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INDIA'S ANTI-DUMPING REGIME: A CRITICAL ANALYSIS

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ABSTRACT

The competition in international trade has increased due to globalization. Unconventional trade practices are becoming more and more popular worldwide, despite the significant decline in traditional trade barriers. The anti-dumping campaign has emerged as a significant one. Governments utilize anti-dumping duties as one of their main instruments to shield domestic businesses from unfair trade practices, especially the practice of "dumping." With its expanding economy, India is becoming more and more dependent on foreign trade, which has led to worries about unfair trade practices like dumping. Dumping is the practice of introducing a commodity at a lower price than its typical worth into the commerce of another country, so causing or posing a serious threat to a country's established industry. This study centres on antidumping measures, a type of trade remedy intended to counteract unfair competition practices resulting from price differential among various regional markets. Anti-dumping laws are specifically designed to address the harm that foreign rivals have caused to an importing nation's industry through international price discrimination in dumping. The purpose of the article is to analyse how anti-dumping and dumping policies affect global competition. The study examines the justifications for anti-dumping penalties, including levelling the playing field, promoting fair trade, and protecting jobs and industries. This study also notes some of the drawbacks of anti-dumping duties, including their limited effectiveness, increased costs to consumers, and trade disputes and retaliation. It closely examines how well India's investigative systems work in identifying dumping margins and harm to home industries. This article primarily applies online sources, and materials including journals, news, and reports to explore India's anti-dumping regime. In conclusion, this article also looks into a roadmap for a critical examination of India's anti-dumping regime, highlighting its purpose, implementation, and potential areas of contention.

Keywords: Anti-dumping, Dumping, Domestic Industry, Economy, Investigation systems

INTRODUCTION

In today's globalized economy, where trade flows across borders are extensive, nations often find themselves grappling with the adverse effects of dumping. Dumping, the practice of exporting goods to an international market at rates lower than their original value, can disrupt domestic industries, undercut fair competition, and impair a nation's economic stability. In response to these challenges, countries employ various trade remedies, one of which is anti-dumping measures. India, which plays a pivotal role in foreign trade law in the international market arena, has a robust anti-dumping regime in place to safeguard its domestic industries from the harmful effects of dumping. The Indian government, through its procedural and policy framework and administrative mechanisms, aims to strike a delicate balance between promoting fair competition in the market and protecting the interests of its domestic producers.

Legal Framework: The Customs Tariff Act, of 1975, is the main piece of law that controls anti-dumping actions in India. Section 9A of the Act deals specifically with anti-dumping duties. Additionally, the Foreign Trade (Development and Regulation) Act, of 1992, and its accompanying rules also play a role in regulating anti-dumping activities. While these legal instruments provide the necessary foundation for anti-dumping actions, there have been debates regarding their adequacy in addressing contemporary challenges and complexities in international trade.

Administrative Procedures: The effectiveness of any anti-dumping regime heavily depends on the efficiency and transparency of its administrative procedures. Critics often point to delays, bureaucratic hurdles, and lack of procedural clarity as significant impediments to the smooth functioning of India's anti-dumping measures. Streamlining administrative processes and enhancing procedural fairness could alleviate these concerns.

Calculating Dumping Margins: Determining the amount of anti-dumping duties levied on imported products is dependent on the computation of dump margins, which is a crucial component of anti-dumping investigations. Critics argue that the methodologies employed in calculating these margins sometimes lack precision and may lead to distortions in trade outcomes. There is a growing consensus on the need for more transparent and objective methodologies in this regard.

Impact on Consumers and Global Trade: While anti-dumping measures aim to protect domestic industries, they can also inadvertently harm consumers by restricting choices and raising prices. Moreover, stringent anti-dumping actions may strain diplomatic relations and trigger retaliatory measures from trading partners, potentially escalating trade tensions and disrupting global commerce. India's anti-dumping regime plays a crucial role in safeguarding domestic industries from unfair trade practices. However, a critical examination reveals areas where reforms and enhancements are warranted to ensure the

regime's effectiveness, transparency, and compliance with international trade norms. By addressing these issues, India can better balance the imperatives of protecting domestic interests with fostering a conducive environment for fair and sustainable global trade.

LITERATURE REVIEW

1. The effects of India's policy against dumped goods have been studied by **Singh (2005)**. Following the application of anti-dumping duties, the study showed that there was a significant impact on the quantity and unit value of the items under investigation.
2. **Strategic Conservatism: An Examination of India's Anti-Dumping Duty Circumvention Enforcement, Bhumika Billa, 10(2) TRADE L. & DEV. 418 (2018)**- The review may explore the broader legal and policy implications of India's approach to regulating anti-dumping duty circumvention. This could include considerations of compliance with international trade rules, potential challenges in enforcement, and the balance between protectionism and promoting fair competition.
3. **Developing Nations and the Anti-Dumping Accord: An Introduction- Aradhna Aggarwal, published August 2007, pages 184–229**- It highlights how important it is to completely rewrite the current antidumping laws. The first and best line of action, from an economic standpoint, might be to substitute competitive regulations with anti-dumping laws. The cost of production technique the export rate to the third country-based technique, and the application of the best available information method are the other methods for creating the normal value. The drastic reform measures have been met with fierce opposition and are still impractical in the real world. It seems improbable that the Anti-Dumping Agreement will undergo substantial modifications. Stricter enforcement of the Anti-Dumping Agreement norms is believed to prevent anti-dumping actions and provide improved market access.
4. **Aggarwal (2010)** examines how anti-dumping duties imposed by India on 177 eight-digit products between 1994 and 2001 affected trade. Panel regression is used in the paper to measure how anti-dumping duties have affected import values, volumes, and prices. "The imposition of anti-dumping duties restrains trade (both volume and value) and raises import prices," the report says. The article concludes that local industry gains when import prices rise. The report also mentioned that only dominant firms in concentrated industries benefit from an anti-dumping duty, which is an expensive kind of protection.

5. **An analysis of anti-dumping cases in India by Samir Kumar Singh was published in Economic and Political Weekly in 2005, Vol. 40, Issue No. 11, pp. 1069–1074.-** Examining the theoretical and empirical literature on dumping raises serious issues regarding the incorrect application of the anti-dumping statute and its effects on welfare and the competitive environment, in addition to providing some fascinating facts. Dumping laws are widely used by nations that are industrialized and developing, and it appears that these actions are being taken for legitimate reasons, such as defending local industries, retaliating against other nations, and preserving a competitive environment in the domestic market.
6. *Dumping: An Issue in International Trade, by Jacob Viner, Chicago: The University of Chicago Press, 1923, pp. xiii, 343-* According to Jacob Viner, dumping is a kind of differential pricing in the local market. "dumping" occurs when an item's selling rate in the exporting nation is more than its price in the country that imports it. The disproportionate trade rule is one of the main tenets of WTO law. WTO legislation addresses dumping as one particular type of unfair trade, but it lacks comprehensive prohibitions on unfair trade practices. Instead, it has several specific regulations.
7. **Thomas R. Howell and Dewey Ballantine, Dumping: Still A Problem in Global Commerce, National Academies Press, p. 325 (1997)** This article's key theme is Such dumping will lead to conflict because it damages or destroys domestic industries that are crucial to the country's security and economic growth. Antidumping measures have been tasked, essentially by default, with resolving the conflict-causing issues with these dumping. In actuality, they have defaults and are not a perfect instrument.
8. **Challenges in Anti-Dumping Investigation in India, Dadoo J K, Mohapatra D P, Indian Law News (2015):** This article examines a structural modification that should be made to the process of initiating and processing anti-dumping investigations to enable Indian industries, exporters, and other interested parties to actively engage in the inquiry and the prohibited dumping legal actions. The question has to be simplified due to its intricacy. All WTO members, including India, must increase the capability of their human resources in these investigations because of the potential length, difficulty, and complexity of anti-dumping investigations.

RESEARCH QUESTION

1. What are the most recent variations and developments in the enactment of anti-dumping legislation?
2. Which domestic anti-dumping legislation and which anti-dumping user activities have the most problems?
3. What information on anti-dumping laws is revealed in the committee findings produced by the Dispute Settlement Body?
4. What impact does trade have on the amount, value, and unit value of imports for the various commodity groups?

RESEARCH OBJECTIVES

1. To study and evaluate the legal basis of India's anti-dumping regime.
2. To analyze or investigate the procedural aspects of anti-dumping investigations.
3. To understand the identifying challenges and areas for improvement in anti-dumping.
4. To research the patterns and trends in the spread of antidumping laws across WTO members and from a comparative standpoint.
5. To investigate the trade implications of the Anti-Dumping policy on particular industries using Harmonized System categorization and further aggregating classification based on "use".

RESEARCH METHODOLOGY

The study's data came from many secondary sources. Data from the WTO antidumping legislation database and other relevant national agencies have been gathered to study patterns of behaviour in the way that member nations of the World Trade Organization have implemented anti-dumping measures. In addition to the national legislation of the relevant nations, we have examined real DSB Panel findings and WTO case law to assess the legal debate surrounding the antidumping actions. Examples of secondary data include publications in journals, articles, reports, and online sources. Using the proper statistical methods, the gathered data may be evaluated to find relationships, trends, and key levels.

AN HISTORICAL OUTLOOK ON ANTI-DUMPING

With a rich historical background, anti-dumping laws have developed in response to unfair trade practices and economic protectionism. The idea originated in the early 1900s when

countries tried to protect their home industry from the negative impacts of foreign rivals selling their products for less than fair market value. The 1930s economic crisis served as further evidence for this theory, which prompted nations to enact protectionist laws, such as anti-dumping regulations, to protect their industries and jobs. The GATT, or the Global Agreement on Tariffs and Trade, which established guidelines to stop unfair trade practices, came to be seen as a pillar of global trade after World War II. However, as globalization and trade disputes increased in the 1970s and 1980s, anti-dumping measures became more popular. The Agreement on Implementation of Article VI of the Global Agreement on Commerce and Tariffs 1994 (Anti-Dumping Pact), which was initially addressed during the Tokyo rounds (1973–1979) of GATT discussions, is the product of the Uruguay Round negotiations. With the help of this agreement, World Trade Organization (WTO) members were able to levy anti-dumping taxes on imports that they believed to be unjustly priced and harming domestic industries. Anti-dumping laws have been scrutinized and debated over the years, with concerns expressed about their possible abuse for protectionist ends rather than tackling actual unfair trade practices. However, they continue to be an essential instrument for preserving fair competition in the international market, striking a balance between the interests of home producers and the concepts of free trade and competition. The anti-dumping rules were applied to a wide range of products, including prosthetic teeth appliances and equipment made especially for use in alluvial gold mining. The charge only applied to goods manufactured in Canada; commodities were exempt from the special tariff if it was found that local supply conditions were inadequate. Furthermore, before determining the dumping margin¹, no damage test was carried out. In its place, the amount of special tax was determined by taking into account the difference between the product's "fair market value," as determined by the ad valorem tariff, and its selling price in Canada. Antidumping rules in force before 1980 differed from those in effect thereafter in that import duties were not imposed in the majority of cases involving antidumping claims. The success percentage of antidumping cases is much higher these days. This shift in the dynamics of international commerce has mostly been caused by the establishment of the World Commerce Organization (World Trade Organization) and its general acceptance.

LEGAL FRAMEWORK ON ANTI-DUMPING

During its 1982 revision, the Customs Tariff Regulations of 1975 gained articles 9, 9A, 9B, and 9C. This extra phrasing provides the legal basis for the deployment of countervailing and anti-dumping measures. The notification of the Tariff of Trade (Identification, Assessment and

Collection of duty or Additional duty on Dumped Articles and for Determination of Injury) Regulations 1985 marked the implementation of the first anti-dumping laws in India. Following the signing of the Uruguay Round GATT negotiations, the Customs Tariff Act of 1995 was created, amending sections 9, 9A, 9B, and 9C and bringing Indian legal provisions into compliance with the WTO Agreement on Subsidies and Countervailing Duties and the WTO Agreement on Application of Article VI of GATT 1994 (commonly referred to as the Anti-Dumping Agreement). India has anti-dumping regulations that are as follows:

1. International Law: the 1994 GATT Agreement on Anti-Dumping, or Article VI.
2. Local Laws:
 - a) Sections 9A and 9B of the Customs Tariff Act of 1975, as modified in 1995
 - b) The Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, which establish anti-dumping regulations.⁴
 - c) The Ministry of Commerce's Designated Authority's investigations and recommendations
 - d) Ministry of Finance Imposition and Collection.

DUMPING AND ANTI-DUMPING

When items are sold on the export market for less than they were sold on the local market, this is known as "dumping." The act of introducing items into the local market at a price below their usual market value is known as "dumping." Dumping hurts the local economy by raising the price at which domestically produced goods can be purchased. Dumping is therefore seen under the international trade regime as an unfair trade activity. According to the Oxford English Dictionary, "Dumping is defined as "selling to an international market at a low rate." More specifically defined as "the selling of goods overseas at a price that is less than the selling price of the same goods at the same time in the same circumstances at home, accounting for differences in transportation costs",” is how V. G. Haberler defined dumping⁵.

Countries use dumping in two ways: (a) when there is excessive production of a given good and the domestic market is fully satisfied; (b) when competitors are driven out of the targeted market through predatory practices.

Dumping occurs in four different forms on an international scale. These are listed in the following order: Price dumping, service dumping, exchange dumping, and social dumping are

the four types of dumping.

‘The most prevalent type of dumping is called "price dumping," in which the price set for the export market is less than the item's typical worth on the domestic market. "Service dumping," sometimes known as "freight dumping," is the practice of exporters selling their goods at a reduced price in overseas markets using government subsidies or minimum freight rates. The term "exchange dumping" describes the practice of manipulating currency rates to provide exports a competitive edge. "Social dumping" refers to the practice of producing goods at a cheap cost of production by using low-cost labour in an exploitative way, such as sweat labour or jail labour. Nevertheless, "price dumping" was regarded as the sole circumstance that may result in the penalties during GATT drafting discussions⁶.

The aforementioned classification was created based on the market conditions that give rise to dumping, such as social dumping, which arises from situations in the labour market, and price discrimination, which results from international pricing discrimination.

In addition to the classification of dumping described above, another classification is based on the way dumping distorts commerce. One way to categorize dumping under the term "trade-distorting effect" is as follows:

- i. Red Light Dumping
- ii. Yellow Light Dumping
- iii. Green Light Dumping

These dumping classes got their names from the traffic light system, which utilizes the colours yellow, red and green to indicate total stops of activity, "wait and watch," and clear paths. The biggest impact on the domestic market is a result of "red light dumping," which also causes a major distortion in trade. The disparity between the product's regular value and its export value is substantial in this type of dumping. The product is priced significantly less than both its mean overall cost and mean variable cost. The likelihood of "red light dumping" surpasses that of the foreign industry defaulting and engaging in predatory pricing. The price of the contested goods that are the focus of a dumping investigation is set below its average total cost but above its average variable cost in yellow light dumping⁷. Although price fixing in the literal sense of the word does not amount to dumping, it may have predatory effects if the exporter persists in it over an extended period. If this type of yellow light dumping persists for an extended length of time, legal action under the anti-dumping statute may be initiated. Last but not least, green light

dumping occurs when goods are sold on international markets for a price that is either higher than or equal to their minimal average total cost of production. Exports of this nature do not qualify as dumping. Even though this kind of price-fixing may result in low-cost exports, it won't be considered dumping. In such a situation, the domestic producers' sole option is to lower their cost structure to correspond with the respondent's. To counteract the impact of dumping on trade, an antidumping duty is enforced. A prohibited dumping obligation, which is a non-tar measure, is imposed. Its amount is the difference between the product's original value and the price paid for it abroad. This difference between the cost of shipping and the going rate is known as the "dumping margin". Thus, the dumping margin might be obtained by using the following formula⁸:

$$\text{Dumping Margin} = \text{Normal Value} - \text{Export Price}$$

EFFECTS OF DUMPING

Both proponents and opponents of anti-dumping concur that dumping always helps the importing nation's customers. When inexpensive imports are produced as a result of dumping, the nation's market prices decline. European Commission's findings indicate that dumped imports are typically less expensive than comparable goods made in the importing nation. The more products on the market have the potential to drive down prices even if the prices of the dumping imports remain unchanged. In both scenarios, the importing nation's consumers stand to gain from the goods' reduced pricing. If industrial users use dumped imports in their manufacturing, they can also benefit from decreased pricing. If it is possible to switch from dumped imports to alternatives when the dumping stops, then there is no harm caused by the dumping. Predatory dumping, in which a corporation lowers prices to drive out domestic competitors, is the only thing that will hurt customers. The rapacious company can enjoy market exclusivity and set any price it wants (with the only constraint being the elasticity of demand) once the local firms have left.

IMPACT OF ANTI-DUMPING ACTIONS

Anti-dumping barriers are tariffs imposed by a country on imported products that are believed to be marketed lower than their true retail value. These regulations aim to shield homegrown businesses from unfair competition.

Positive effects of anti-dumping measures

1. Protects domestic jobs: By raising the price of imported goods, anti-dumping measures

can make domestic products more competitive, which can lead to increased sales and production for domestic companies. This can help to protect jobs in those industries.

2. Protects domestic industries: Anti-dumping laws can protect home businesses from unfair competition from overseas firms that undercut their prices on goods sold. This can give domestic companies time to adjust to competition or to improve their products.
3. Increases government revenue: Taxes gathered from anti-dumping actions can bring in money for the state. This revenue can be used to fund social programs or other government initiatives¹⁰.

Negative effects of anti-dumping policies

1. Increases costs for consumers: Anti-dumping policies can lead to increased rates for customers, as the tariffs make imported goods more expensive. This can reduce consumer choice and can also lead to inflation.
2. Reduces competition: Anti-dumping laws may lessen competition in the import market, which may result in consumer prices rising and items of inferior quality.
3. Can lead to trade wars: Trade partners may respond against anti-dumping measures by placing their taxes on goods from the importing country to placate one another. Trade conflicts may result from this, harming the economy of both nations.

INDIAN REGIME ON ANTI-DUMPING

The Customs Tariff Act, 1975 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty of Dumped Articles and for Determination of Injury) Rules, 1995 (also known as the Anti-Dumping Rules, 1995) govern the anti-dumping laws that India has passed. The ratification of the Anti-Dumping Agreement has significantly increased its use. The Department of Finance's Directorate General of Anti-Dumping and Allied Duties (DGAD), a separate organization, is in charge of carrying out antidumping investigations in India.¹¹ The Federation of Indian Chambers of Commerce and Industry (FICCI) proposed in 2002 that, even though the Agreement Against Dumping did not specifically address the problem of circumvention, India should unilaterally enact a law addressing the matter, just like the US, Canada, and the EU had done. This opinion appears to have been primarily sparked by the nitrile rubber case, in which Japanese imports were able to pass through Korea, leading to a large decrease in Japanese imports and an almost 60% increase in Korean imports. The FICCI exercised its prerogative to support the aforementioned statute because it was easier and faster to extend obligations already in place following the discovery of circumvention than it was to

repeatedly go through the laborious process of conducting new anti-dumping investigations¹². Therefore, enacting legislation about circumvention would make it possible to view an audit on anti-circumvention as an expansion of the current inquiry into the items in question. To solve the issue of anti-dumping legislation being implemented ineffectively, a law was ultimately passed in two stages. First, in 2010, Section 9A (1A) was added to the Customs Tariff Act of 1975. It was carried out to preserve healthy competition, level the playing field, and stop dumping. Three forms of circumvention were allowed by the provision: modifying the subject article's name or description (minimal alteration), importing it in an unassembled state (assembly activities), or shifting the nation of export or origin (transshipment).

By Section 9A (1A), a dumping tax may be applied to that product or to that which originates or is exported from that country, as the case may be if the Central Government finds that the ban on dumping has been circumvented by any of the three methods and has become ineffective. Second, the Anti-Dumping provisions, 1995 now include four new provisions (Rules 25–28). Three circumstances are listed in Rule 25 for circumvention¹³:

1. When a subject product is assembled, completed, or finished in India after being imported in an unassembled, unfinished, or incomplete state. As an alternative, a third nation may host this assembly, finishing, or completion; or
2. When the subject article is imported from a nation recognized for taxation and only slight modifications are made to its shape or appearance; or
3. when an exporter or nation that hasn't gotten notification of the tax ships the appropriate goods.

When a written complaint is received by the designated authority from the "domestic industry," Rule 26 gives them the ability to start an investigation, as long as their application indicates there is sufficient evidence to support the start. Additionally, it permits suo motu initiation in cases where the Customs Commissioner or any other source provides information on such evidence. The inquiry must be finished within 12 months and cannot take longer than 18 months from the date of start; if it takes longer, an explanation in writing must be provided. If the designated authority determines that goods are being exported from countries other than those that were previously notified or that goods are being found to be bypassing the current anti-dumping obligations, Rule 27 allows them to propose the imposition of anti-dumping duties.¹⁴ A levy of this kind may also be applied retroactively from the start date. However, it is necessary to publish a notification informing the public of the results. As long as the

assessment is conducted within a year of the date of initiation, Rule 28 gives the designated authority the right to assess whether an obligation needs to be imposed indefinitely.

ECONOMIC PARAMETERS OF DOMESTIC INDUSTRY

The ability to generate money or make investments is one of the economic factors that is used to evaluate injuries, along with sales, earnings, profit from expenditures, manufacturing, utilization of resources, labour force, efficiency, inventory, and market share.¹⁵

1. Profits/loss: One way to think about this is that understanding the profitability of home industries is a prerequisite to comprehending the economic impact of dumping. In the USB flash drive situation, the domestic industry has experienced losses during the injury period.
2. Returns on investment: An expenditure's positive or negative impact on the capital put into is used to calculate the value of the investment. Sectors serving flash drive manufacturers were shown to have decreased returns on investment throughout the injury period.
3. Money flow: The power investigates the cash profit and tends to assess how dumping affects cash flows.
4. Inventories: A drop in inventory may indicate that dumped imports are undersold at a lower price, forcing domestic businesses to dispose of the goods for less than usual.
5. Productivity: To determine if productivity has improved or decreased, productivity per day has been measured.
6. Employment and wages: The things that are most severely impacted by import dumping are employment and earnings¹⁶.

ANTI-DUMPING UNDER THE WTO

By GATT 1994 Article VI, dumping is forbidden if it causes "material injury" to a local business. Additionally, anti-dumping procedures might be implemented. This divergence from the free trade principles of the GATT 1994 is justified by the claim that anti-dumping is an unfair trade practice. This clarifies why, in response to anti-dumping actions, the exporting nation is not entitled to retaliation or concessions of equivalent value¹⁷. When launching anti-dumping proceedings, the other Member is subject to the rights and duties specified in the WTO Agreement about imports of products originating from a WTO Member. The GATT of 1994's Article VI lays forth the framework. This article, "Anti-dumping and Countervailing Duties," defines "dumping" and provides general recommendations for applying anti-dumping

measures. The provisions of Article VI are expanded upon as amended by the 1994 Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade, popularly referred to as the Anti-Dumping Agreement. The Anti-Dumping Agreement expands and clarifies Article VI by providing detailed guidance for the enforcement of anti-dumping actions that WTO Members may take. Article 16 created the Committee on Anti-dumping Practices under the Anti-Dumping Agreement, whose duty it is to execute the assignments given to it by the Members or by the Anti-Dumping Agreement. All administrative and regulatory activities by the Members are overseen by the Committee, to which they are required to submit reports on all anti-dumping procedures, whether they are preliminary or final. The WTO18 Secretariat published a report on November 27, 2006, which indicated that while the quantity of new final measures has increased during 2005, the quantity of new anti-dumping probe initiations has remained lower.

DISPUTE SETTLEMENT UNDER THE WTO

One of the primary objectives of the World Trade Organization's mediation procedure is to provide security and stability to the global trading system. A WTO member may request talks with another member if it believes that the member has not complied with the duties placed on it under the Anti-Dumping Agreement. The terms of the WTO Dispute Settlement Understanding apply to consultations and any ensuing dispute unless specified otherwise in the Anti-Dumping Agreement. The creation of a panel to contest the relevant pricing undertaking or definitive or interim anti-dumping measure may be requested if mutually agreeable solutions cannot be reached during negotiations. The Appellate Body may hear an appeal of the panel's report. Only legal matters covered by the panel report and the legal interpretations the panel developed may be appealed by Member States. In contrast, Article 17.6 of the Anti-Dumping Agreement, which is part of DSU 11, creates a special standard of review that is intended to provide the Member's anti-dumping ruling more discretion. The assessment of whether prohibited dumping officials established the facts accurately and whether their examination of those facts was impartial and objective is up to the panel entrusted with examining the facts of an anti-dumping case. If so, the panel is required to accept the anti-dumping judgment even if it may have reached a different conclusion about those facts. About 60 conflicts involving anti-dumping actions have been reported.

LEGAL AUTHORITIES FOR PROCEDURE UNDER ANTI-DUMPING

Overseeing anti-dumping, anti-subsidy, and countervailing measures in India is the Directorate General of Anti-dumping and Allied Duties (DGAD), which is housed within the Department of Commerce of the Ministry of Commerce and Industry. This organization is under the direction of the "Designated Authority". However, the Designated Authority's sole responsibility is to investigate anti-dumping, anti-subsidy, and countervailing duty matters and advise the government on the implementation of these policies. To finally impose or levy this duty, the Ministry of Finance sends out a notification. Thus, notwithstanding the Department of Commerce's advice, the Ministry of Finance enforces the anti-dumping duty. The Director General (Safeguard), a separate Authority under the Ministry of Finance's Department of Revenue, is responsible for managing safeguard measures, nevertheless. Under the direction of the Commerce Secretary, the Standing Board of Protective Measures, makes recommendations to the Ministry of Finance, the tax's imposing body, regarding how the Safeguard tax should be implemented.

APPEAL BEFORE HIGHER AUTHORITIES

It is possible to appeal a decision on the existence, scope, and effects of dumping to the Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT). On the other hand, the Court maintains that the only judgments or rulings that can be challenged before the CEGAT are those made by the Ministry of Finance or the Designated Authority. An appeal cannot be filed against the Authority's preliminary findings or the resulting provisional duty. It is necessary to file the appeal with the CEGAT within ninety days.

CONCLUSIONS AND SUGGESTIONS

This critical analysis of India's anti-dumping regime has revealed both its potential benefits and drawbacks. While the system can protect domestic industries from unfair practices, it can also lead to unintended consequences. The regime's effectiveness in achieving its objectives is debatable. While it may safeguard some industries, concerns regarding its misuse of protectionism and the impact on consumers remain. Transparency and efficiency in investigations and procedures are crucial to ensure fairness and avoid unnecessary trade friction. Strengthening Transparency: Enhance transparency by making investigation procedures and data collection more open. This fosters trust and allows for informed

participation from all stakeholders. Focus on Efficiency: Streamline investigation processes to reduce delays and associated costs for both domestic and foreign companies. Alternative Measures: Explore alternative measures like price undertakings from exporters before resorting to anti-dumping duties. Competition Focus: Ensure the regime primarily targets genuine dumping practices and avoids becoming a tool for unwarranted protectionism. This fosters a healthy competitive environment that benefits domestic industries in the long run. International Alignment: Continuously evaluate and align India's anti-dumping practices with international standards and best practices set by the (WTO).

India may work toward a more effective and balanced anti-dumping policy that safeguards national interests and encourages fair trade practices by putting these recommendations into practice. India's anti-dumping laws will keep changing in step with the country's expanding economy and global trade alliances. Achieving sustainable economic growth requires finding the ideal balance between safeguarding homegrown industries and promoting a competitive climate that benefits consumers.¹

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