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Stop Zeroing in Anti-Dumping Investigations, Boost Trade

Daniella Markheim

In recent days, both Vietnam and the European Union have joined the ranks of countries either filing complaints or seeking sanctions against the United States within the World Trade Organization (WTO) in response to America's practice of "zeroing" in anti-dumping investigations.¹ "Zeroing" artificially inflates dumping margins, increasing both the likelihood that the U.S. Department of Commerce will find injury in its investigations and the value of any resulting punitive duties assessed on "dumped" products.²

In cases brought against America by the EU, Japan, Thailand, Brazil, Canada, Ecuador, and others, the WTO has ruled that zeroing is contrary to anti-dumping rules because it distorts the prices of certain export transactions by not considering all comparisons of normal value and export price. Yet the U.S. has long refused to accept WTO recommendations to bring its anti-dumping methodology into compliance with international trade rules—a tactic that erodes U.S. credibility and influence in trade negotiations and leaves America open to retaliation from affected trade partners.

If the WTO reaffirms its prior ruling that zeroing is not compliant with international trade rules, Vietnam and the EU will be authorized to impose punitive tariffs on U.S. products.

American intransigence on the zeroing issue undermines any attempt by the Obama Administration to bolster economic growth and job creation through greater U.S. participation in global markets. Given the reciprocal nature of trade liberaliza-

tion, for the U.S. to gain greater market access abroad, America will have to lower trade barriers at home—with trade remedies looming large in the crosshairs of reformers. Ultimately, if the U.S. insists that other countries trade "fairly," then America must also play by the rules or pay the price in terms of lost international competitiveness and economic prosperity.

U.S. Protectionism and the WTO. U.S. protectionism comes at a steep price for American households and businesses that have to pay higher prices for imports. In the worst cases, consumers may not be able to acquire imports at all if duties are high enough to prohibit trade. Protectionist measures, whether tariffs or various enforcement mechanisms, are equivalent to a tax on America's households and import-consuming firms. Like any tax, these measures reduce economic activity and lower living standards. Furthermore, the incentives to efficiently use resources and find innovative ways to produce diminish as trade barriers reduce competition.

However, as costly as trade remedies can be for an economy, they are sanctioned within the WTO. In general, members of the WTO are required to bind their tariffs and not discriminate between trad-

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ing partners by charging different tariffs. However, Article 6 of the General Agreement on Tariffs and Trade, in conjunction with the WTO Anti-Dumping Agreement, allows countries to retaliate against dumping by assessing additional duties on dumped products from specific countries if the dumping is causing material damage to the industry in the importing country. If the WTO determines that injurious dumping is taking place, then the exporting company has the option to raise its price to an agreed level in order to avoid an anti-dumping import duty.

Historically, the U.S. has aggressively applied anti-dumping duties against foreign firms and countries that sell products in the U.S. market at a price lower than in the producer's home market, or below the foreign firm's cost of production. Zeroing allows the pursuit of anti-dumping actions when neither of these conditions applies.

America's increasing use of trade remedies as a trade barrier translates into a greater chance for international retaliation against zeroing. According to the WTO, the United States reported 21 new anti-dumping measures in the last half of 2008, a significant increase from the same period the year before.³ Moreover, enhanced trade enforcement is a pillar of the Administration's new National Export Initiative.⁴ Unfortunately, rather than bringing U.S.

practice into compliance, America is insisting that the law is being misinterpreted, is continuing its application, and is trying to use the WTO Doha Round of multilateral trade negotiations to permit zeroing in WTO rules.

Fair Trade, Fair Trade Remedies. There is nothing wrong with enforcing trade rules; however, enforcement of these rules must be consistent with international trade norms. America's use of zeroing has been found in violation of WTO trade remedy rules and, as a result, imposes costly distortions on the U.S. economy. At the same time, America's refusal to comply with WTO rulings to eliminate this unfair trade practice erodes U.S. credibility as a champion of free and fair trade and weakens America's influence in multilateral trade negotiations.

It is time for America to live up to the same high standards it demands from the rest of the world and end the practice of zeroing in anti-dumping investigations. Fighting unfair trade with unfair trade remedies is no solution.

—Daniella Markheim is Jay Van Andel Senior Trade Policy Analyst in the Center for International Trade and Economics at The Heritage Foundation and a contributor to *ConUNdrum: The Limits of the United Nations and the Search for Alternatives* (Rowman & Littlefield Publishers, 2009).

1. Bridges Weekly Trade News Digest, "Vietnam Tackles U.S. at WTO over Shrimp Imports," February 3, 2010, at <http://ictsd.org/t/news/bridgesweekly/69696> (February 16, 2010); Forexyard, "EU Seeks \$311 Mln Sanctions from U.S. in Dumping Row," February 3, 2010, at <http://www.forexyard.com/en/news/seek-311-mln-sanctions-from-in-dumping-row-2010-02-03T164211Z-CORRECTED-UPDATE-2-EU-US> (February 11, 2010).
2. To calculate dumping margins, the Department of Commerce first determines a product's "normal value," which can be based on the product's price in the exporter's home market, the price charged by the exporter in another country, or the exporter's production costs. Commerce then compares the normal price of the good to the price charged in the U.S. for each sale and calculates the dumping margin—the average of the differences between the two prices. When the normal price of the good is more than the price charged in the U.S., the difference contributes to the dumping margin. However, when the normal value is less than the price charged in the U.S., Commerce assigns a zero value to the transaction rather than deduct the difference from the final dumping margin. See William W. Nye, "The Implications of 'Zeroing' on Enforcement of U.S. Antidumping Law," U.S. Department of Justice, Economic Analysis Group, August 2008, at <http://www.justice.gov/atr/public/eag/236823.pdf> (February 11, 2010).
3. World Trade Organization, "WTO Secretariat Reports Increase in New Anti-Dumping Investigations," May 7, 2009, at http://www.wto.org/english/news_e/pres09_e/pr556_e.htm (February 11, 2010).
4. Daniella Markheim, "National Export Initiative Falls Short as a Winning U.S. Trade Policy," Heritage Foundation WebMemo No. 2802, February 12, 2010, at <http://www.heritage.org/Research/TradeandEconomicFreedom/wm2802.cfm>.