

The GATT system: safeguards and CVDs

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Escape clause / safeguards in the GATT

If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

And in U.S. law (Trade Act of 1974)

Section 201, known as the "Escape Clause," creates a mechanism for the president to grant relief measures to industries, workers, firms, and communities injured by increased imports from foreign industries producing competing products. Any industry can ask the U.S. International Trade Commission (ITC) to recommend that measures be taken to protect it from competing imports, even though those goods are being imported legally. If the ITC recommends invoking the Section 201 Escape Clause to protect the affected industry, the president may deny the request only on grounds of the "national economic interest" (Trade Act, Section 202[a][1][A]). Because of the protectionist nature of Section 201, only a handful of requests for action have resulted in protective measures being imposed by the president. Since the "escape clause" does not require a finding of any unfair trade practices by the exporting nation, that nation can then freely retaliate against measures imposed by the United States. Therefore, it is often not in the "national economic interest" to pursue such measures.

Why do this?

Possible economic argument: limited factor mobility plus sticky wages could mean that sudden import surges lead to unemployment

But why don't we do this for all sudden economic changes?

And why not respond with wage subsidies instead?

Nonetheless, crucial to acceptance of trade negotiations

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Certain Passenger Vehicle and Light Truck Tires From China

Investigation No. TA-421-7

The Chinese tire case: a section 421 action (a souped-up version of section 201, specifically for China)

I. Determination

Pursuant to section 421(b)(1) of the Trade Act of 1974¹ and on the basis of the information obtained in this investigation, the Commission determines that certain passenger vehicle and light truck tires from China are being imported into the United States in such increased quantities or under such conditions as to cause market disruption to the domestic producers of certain passenger vehicle and light truck tires.²

II. Introduction

The petition in this investigation was filed on April 20, 2009, by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“USW”). Ten domestic producers comprise the domestic industry. The responding parties to the investigation are the American Coalition for Free Trade in Tires; American Pacific Industries Inc. and Fullrun Tyre Corp. Ltd.; Cooper Tire & Rubber Company; GITI Tire (China) Investment Co., Ltd., and GITI Tire (USA) Ltd.; Les Schwab Warehouse Center, Inc.; the Subcommittee of Tire Producers of the China Chamber of Commerce of Metals, Minerals, and Chemicals Importers and Exporters; and TBC Corporation.

Section 421(b)(1) of the Act (19 U.S.C. § 2451(b)(1)) states that the Commission shall, upon the filing of a petition, receipt of a request or resolution, or on its own motion, promptly conduct an investigation to determine whether products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

Section 421(c) of the Act (19 U.S.C. § 2451(c)) states that:

market disruption exists whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.

Table I-6
Subject tires: Apparent U.S. consumption, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
Quantity (1,000 tires)					
U.S. producers' shipments	194,731	181,756	163,814	155,675	136,825
U.S. imports from--					
China	14,574	20,790	27,005	41,503	45,975
All other sources	98,179	102,424	100,601	98,913	92,902
Total U.S. imports	112,753	123,214	127,606	140,416	138,877
Apparent consumption	307,484	304,970	291,420	296,091	275,702

Section 301 expanded presidential authority to retaliate against trade practices by other nations that unfairly burden or restrict U.S. commerce, whether through high tariffs or through nontariff trade barriers. The president may suspend trade concessions, impose new higher tariff rates on a selective basis, or take other retaliatory actions. Such actions include the imposition of antidumping duties (special assessments against imports sold in the United States at less than fair value, thereby harming a U.S. industry); countervailing duties, which are assessments against imported goods receiving subsidies from their governments so that they can be sold in the U.S. at an unfairly low price, thereby injuring a U.S. industry; and cease and desist orders (demanding that the unfair practice be stopped) or exclusion orders (that bar a product from being imported into the United States), which can be imposed directly by the International Trade Commission, subject to presidential veto.

Determinations of subsidy are made by the Commerce Dept.'s International Trade Administration

Price

Dumping, in theory

Domestic
price

Marginal cost

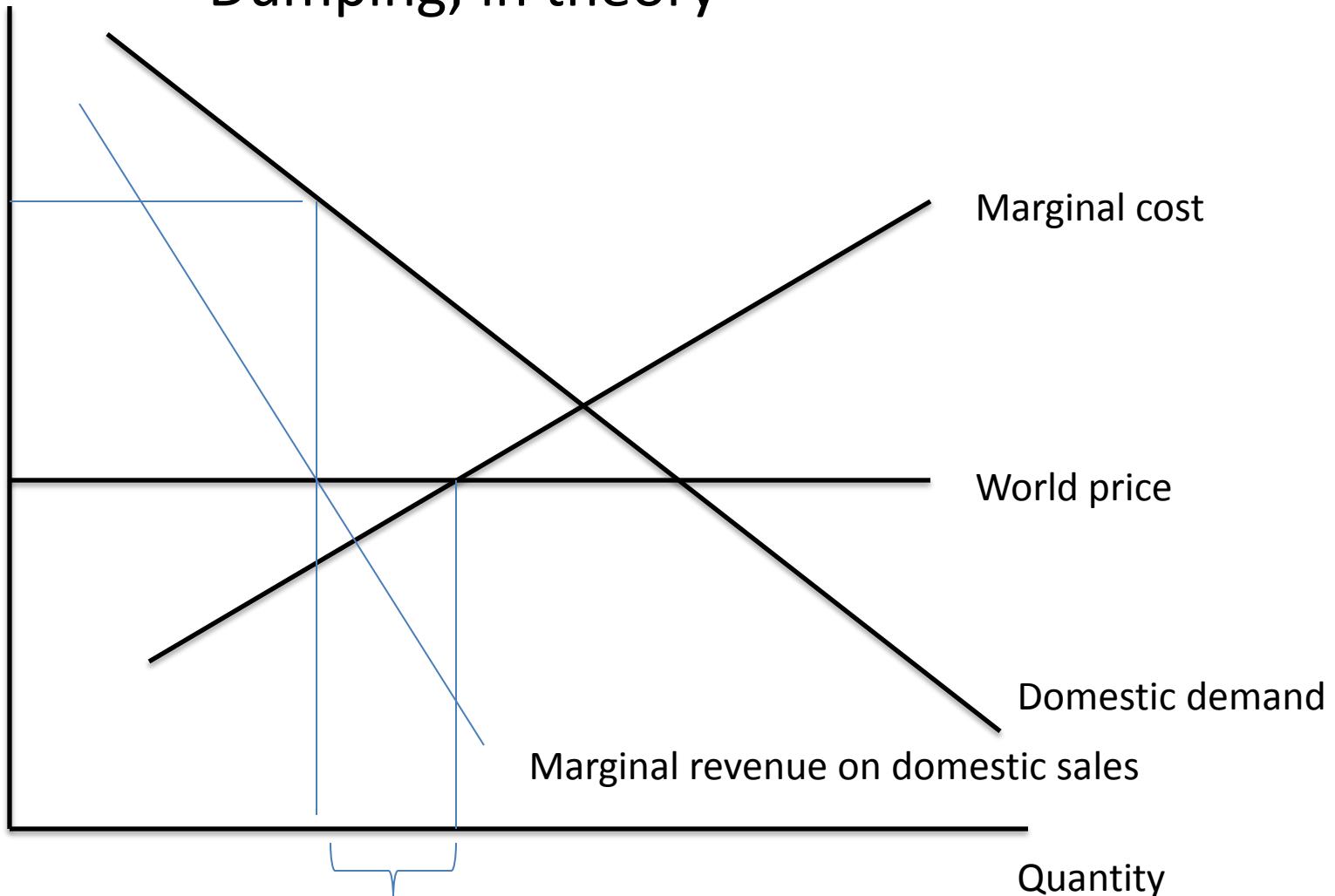
World price

Domestic demand

Marginal revenue on domestic sales

Quantity

Exports



CERTAIN ALUMINUM PLATE FROM SOUTH AFRICA Investigation No. 731-TA-1056 (Final): Determination ([issued November 19, 2004](#))

Investigation No. 731-TA-1056 (Preliminary): Determination ([issued August 27, 2004](#))

Investigation No. 731-TA-1056 (Final): Scheduling of the final phase of an antidumping investigation. ([issued June 8, 2004](#))

Investigation No. 731-TA-1056 (Preliminary): Institution of antidumping investigation and scheduling of a preliminary phase investigation ([issued October 20, 2003](#))

ARTISTS' CANVAS FROM CHINA

Investigation No. 731-TA-1091 (Final): Determination ([issued May 12, 2006](#))

Investigation No. 731-TA-1091 (Preliminary): Determination ([issued May 16, 2005](#))

Investigation No. 731-TA-1091 (Preliminary): Institution of antidumping investigation and scheduling of a preliminary phase investigation. ([issued April 1, 2005](#))

KOSHER CHICKEN FROM CANADA

Investigation No. 731-TA-1062 (Preliminary): Determination ([issued January 20, 2004](#))

Investigation No. 731-TA-1062 (Preliminary): Institution of antidumping investigation and scheduling of a preliminary phase investigation. ([issued December 8, 2003](#))

SOFTWOOD LUMBER FROM CANADA Investigation Nos. 701-TA-414 and 731-TA-928 (Section 129 Consistency Determination): Scheduling of a proceeding under section 129(a)(4) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. § 3538(a)(4)). ([issued August 23, 2004](#))

Investigation Nos. 701-TA-414 and 731-TA-928 (Section 129 Consistency Determination): Institution of a proceeding under section 129(a)(4) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. § 3538(a)(4)). ([issued July 30, 2004](#))

The softwood lumber case:

Dispute concerned Canadian “stumpage” fees,
which US considered too low

Question: even if they were, was this a marginal
incentive to export?

Settled through NAFTA dispute mechanism

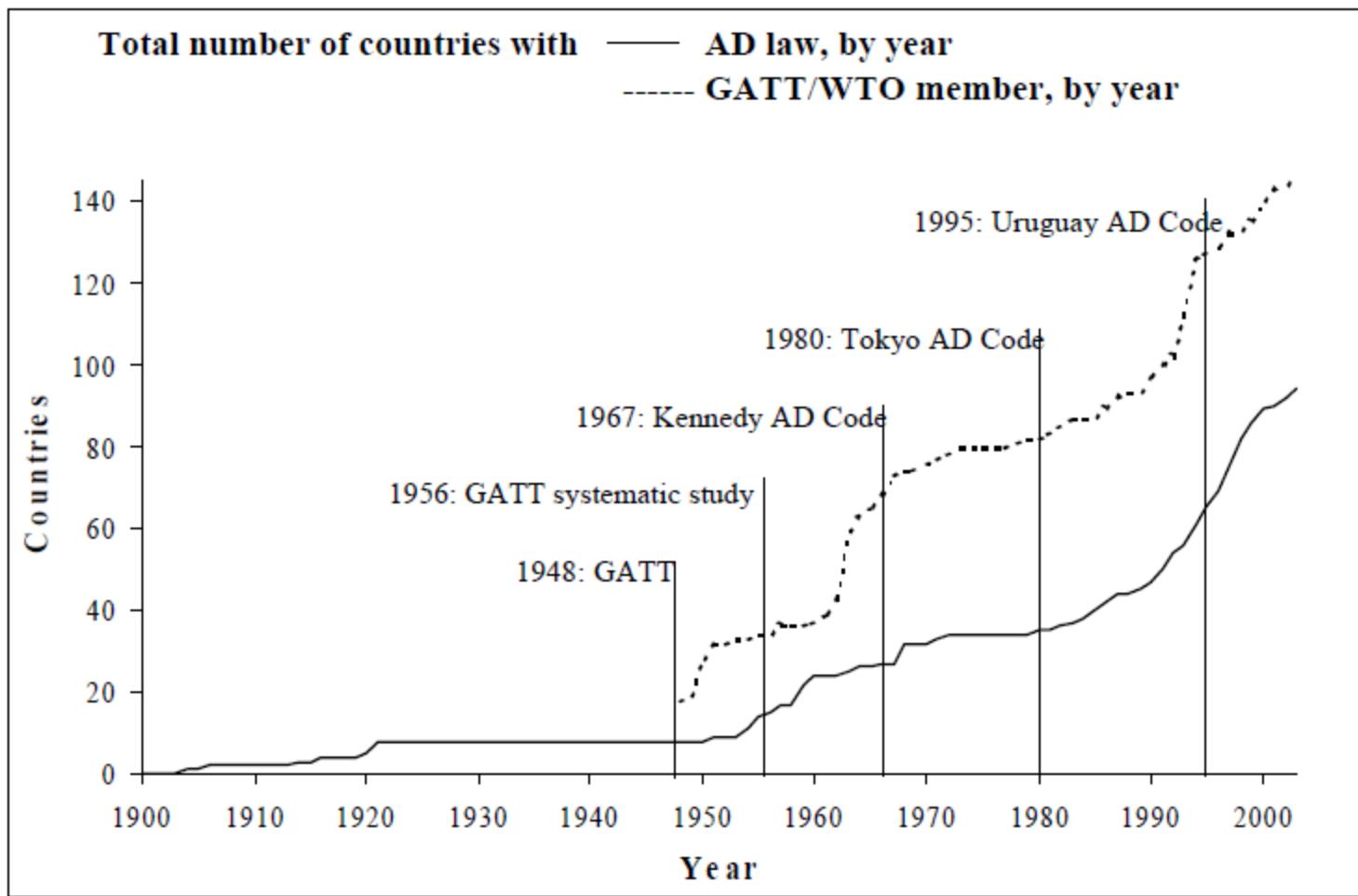
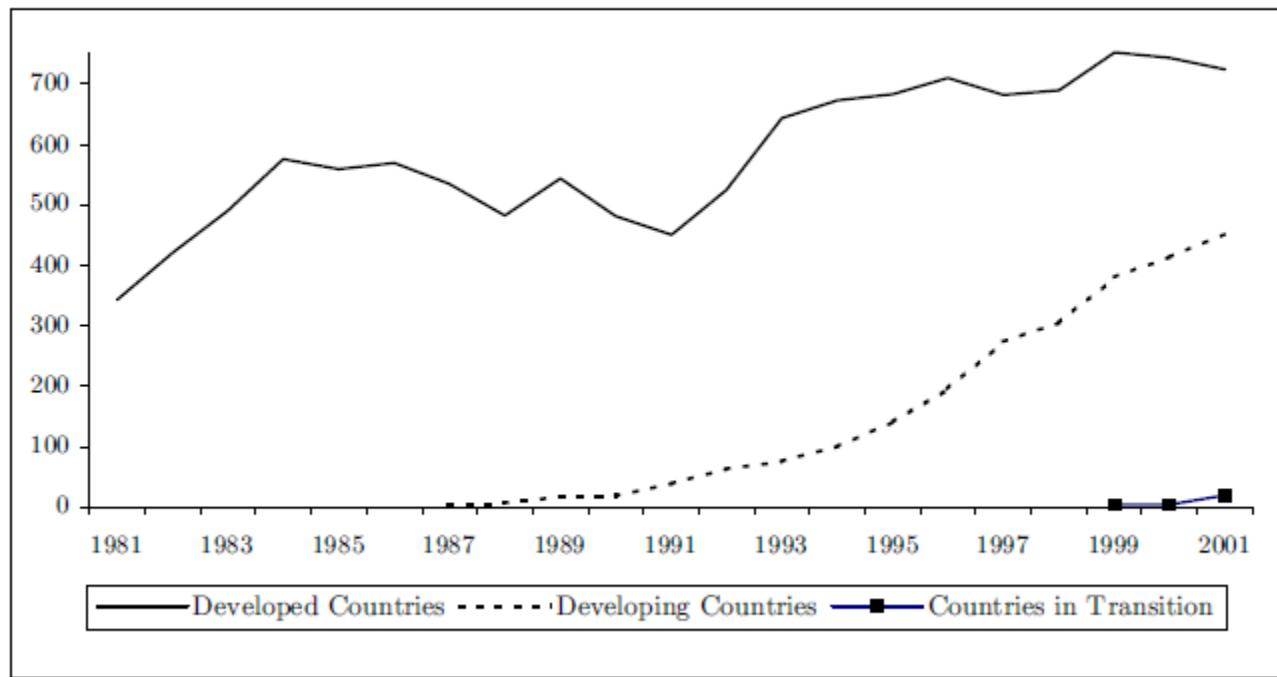


Figure 3: AD measures in force by groups of countries



Panel D: 1995-2001

Targeted Imposing	Developed Countries	Developing Countries	Countries in Transition	TOTAL
Developed Countries	168	232	195	595
	28%	39%	33%	100%
Developing Countries	173	184	187	544
	32%	34%	34%	100%
Countries in Transition	7	5	6	18
	39%	28%	33%	100%
TOTAL	348	421	388	1157
	30%	36%	34%	100%