

CHAPTER 1

INTRODUCTION

1.1 Statement of the Problem

Currently, more than 40 countries have enacted antidumping legislation. Canada in 1904 was the first country that enacted the general antidumping law followed by New Zealand in 1905, Australia in 1906, South Africa in 1914 and the U.S. in 1916. However, it was not recognized as an international law until the General Agreement on Tariffs and Trade (GATT) was established in 1947. At present the Antidumping Code has been included in the Uruguay Round Agreement.

The explosion in the number of antidumping cases has made antidumping law the major trade policy instrument by which domestic producers seek for protection from dumped imports. According to the World Trade Organization Report (WTO) from 1969 through 1996, there were 3,236 antidumping investigations filed by the United States, European Union, Canada, Australia, and other countries. The United States is regarded as the world's leading prosecutor of antidumping measures. During 1969 - 1996, there were 901 antidumping investigations filed in the United States (Table 1.1).

Antidumping investigations increased dramatically during the 1980s. The number of antidumping investigations from the early 1980 to 1989 sharply increased. In four major countries which are the United States of America, Australia, Canada, and the EU, the investigations amounted to 1,317 cases (Table 1.1).

Table 1.1
Number of Antidumping Investigations 1969-1996

Country	1969-1974	1975-1979	1980-1984	1985-1989	1990-1994	1995-1996	Total
U.S.	125	140	146	219	249	22	901
EU	19	55	138	101	147	42	502
Canada	42	74	176	115	90	16	513
Australia	-	120	242	180	252	12	806
Others	39	64	10	74	231	96	514
Total	225	453	712	689	969	188	3236

Source: WTO documents

Note: Table valid as of the end of June 1996

The recent downward trend in the antidumping actions taken globally is observable in major countries (Table 1.2). During the period 1995 - 1996 as reported to WTO, the total number of antidumping investigations were 188 cases.

There are an increasing number of countries that have enacted antidumping legislation particularly in developing countries including Thailand. On October 9, 1991, Thailand enacted antidumping and countervailing duty laws known as the Ministry of Commerce Notification on Principal and Procedure to Collect Surcharge on Unfairly Priced Imports and Subsidized Imports, 1991 (B.E. 2534). Later on, The law was replaced by The Notification of the Ministry of Commerce On the Imposition of Antidumping and Countervailing Duties 1996 (B.E.2539) which currently is effective.

Table 1.2
Number of Antidumping Investigations 1991-1996

Country	1991	1992	1993	1994	1995	1996*
U.S.	51	83	35	45	14	8
EU	17	37	21	43	32	10
Canada	11	39	24	2	14	2
Australia	66	69	58	13	5	7
Brazil	2	13	34	2	5	1
Korea	-	5	6	4	4	5
South Africa	-	-	-	15	17	20

Source: WTO documents

Note: Table valid as of the end of June 1996

The Notification of the Ministry of Commerce On the Imposition of Antidumping and Countervailing Duties 1996 (B.E.2539) has been in use against dumped and subsidized imports. Eleven investigations have been carried out so far with four resulting in imposition of antidumping in final determination.¹

Meanwhile, the number of countries resorting to antidumping legislation has increased. As stated earlier, major users such as the U.S. and the European Union make decreasing use of antidumping measures as a result of the Uruguay Round of trade negotiations.

According to the final Act of the Uruguay Round, trade negotiations has strengthened the body of antidumping law by providing more transparency and fairness and requires that antidumping law conforms with the Antidumping Agreement 1994. As

¹ Department of Foreign Trade, Ministry of Commerce.

a result, the new Antidumping Agreement in the Final Act requires GATT members to revise their own antidumping regulations to follow the Antidumping Agreement agreed in Uruguay Round trade Negotiations.

According to Article VI of GATT under the Uruguay Round Agreements, which went into effect in January 1995, a product is to be considered as being dumped, i.e. as being introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is lower than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country. Hence, it is considered dumping when a foreign firm sells its product at price lower than its normal value or cost of production in the importing country. If the imports are proven to cause material injury to the domestic industries, the antidumping measures will be implemented against the imports.

The motivation of dumping and rationale for antidumping action have long been discussed in various literature. Economists have debated under what circumstances dumping takes place and under what circumstances antidumping should be implemented. However, dumping is the concept of price discrimination in different markets and sale below cost. Moreover, there seem to be only one strong argument that antidumping should be imposed against dumping as predatory pricing. Somehow, the answer to the question whether dumping is detrimental is dubious.

To find dubious justification for the Antidumping Agreement, many have suggested other alternatives as well as changes in the Antidumping Agreement. There are widespread disagreements on whether antidumping laws should be repealed, strengthened or maintained in their current form or whether such laws should be replaced by competition principles. Such reform is expected to enhance more economically desirable outcome.²

Therefore, several points can be raised about the implication of antidumping law. However, many have long questioned whether antidumping regulations have an

² Raj Krishna, "Antidumping in Law and Practice," (<http://www.worldbank/html/dec/Publications/Workpapers/WWPS1800series/wps1823/wps1823-abstract.htm>), September 1998.

economic rationale and whether dumping is an unfair practice. There are also a large number of studies which elaborate the coherence of dumping and antidumping policy and trying to find economic rationale for antidumping policy. There are a lot of questions about what dumping in economic principle is, under what condition dumping is unfair and what an economic rationale is for antidumping. The second point is concerned with a discussion on the legal definitions, administrative process, and method of determining whether imports are being dumped under the Antidumping Agreement 1994.

1.2 Objectives of the Study

The objectives of the study are as follows:

1. To discuss the major substantive requirements in context of Antidumping Agreement 1994 and The Notification of the Ministry of Commerce On the Imposition of Antidumping and Countervailing Duties 1996 (B.E.2539).
2. To estimate injury to H- section steel product industry caused by H-sections steel product imported from Poland.

1.3 Scope of the Study

The study covers the Antidumping Agreement 1994, Article VI of General Agreement on Tariffs and Trade 1994 and the Notification of the Ministry of Commerce On the Imposition of Antidumping and Countervailing Duties 1996 (B.E.2539). An estimation of domestic injury caused by H-section steel product imported from Poland covers the period of the year 1995.

1.4 Organization of the Study

The study is comprised of seven chapters. The first chapter is the introduction of the study specifying the significance, scope, and organization of the study. The second chapter reviews theoretical concepts and the survey of the studies related to dumping and antidumping measures. The third chapter provides general background of the development of Antidumping Agreement and discusses some specific issues on major substantive requirements. The fourth chapter presents Thailand's application of antidumping procedures. The fifth chapter analyses H-sections steel product industry and antidumping investigation. The sixth chapter offers the method for estimating the magnitude of injury and empirical results. The final chapter presents conclusions drawn from this study.