they would contribute to a shift of the culture of policy management that reform leaders wanted to advance: a shift to a culture of policy management based on facts of economic potential—unified, objective, and transparent mechanisms—from one based on relationships. Finally, trade regulations would form a part of the new regulatory structure intended to create a more competitive environment than existed before.

III. TRADE DEFENSE USE—THE OVERALL RECORD

Trade defense mechanisms are instruments for imposing import restrictions rather than for removing them. Their creation raises the possibility of overuse: Have they been used so much as to substantially offset the liberalization that they were intended to promote?

With regard to applied tariff rates, table 4 presents the tariffs on industrial goods for seven countries: Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico and Peru.

The record of use of antidumping, countervailing duties, and safeguard investigations and measures since 1995 (as notified to the WTO) are presented in tables 5 through 8. Tables 5 and 6 list the numbers of antidumping investigations and measures by the seven countries, as notified to the WTO. Countervailing duties have been minimally used; since 1996, only nine measures in total by the seven countries in the study (table 7). Safeguard actions have also been infrequent. Over the same period, Chile has notified the WTO of seven safeguard measures, three preliminary and four definitive measures. All have been tariff measures at rates below 15 percent and in place for no longer than 12 months. No other country in the group has applied more than three safeguard measures.

Tables 5 and 6 list the numbers of antidumping investigations and measures notified by the seven countries. For the countries in this study, as for other WTO members, antidumping has been by far the most frequently used mechanism for managing pressures for exceptional protection,² Colombia's use of within-bindings safeguards being the only exception. Several of the countries studied were, for short periods, major users of trade defense measures. Chile, in the early 1980s, initiated more countervailing duty cases than any other GATT member; Mexico, in 1993, initiated more antidumping investigations than any other GATT contracting party. The country studies show, however, that these cases were truly emergency actions, coming at critical times in the trade liberalization process. Through the use of trade defense measures and other actions, governments were able to complete critical steps, and the rate of use dropped radically afterward.

Although trade defense measures are, in theory, intended to deal with other matters, these country studies show that an overvalued exchange rate often creates the conditions in which a

2. Together, WTO members have initiated more than 2,500 antidumping investigations since 1995, compared with 174 countervailing duty investigations and 142 safeguard investigations.

safeguard or antidumping investigation will return an affirmative determination. The Argentine study provides an explicit demonstration³. Exchange rate overvaluation was part of the situations in Chile and Mexico mentioned in the above reflections, and the Brazil study also describes an incident in which overvaluation brought intense pressure for import protection. The record shows, however, that when the exchange rate was appropriately adjusted, use of trade defenses quickly receded.

IV. RATIONALE FOR ANTIDUMPING MECHANISMS

The rationale for antidumping enforcement in Latin American countries tends to focus on the economic concept of distortion. A distortion exists when the price of a product does not equal its cost of production in a competitive environment. In modern economics, as opposed to the mercantilist economics from which the concept of dumping is drawn, the national economic interest, or economic welfare, would be higher if the distortion did not exist. A distortion thus justifies government intervention in the market.

When they established their procedures, Latin American governments were aware from analysis of antidumping systems in traditional users such as the United States and the European Union that dumping in its legal sense—even more than in its theoretical sense—did not identify circumstances in which government intervention would advance the national economic interest. Antidumping enforcement would use neither the exporter's home market price nor the constructed cost⁴ as the measure of what price should be. Instead, the price that enforcement attempted to reach would be the prevailing international price in competitive markets. Such interpretation followed the promise that governments had made to industry when they created the antidumping mechanisms; industry would be expected to adjust to normal international competition but would be protected from extraordinary situations.

The latitude provided by WTO rules allowed governments to accommodate at two levels the mismatch between the economic theory on which WTO rules were based and the concept that justified government intervention. At the level of antidumping investigation, WTO rules

3. Econometric studies based on information from other countries confirm that the business cycle influences the use of antidumping and other trade defenses. For example, see Leidy (1997) and Takacs (1981).

4. The WTO rules sanction constructed cost formulas that allow generous overstatement of what normal business accounting practices would determine.

allow, in certain circumstances, the use of third-market price as the measure of normal value. An internationally competitive environment could be chosen as this third market. The more general basis for latitude is that the WTO rules do not demand that an antidumping duty be equal to the measured dumping margin. The duty cannot be larger, but it can be smaller, even zero. Latin American governments adopted the lesser duty rule, which, in theory, provides that the antidumping duty be set no higher than the level necessary to eliminate injury to domestic producers.

Although the lesser duty rule is sometimes described as being allowed by the WTO antidumping agreement, given that WTO members did not give up their sovereign right to set a lower duty by accepting the agreement, there is no need for a WTO rule to create that right. Within the rules, a WTO member can set an antidumping duty at any level determined with reference to any criterion the government considers appropriate—limited by the measured dumping margin. Because the rules for measuring the dumping margin are generous, once an affirmative determination is returned, the latitude is considerable.

Similarly, these countries included in their antidumping processes a national interest clause that allows the deciding agency to take no action or to modify action if the national interest would thereby be better served. Again, this action is a right not given up by accepting to abide by the WTO agreement; it is not a privilege granted by the agreement. The country studies explain additional criteria and limits governments included in their mechanisms.

V. RATIONALE FOR SAFEGUARD MECHANISMS

Though they have been infrequently used, safeguard regulations are in place in each of the seven countries. The Peru study provides a sharp example of the difference in philosophy behind safeguards and antidumping. Antidumping is a technical matter; a distortion compromises economic welfare (the national economic interest) and therefore should be corrected. A safeguard action responds to a political situation. Technical analysis is needed to gauge the extent of injury and assure that it results from import competition. The decision should, however, balance the importance of the various effects that will follow from the proposed action on consumers, production, and employment, not only in the sector that petitioned for protection but also in other sectors. The decision should also take into account other matters such as how action or inaction would affect the viability of the liberalization process and the possibility of retaliation

by exporting countries. In Peru, an industry that petitions for safeguard relief not only must document an increase of imports and consequent injury but also must submit an adjustment plan and an economic report that quantifies the effect of the requested measure on final and intermediate consumers and on the public interest.

In practice, the most frequent users of safeguards have been Chile and Colombia. In Chile, increased import duties have been used on isolated occasions to provide short-term breathing space for domestic enterprises beset by competition from imports. Colombia's use of safeguards differs in that the most frequently used safeguard instrument avoids the procedural and substantive requirements of the WTO agreement by restraining restrictive action within the ceiling bindings the government has accepted at the WTO.

The Argentine experience is also illustrative. The trade commission there turned down eight of the first nine safeguard requests it received; the response by protection seekers was to apply for relief under antidumping regulations. In theory, antidumping applies only when an economic distortion can be identified, but in practice, its standards overlap considerably with the injury standard of safeguards. Moreover, when qualifying for antidumping relief, an industry need not meet the safeguard requirements to provide a workable recovery plan nor subject itself to review of how its protection will affect consumers or production in other sectors. Though different in theory, antidumping and safeguards have proven in practice to be quite fungible. In practice, the use of one versus the other is a matter of administrative or political convenience, not of the economics of the underlying situation⁵.

VI. DECISION-MAKING BODIES

Although each country's contingent protection processes have at their base a capacity to conduct investigations and reach determinations in accordance with the WTO rules, arrangements for deciding the restriction that will be imposed vary considerably. In antidumping cases, Argentina and Peru, for example, have created primarily technical mechanisms. The technical factors along with the independence and the analytical skills of the commission members are paramount. In contrast, Brazil entrusts the decision—once a technical

5. Finger (2002) provides a general review of the point, drawing evidence from the evolution of use of GATT–WTO pressure-valve instruments since the GATT was first adopted.

determination is reached—to a vote by an overview board whose members come from a number of ministries that represent a diversity of interests. Colombia likewise entrusts the decision to an interministerial body, presided over by the country's president.

Chile has a system that controls application of contingent protection measures at several levels. At the administrative level, general interest government agencies dominate the commission that reviews technical determinations and prepares a recommendation for policy action. The commission is chaired by an official from the agency of government responsible for enforcing competition policy, and the final decision is made by the country's president. At the statutory level, only tariff surcharges may be applied, for no more than one year. A restriction that will increase the tariff above the bound rate requires approval of three fourths of the members of the commission. Moreover, consumers are recognized as interested parties.

No factor is more important to the disciplined use of contingent protection than the widespread support for the economic philosophy of openness. This point is made in each country study. The Chilean and Costa Rican studies particularly bring out the importance of deep constituent support for the economic philosophy of openness and constituent appreciation of the value of a competitive economy.

Costa Rica has no specialized agency to conduct contingent protection investigations. They are part of the normal workload of the legal and economics staffs of the trade ministry. The positive side of this arrangement is that a staff with more general responsibilities might remain more sensitive to general economic interests than a specialized staff. Because the technical work in an antidumping or safeguard investigation amounts in substance to document foreign unfairness and displacement of domestic production by imports, professionalism can take on a pro-protection slant⁶.

It should be noted that Chile and Costa Rica have maintained relatively high protection for agriculture, and that they have a good record for macroeconomic stability, low inflation, and stable exchange rates. There has been no challenge to take on macroeconomic problems with trade instruments.

6. For example, Boltuck and Litan (1991) document the biases in the administration of U.S. regulations.

VII. SOURCES OF DISCIPLINE

After reviewing the country studies, we can look again at a question posed at the beginning of the paper. Because safeguard and antidumping are instruments that, by their nature, impose import restrictions, where did policy managers find discipline over application? What helped promote acceptance of negative decisions?

The administrative content of WTO rules has made an invaluable contribution. A major source of erosion of previous liberalizations had been the tendency for instruments to proliferate, often controlled by different ministries and not unified by process or by criteria. Ministries most closely associated with industrial sectors were not counterbalanced by ministries with overreaching responsibilities or by consumer or import user interests. (In politics, concentrated interests have the advantage over more-dispersed interests, with that advantage being multiplied when decision making is at the sectoral level.) The WTO rules not only supported unification of process and criteria but also provided a template for objectivity; public notice of criteria, participation and access to information by interested parties, and publication of the legal and factual basis for decisions. They provided guidelines for objectivity, transparency, and accountability in public decision making, contributing not only to better trade policy but also to change of the policy management culture.

An important source of discipline has been the rigorous standard for the information that a protection-seeking industry was required to supply, both for initiation of an investigation and as evidence to support the impact of international competition on the industry. Peru also imposes an application fee, currently about US\$925.

Effectiveness with respect to the continuance of liberalization has been a matter not only of the judicious application of WTO requirements but also of the skilled use of the discretion they allow. In Mexico, the steel industry was familiar with WTO-based instruments, having been party to actions applied by the United States and the European Union against their exports. Other sectors found the administrative demands more formidable. When the survival of the liberalization program depended on such action, the Mexican government self-initiated investigations that involved smaller-scale producers of toys, clothing, and other consumer products. The combination of strict information requirements and the government's authority to self-initiate investigations provided a valuable degree of discretion. At the same time, the

government used the discretion in its regulations to proceed more slowly with the investigation of the complaints by the steel industry and work out specific mechanisms to bring user interests into play.

In Colombia, the steel, chemicals, and petrochemicals industries adapted quickly to the information demands of the WTO-based system of trade defense. Sectors composed of smaller enterprises, however, found the requirements burdensome and, in time, convinced the government to create alternate trade defense mechanisms. Colombia's WTO bindings discipline the use of these instruments. The adoption of a unified mechanism for alternate instruments is another source of discipline.

The economic content of the WTO standards is another matter. Apart from the cost of demonstrating that the standards have been met, analysis of experience in other countries has shown that the standards required by the WTO agreements on safeguards and antidumping are generous in determining that petitioners are deserving of protection. Aware of this characteristic, the Latin American countries adopted their own additional bases for not taking action (for example, a national interest clause) or for limiting the degree of action that was taken (for example, a lesser duty rule).

When Latin American governments included the straightforward economic sense of taking into account the negative impact of an import restriction on domestic users, protection-seekers used the rules against them – pointed out that WTO rules do not require consideration of such elements, that procedures in 'leading' users do not include them.

Another attempt to improve on the economics of the WTO rules was to base price comparisons on a measure of long-term international price. Mexico's experience is particularly relevant here. Attempts to develop an operational measure of long term international price were however overwhelmed by references by protection-seekers to the idea of 'constructed cost,' around which GATT/WTO discussion has swarmed and which at a technical level has been long captured by protectionist interests.⁷ Lacking support from WTO rules or negotiations, these attempts eventually waned.

⁷ This capture has been the subject of a voluminous literature on the 'administrative bias' in administration of antidumping rules. Boltuck and Litan (1991) provide an earlier, Nelson Vandebussche (2005) a later summing up on the point.

Latin American experiences confirm that the dumping and injury criteria required by WTO rules are generous. To keep the number and the degree of restrictions in check, the governments often had to depend on the discretionary authority they retained⁸. The economic content of the rules did not create political capital that governments could use to explain a negative response to a request for protection; governments had to use political capital otherwise gained to explain why protection was not given to a petitioner that the rules found to be deserving.

VIII. RECOMMENDATIONS FOR WTO RULES

The country studies reviewed here demonstrate that the WTO rules on safeguards and antidumping have proven to be essential and that the courage and skill of policy managers have proven to be indispensable in the sweeping trade liberalization that has taken place in Latin America trade policy over the past quarter century.

In this final section, we ask how the WTO rules could have been even more useful and more supportive of the liberalization that these countries set out to achieve. To be effective, a policy manager must master the technicalities, but we have found that the effective use of safeguards and antidumping mechanisms is as much art as science. In areas of economic policy in which the advice to “follow the rules” has perhaps been overemphasized, we will restrict ourselves to general observations; we leave the crafting of negotiating proposals to people with expertise in such work.

One might identify two objectives with respect to how international rules might shape domestic processes through which governments make decisions to impose protection. From perhaps an ideal perspective, one might hope that they would guide a country to identify those interventions that add more to the national economic interest than they take away. Eliminating distortions, in theory, follows from this perspective.

The experiences studied here show, however, that there are instances in which other considerations make it impossible to avoid what might be an economically unsound trade intervention. In those situations, good policy becomes a more pragmatic matter, a matter of

8. Although the discretionary authority that countries retained and the political review processes that countries superimposed over technical determinations in a number of instances led to a reduced level of restriction, there were few instances in which no restriction was imposed after an affirmative determination.

managing interventions to maintain the momentum of liberalization and strengthen the politics of avoiding, rather than of imposing, such restrictions in the future.

The first objective is about economically good interventions versus economically bad; the second is—pragmatically speaking and over the long run—about less interventions rather than more. It is also about the number and form of interventions in the short run that, over the long run, will minimize opposition to liberalization.

The Rules Are Too Generous

Although the administrative dimensions of the rules have been supportive, the economic content has been less so. A key point that emerges from the country studies is that, from an economics perspective, WTO rules on safeguards and antidumping are too generous with respect to separating either good interventions from bad or less interventions from more. Although antidumping, in theory, is about interventions that make economic sense, in reality, WTO guidelines allow restrictions that amount to ordinary protection. Aware of this characteristic, Latin American governments attempted to make operational the economic concept of distortion. Qualitatively speaking, this concept would help them to separate trade interventions whose economics is good from interventions whose economics is bad. Sticking to the concept of distortion would also reduce the number of interventions that received sanction. At the same time, these governments introduced lesser duty rules and national interest clauses—additional bases not to restrict in instances in which the WTO rules would allow a restriction.

The safeguard mechanisms that the governments set up also included disciplines not mandated by WTO rules. WTO safeguard rules require only an investigation and determination of injury from imports and of the cost that import competition imposes on competing domestic producers. They do not require that benefits to industrial users and to consumers likewise be taken into account. In the interest of reaching economically sensible safeguard decisions, Latin American governments supplemented their safeguard processes with requirements for an adjustment plan (and an economic report in the case of Peru) that quantifies the impact of the requested restriction on final and intermediate consumers and the public interest. The logic of the first of these is to assure that the protected industry will eventually be viable in an open economy and will not be a long-term burden on the rest of the economy. The logic of the second is that the imports that are an inconvenience for some domestic interests provide benefits for other

domestic interests—lower-priced and state-of-the-art inputs for domestic producers and final goods for consumers.

Overcoming Conflicts Created by the Economic Content of the Rules

The over-generosity of the economic content of the WTO rules leads to two points of conflict between the rules and the objective of defending liberalization:

- The case for protection has the weight of international obligation behind it whereas the limits that governments included in their regulations do not.
- Technical analysis is expected—politically—to work in favor of liberalization, yet its economics is to make the case for protection, to document the costs that liberalization imposes on some domestic interests.

Latin American experience suggests a straightforward way to overcome these conflicts: mandate identification of the impact on users and consumers as well as the impact on competing domestic producers. The policy process would ask: Who in the domestic economy would benefit from the proposed import restriction, and who would lose? By how much?

The technicalities would be simple: recognize domestic users and consumers as interested parties, and require that the investigation determine the effect on them of the proposed restriction in parallel with its determination of injury from trade to the protection seeker. The effect of the restriction on users and consumers would be measured in the same dimensions as injury—for example, jobs lost because of higher costs and lower profits—the standard metric of effect. The existing rules of procedure would apply to the investigation of the costs of protection equally with that of the benefits. All interests would be treated the same in process and in concept. Even in those instances in which the decision is to restrict imports, the process would bring forward the reasoning behind the liberalization, the benefits from openness. The limits that Latin American governments imposed on their use of trade defense measures would have been more effective against domestic pressures for protection if the reasons for minimizing use had had the force of international obligation behind them⁹.

9. Another conflict, perhaps more semantic than substantive, is between the national interest and the protection-seeking industry's interest. The protection seeker's interest is part of, not other than, the national interest. The effect of a trade restriction on the national interest, in concept, should include the cost of protection and those who bear this cost, along with the benefits and those who receive these benefits. A shortcoming of an injury investigation is that it does not give equal standing to all parts of the national interest.

Beyond making economic sense, such a safeguard process would be politically balanced. It takes into account the effect of trade on all interests in the country: those that benefit from liberalization and those who are burdened. This balance would not be a matter of the technical versus the political. The benefits to trade for user interests would be measured in the same business and economic terms as the costs to protection seekers¹⁰.

A shortcoming of this suggestion is that it would increase the cost of an investigation, would impose administrative costs on potential victims of the restriction as well as on the potential beneficiaries. If however discipline over use were based on equal treatment of the costs of protection and its benefits rather than on the complexity of determining the benefits, then economies could be achieved without compromise to the viability of the information developed.

The balanced cost-benefit process would have to be applied in antidumping investigations as well as in safeguard investigations. The situations to which antidumping or safeguards can be applied overlap considerably. Because antidumping's popularity is not based on its unique identification of the existing business or economic situation, expanding the scope of the safeguard process would have the effect only of further increasing the use of antidumping in its place.

Other than modifying the technical dimensions of investigations to include the gains from trade, the alternative for reform is further manipulation of the technicalities of determining dumping or injury. That manipulation—illustrated by the proposals submitted at the Doha Negotiations—is not about matching the operational guidelines more closely with the economic concepts of dumping (predatory pricing) or externality—in theory, situations in which a trade intervention provides a net addition to the national economic interest. This struggle over technicalities, we contend, will have little effect on the quality or the quantity of import restrictions that are applied.¹¹ There are sufficient technicalities that adding a few here, trimming

10. The process could also be balanced in that users or consumer groups could petition for removal of an import restriction on the basis of the cost it imposed on them. History provides at least one example of a mechanism balanced in this way. Section 336 of the U.S. Tariff Act of 1930 empowered the U.S. president to increase or to decrease a tariff rate based on investigation by the U.S. Tariff Commission of the cost of producing the product in the United States compared with that cost in exporting countries. (The U.S. tariff would be set equal to the measured difference.) From 1931–41, the commission conducted investigations on 101 products. These investigations led to 29 tariff increases and 25 tariff reductions; in the other 47 instances, the rate was not changed.

¹¹ Borrowing a concept from mathematics, the rules on trade remedies provide an over-determined system, e.g., 15 equations to solve for 2 unknowns. Operating the system requires mastery of its technicalities, e.g., how to solve simultaneous equations. Within the technicalities there remain however many degrees of freedom. Two equations

a few there, will have no effect. Thinking, even tinkering “within the box,” is not likely to help. To support liberalization, the WTO rules should support identification of the benefits from liberalization.

The conclusions in a paragraph: The binding of tariff rates and adoption of GATT/WTO-sanctioned safeguards and antidumping mechanisms provided the basis to remove a multitude of instruments of protection, and to maintain centralized control over the management of pressures for protection in agencies with economy-wide accountabilities. WTO procedural requirements (e.g., to follow published criteria, participation by interested parties) provided a basis for changing the culture of decision-making from one based on relationships to one based on objective criteria. However, when Latin American governments included the straightforward economic sense of taking into account the negative impact of an import restriction on domestic users, protection-seekers used the rules against them – pointed out that WTO rules do not require consideration of such elements, that procedures in ‘leading’ users do not include them. Likewise, attempts to base price comparisons on an economically sensible measure of long run international price brought protectionist criticism for not using the more generous ‘constructed cost’ concept applied in ‘leading’ countries and around which WTO discussion swarms. Finally, WTO rules fail to take into account the reality of resources available for policy management in developing countries. Simpler procedures that made economic sense were found not in compliance. In a sentence, the administrative content of the rules supported liberalization, the economic content did not.

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X. TABLES

Table 1 Colombia: Safeguard and Antidumping Investigations 1990–June 2004

Category	Number completed	Restriction	
		Number	Percentage of number completed
Antidumping	37	23	62
Safeguard	34	25	74
WTO	11	10	91
Special	10	5	50
Andean	13	10	77

Source: Tabulated from data in Table 5.2 of WPS3615

Table 2 Mexico: Antidumping Duty Levels in Different Situations

Price comparison	Level of duty
Normal value = International price > Export price	Duty = Dumping margin
Normal value > International price > Export price	Duty = Difference between export price and international price
Export price = International price < Normal value	No antidumping duty – injury (if observed) is from normal international competition

Source: WPS3684

Table 3 Outcomes of Peru's Antidumping Investigations 1993–June 2004

	1993–2000	2001–June 2004
Number of investigations completed	32	25
Number of restrictive measures	11	18
Number closed without restrictive measures	21	4
Restrictive measures as percentage of investigations completed	34	82
Average number of definitive measures per year	1.4	4.5

Source: WPS3658

Table 4 Applied Tariff Rates on Industrial Goods for Selected Latin American Countries
 Most-favored nation rates, percentage ad valorem)

Country	Year	Simple Average	Minimum Rate	Maximum Rate
Argentina	2003	15	0	35
Brazil	2003	14	0	35
Chile	2002	7	0	7
Colombia	2002	13	0	35
Costa Rica	2002	6	0	15
Mexico	2003	18	0	35
Peru	2000	13	12	20

Source: UNCTAD (United Nations Conference on Trade and Development) TRAINS Data base.

Table 5 Antidumping Initiations as Notified to WTO, 1995–June 2004: Countries included in the study and major users

Initiations	1995	1996	1997	1998	1999	2000	2001	2002	2003	Jan.– June 2004	Totals	Per year 1995– J2004	Per year 1995– 2001	Per year 2002– J2004
Argentina	27	22	14	8	23	45	26	14	1	7	187	19.7	23.6	8.8
Brazil	5	18	11	18	16	11	17	8	4	6	114	12.0	13.7	7.2
Chile	4	3	0	2	0	5	0	0	0	0	14	3.1	2.0	0.0
Colombia	4	1	1	6	2	3	6	0	0	0	23	2.4	3.3	0.0
Costa Rica	0	4	1	1	0	0	0	0	0	0	6	0.6	0.9	0.0
Mexico	4	4	6	12	11	7	5	10	14	3	76	8.0	7.0	10.8
Peru	2	7	2	3	8	1	8	12	5	3	51	5.4	4.4	8.0
Major users, for comparison														
United States	14	22	15	36	47	47	76	35	37	21	350	36.8	36.7	37.2
European Community	33	25	41	22	65	32	29	20	7	13	287	30.2	35.3	16.0
South Africa	16	33	23	41	16	21	6	4	8	4	172	18.1	22.3	6.4
India	6	21	13	27	65	41	79	81	46	4	383	40.3	36.0	52.4

Source: WTO Database

Table 6 Antidumping Measures as Notified to WTO, 1995–June 2004

Measures	1995	1996	1997	1998	1999	2000	2001	2002	2003	Jan.– June 2004	Totals	Per year 1995– J2004	Per year 1995– 2001	Per year 2002– J2004	Measures in place as of June 30, 2004
Argentina	13	20	11	12	9	15	15	24	19	1	139	14.6	13.6	17.6	76
Brazil	2	6	2	14	5	9	13	4	2	2	59	6.2	7.3	3.2	54
Chile	2	0	2	2	0	0	0	0	0	0	6	0.6	0.9	0.0	0
Colombia	1	1	1	0	6	2	0	0	0	0	11	1.2	1.6	0.0	0
Costa Rica	0	0	0	0	0	0	0	0	1	0	1	0.1	0.0	0.4	1
Mexico	16	4	7	7	7	7	3	4	7	3	65	6.8	7.3	5.6	58
Peru	2	1	2	0	3	4	1	6	7	4	30	3.2	1.9	6.8	29
Major users, for comparison															
United States	33	11	20	16	24	32	33	24	12	6	211	22.2	24.1	16.8	293
European Community	15	23	23	26	18	41	13	25	3	6	193	20.3	22.7	13.6	165
South Africa	0	8	18	14	35	13	5	15	1	2	111	11.7	13.3	7.2	84
India	7	2	8	22	22	57	38	64	53	6	279	29.4	22.3	49.2	216

Source: WTO Database

Table 7 Countervailing Duty Initiations and Measures 1995–June 2004

	1995	1996	1997	1998	1999	2000	2001	2002	2003	Jan.– June 2004	Totals 1995– J2004	Per Year 1995– J2004	Per Year 1996– J2004	Measures in place as of June 30, 2004
<i>Initiations</i>														
Argentina	1	1	1	0	0	0	0	0	1	0	4	0.4	0.4	n.a.
Brazil	0	0	0	0	0	0	1	0	1	0	2	0.2	0.2	n.a.
Chile	0	0	0	0	4	0	0	0	0	0	4	0.4	0.5	n.a.
Costa Rica	0	0	0	0	0	0	0	0	1	0	1	0.1		n.a.
Mexico	0	0	1	0	0	0	0	0	1	0	2	0.2	0.2	n.a.
Peru	0	0	1	0	0	1	0	1	0	0	3	0.3	0.4	n.a.
<i>Measures</i>														
Argentina	0	2	0	2	0	0	0	0	0	0	4	0.4	0.5	3
Brazil	5	0	0	0	0	0	0	0	0	0	5	0.5	0.0	0
Chile	0	0	0	0	0	2	0	0	0	0	2	0.2	0.2	0
Costa Rica	0	0	0	0	0	0	0	0	0	1	1	0.1	0.1	0
Mexico	7	0	0	0	0	0	0	0	0	0	7	0.7	0.0	1
Peru	1	0	0	0	0	0	1	0	1	0	3	0.3	0.2	1

Source: WTO Database *Note: n.a. = not applicable. Colombia has initiated no countervailing duty investigation. Comparative numbers for measures in place; United States 57, European Communities 18, Canada 10.*

Table 8 Numbers of Safeguard Initiations and Other Safeguard Actions Notified to the WTO by Selected Latin American Countries; 1996–October 18, 2004 (blank spaces imply an entry of 0, the 0's were left out to reduce clutter)

	1996	1997	1998	1999	2000	2001	2002	2003	Jan. 1 -- Oct. 18, 2004	1995– 2000
<i>Argentina</i>										
Initiations		1	1		1	1			1	3
Preliminary measures						1				
Definitive measures applied		1			1	1				2
Negative decision on definitive measures										
Presumed negative			1							1
Ongoing									1	
<i>Brazil</i>										
Initiations	1					1	1			1
Preliminary measures	1						1			1
Definitive measures applied	1					1	1			1
Negative decision on definitive measures										
Presumed negative										
Ongoing										
<i>Chile</i>										
Initiations				1	4	2	3			5
Preliminary measures				1	2					3
Definitive measures applied				1	1	1	1			2
Negative decision on definitive measures					2	1	2			2
Presumed negative					1					1
Ongoing										
<i>Colombia</i>										
Initiations				1					1	1
Preliminary measures										

Definitive measures applied											
Negative decision on definitive measures				1							1
Presumed negative											
Ongoing									1		
<i>Costa Rica</i>											
Initiations					1						1
Preliminary measures					1						1
Definitive measures applied											
Negative decision on definitive measures											
Presumed negative					1						1
Ongoing											
<i>Mexico</i>											
Initiations							1				
Preliminary measures											
Definitive measures applied											
Negative decision on definitive measures											
Presumed negative							1				
Ongoing											
<i>Peru</i>											
Initiations									1		
Preliminary measures											
Definitive measures applied											
Negative decision on definitive measures											
Presumed negative											
Ongoing									1		
<i>Seven Countries</i>											
Initiations	1	1	1	2	6	4	5		3		11
Preliminary measures	1			1	3	1	1				5
Definitive measures applied	1	1		1	2	3	2				5

Negative decision on definitive measures				1	2	1	2			3
Presumed negative			1		2		1			3
Ongoing									3	

Source: Tabulated from information in WTO “Report [one per year 2000-4]of the Committee on Safeguards to the Council for Trade in Goods” for 2000 2004

Note: The actions are tabulated by the year in which each investigation was initiated, for example, if an Argentine investigation initiated in 1997 led to a definitive measure put in place in 1998, then that definitive measure is included in the tabulation for 1997, not for 1998.

The countries in the table all notified zero actions in 1995, the first year the WTO notification requirement was in force.

The WTO reports no notification of measure taken or of termination for several investigations that have past the WTO deadline for a final determination. We have labeled these “outcomes” as “presumed negative.”