

Independent Study Title : The Situations of Developing Countries under
Anti-Dumping Agreement: Thailand's Experience

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ABSTRACT

Developing countries are main targets of the antidumping regime and developed countries, along with a few large developing countries are main users of the regime. Developing countries expect that WTO will arrange the suitable regime to govern all contracting parties and bring the fairness to all of them. Nonetheless, the current Antidumping Agreement is still imperfect and that leads to the unfair competition.

The situation of Thailand is not different to those developing countries, still struggle to deal with antidumping problems. In this regard, there is no practical special and differential treatment for developing countries under the present antidumping regime. Also, the non-market economy treatment results in the majority of antidumping charges because the normal value of imports is determined on the basis of a surrogate country and therefore exaggerated. The lack of defendant's rights is also attributed to this regime. The constraints of the role of panels in the dispute settlement make developing countries more vulnerable than in other WTO regimes. Developing countries also suffer from the sharp shortages of financial and human resources which are essential no matter when they face anti-dumping charges or they set up their own antidumping institution. The complexity of anti-dumping procedure makes this situation more difficult for developing countries. The reviewing process to stop collecting the duties still depends too much on authority of importing countries. Developed countries sometime use unfair method to determine the dumping margin in which WTO ruled that the method to determine the dumping margin so-called

“Zeroing” is against GATT’s regulations but until now there is no provision clearly prohibits such method in the Anti-dumping Agreement.

The reality is that developed countries, which have a huge number of antidumping cases in force, are reluctant to fully fulfill their commitments and this regime is being abused. Based on the above deficiencies of antidumping regime, the possible solutions for developing countries are proposed. They are the abolishment of non-market economy regime; increase of the enforceable S&D treatment for developing countries, lifting the constraints of the role of panel in the procedure of dispute settlement, providing financial support and expertise assistance, lastly the zeroing measure should be clearly prohibited.

