

# European Union Anti-dumping Cases Against China

## *An Overview and Future Prospects With Respect to China's World Trade Organization Membership*

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Since 1979, when the first anti-dumping case against China was initiated by the European Union, the European Union has lodged nearly 90 anti-dumping proceedings against China by the end of 2000. China by now, has become the country most accused of dumping by the EU. Most of the anti-dumping suits have led to relatively high duties on Chinese products. This paper describes the characteristics and the trends of EU anti-dumping actions against China over the past two decades and provides a comprehensive analysis of the factors that may have led to China's vulnerability to EU anti-dumping charges. Some future prospects with respect to China's membership of the World Trade Organization (WTO) are also presented.

### I. INTRODUCTION

The very first anti-dumping case against China, involving saccharin and its salts, was initiated by the EU in 1979. This was at a time when China had just started its economic reforms and its opening policy towards the West. Between 1979 and 2000, the European Community initiated or reviewed nearly 90 anti-dumping proceedings against China, making China the most accused country of EU anti-dumping charges. In 2000, the anti-dumping charges against China reached a peak of around 20 percent of the EU's total annual anti-dumping proceedings.

In this article we document the general trends and characteristics of two decades of European anti-dumping policy against China. We do this by tabulating a number of interesting aspects of EU anti-dumping cases against China where we primarily base ourselves on the *Official Journal* reports published by the European Commission. We pinpoint several factors that seem to have affected the vulnerability of Chinese products to EU anti-dumping charges. These include the non-market economy treatment of China, the strength of product market competition between Chinese and European companies, the trade deficit that the EU has been running with China, the

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TABLE 1: EU ANTI-DUMPING PROCEEDING INITIATED AGAINST IMPORTS FROM CHINA (1979–2000)

Year	Proceedings against China	Total initiations by the EU	Share in EU total annual proceedings (%)
1979	2	–	–
1980	1	25	4.0
1981	2	48	4.2
1982	4	58	6.9
1983	2	38	5.3
1984	2	49	4.1
1985	1	36	2.8
1986	2	24	8.3
1987	0	9	0.0
1988	7	40	17.5
1989	5	27	18.5
1990	6	43	13.9
1991	4	20	20.0
1992	8	39	20.5
1993	4	21	19.0
1994	5	43	11.6
1995	5	33	15.2
1996	6	25	24.0
1997	5	45	11.1
1998	1	29	3.4
1999	12	86	14.0
2000	6	31	19.4
Total	90	774	11.4

Source: European Commission, *The Community's Anti-dumping and Antisubsidy Activities*, annual reports from the Commission to the European Parliament.

ownership structure of Chinese exporters and the very concentrated nature of the market structure of EU producers involved in formulating complaints against Chinese imports.

The structure of this article is as follows. In the next section, the characteristics and trends of the EU anti-dumping action against China are summarized and evidence is presented in a descriptive way. Section III provides some future prospects with respect to China's WTO membership, and Section IV concludes.

## II. EU ANTI-DUMPING CASES INVOLVING CHINESE PRODUCTS (1979–2000): CHARACTERISTICS AND TRENDS

### A. GENERAL TRENDS

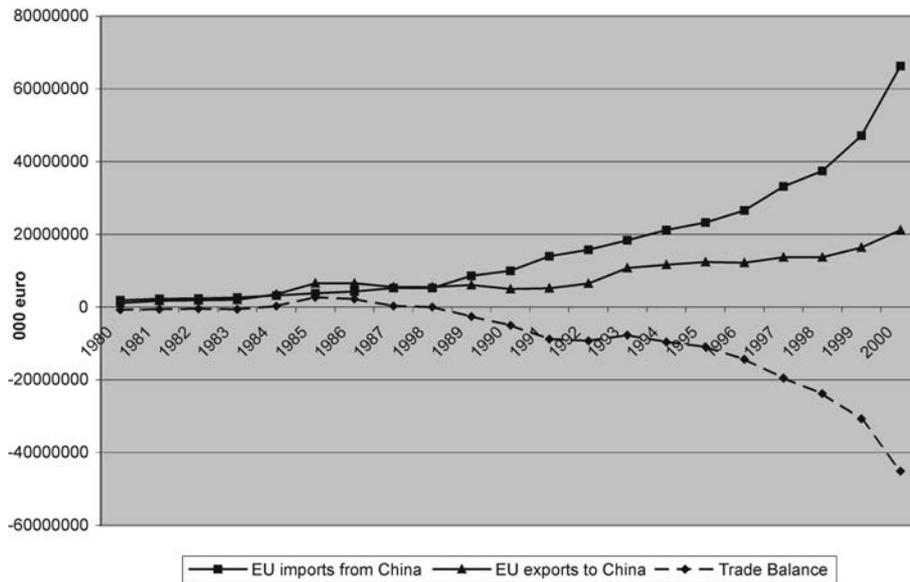
There has been a rising trend of EU anti-dumping actions against China. This can be seen from the first column in Table 1. In the early 1980s, about two dumping proceedings were typically brought against China each year. This number gradually

went up. In the 1990s typically around 10 cases were lodged each year. In 1999, the EU anti-dumping cases against China peaked to 12. While the number of anti-dumping cases initiated against China are shown in column one, column two of Table 1 shows the total annual EU anti-dumping initiations. The last column of Table 1 indicates the share of China in total EU anti-dumping cases. Note that in 2000, nearly 20 percent of EU anti-dumping cases concerned Chinese imports.

The sudden growth of anti-dumping investigations may be partly attributed to the Asian financial crisis that started in April 1997. As domestic demand in South East Asia declined sharply and as China did not devalue its currency during the Asian financial crisis, China was compelled to redirect exports into other available markets, especially the US and the EU.<sup>1</sup>

Another reason for the increased anti-dumping actions against China could have been the rising EU trade deficit in the bilateral trade relations with China. In Figure 1, we plot both Chinese imports in the EU and EU exports to China. It can be noted that in the early 1980s EU trade with China was balanced, while in the course of the 1990s, the EU's imports from China took off, resulting in a growing trade deficit ever since.

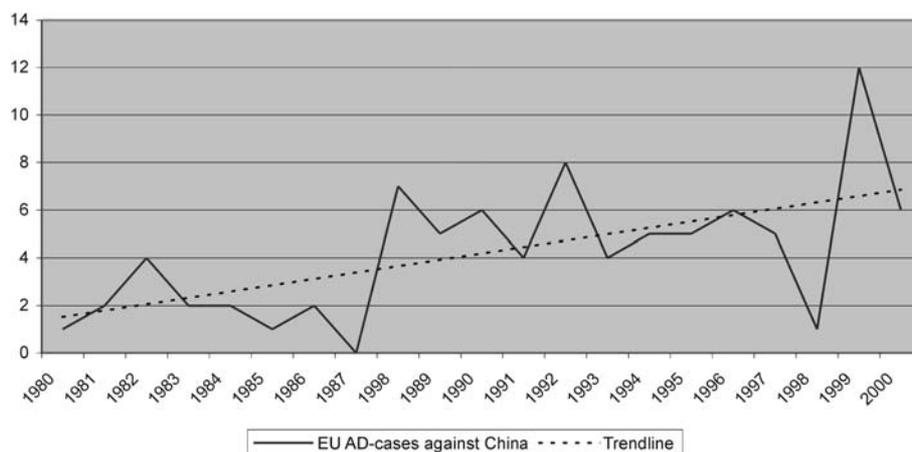
FIGURE 1: TRADE BALANCE BETWEEN THE EU AND CHINA 1980-2000



Source: EUROSTAT—Intra and Extra EU Trade statistics.

<sup>1</sup> Eighteenth Annual Report from the Commission to the European Parliament.

FIGURE 2: NUMBER OF EU AD CASES AGAINST CHINA EACH YEAR



Source: EUROSTAT—Infra and Extra EU Trade statistics.

In Figure 2, we plot the number of EU anti-dumping cases against China over time. The trend of initiations is clearly upward sloping.

This casual empiricism seems to correspond with what has been suggested in the literature namely that trade deficits and the use of trade policy tend to go hand in hand (Tharakan, 1991).

In Table 2, we list all the Chinese products that were under anti-dumping protection at the end of 2000. On the basis of that list we can verify the share of China's total exports affected by anti-dumping protection in the EUROSTAT trade statistics and found it to be around 2.4 percent. This corresponds with about €1,182,480,000-worth of Chinese imports in the EU. In addition, it is generally agreed upon that EU anti-dumping policy is likely to affect a great deal more exports than the protection imposed, simply because it acts as a deterrent for current and future exporters to set low prices.

The majority of the EU anti-dumping proceedings against Chinese imports led to unfavourable results for China. Table 3 shows that of a total of 90 anti-dumping cases against Chinese imports, about 22 cases were terminated by the Commission without any measures or were withdrawn by the EU complainants and three cases were still undecided when this article was written. All the others led to provisional anti-dumping measures, and later to definitive measures. In 55 cases, definitive duties<sup>2</sup> were imposed, while in 10 cases, Chinese exporters faced price undertakings.<sup>3</sup>

<sup>2</sup> Anti-dumping duties may have several forms:

- *Ad valorem* duty, i.e., a fixed percentage of the CIF prices before payment of customs duty;
- Specific duty, i.e., a fixed amount per unit imported;
- Duty of an amount equal to the difference between the price at the Community frontier and a fixed price established by the EC Commission

<sup>3</sup> OJ L50/4-20.2.98.

<sup>3</sup> A price undertaking is a voluntary price increase by the exporters.

TABLE 2: CHINESE PRODUCTS CURRENTLY SUBJECT TO ANTI-DUMPING MEASURES  
(TO END 2000)

Product	Year of measures	Measures	Level
Artificial corundum	1997	Specific	204ECU/ton
Bicycles	1997	<i>Ad valorem</i>	30.6%
Coke 80+	2000	Specific	33.7ECU/ton
Coumarin	1996	Specific	3.479ECU/ton
Electronic weighing scales	2000	<i>Ad valorem</i>	30.7%
Ferro-silicon-manganese	1998	<i>Ad valorem</i>	58.3%
Fluorspar	2000	Minimum price based	113.5%
Footwear (with textile uppers)	1997	<i>Ad valorem</i>	49.2%
Footwear (with leather or plastic uppers)	1998	Minimum price based	5.7ECU/pair
Furfuraldehyde	1999	Specific	352ECU/ton
Glyphosate	1998	<i>Ad valorem</i>	48.0%
Handbags (leather)	1998	<i>Ad valorem</i>	58.3%
Hot-rolled flat products of non-alloy steel	2000	<i>Ad valorem</i>	8.1%
Lighters (non-refillable)	1995*	Specific	0.065ECU/lighter
Magnesium (deadburned)	2000	Minimum price based	120ECU/ton
Magnesium (unwrought, unalloyed)	1998	Mixed	2622ECU/ton; 63.4%
Magnesium oxide (caustic magnesite)	1999	Minimum price based	112ECU/ton
Magnetic disks	1993*	<i>Ad valorem</i>	35.6–39.4%
Peroxidisulphates	1995*	<i>Ad valorem</i>	83.3%
Personal fax machines	1998	<i>Ad valorem</i>	21.2–51.6%
Potassium permanganate	2001	Specific	1.26ECU/kg
Powdered activated carbon	1996	Specific	323ECU/ton
Ring binder mechanism	1997	<i>Ad valorem</i>	51.2–78.8%
Sacks and bags (woven polyolefin)	1997	<i>Ad valorem</i>	102.4%
Silicon carbide	2000	<i>Ad valorem</i>	52.6%
Silicon metal	1997	<i>Ad valorem</i>	49.0%
Stainless steel fasteners	1998	<i>Ad valorem</i>	13.6–74.7%
Steel ropes and cables	1999	<i>Ad valorem</i>	60.4%
Televisions (colour)	1995*	<i>Ad valorem</i>	44.6%
Tube or pipe fittings (malleable cast iron)	2000	<i>Ad valorem</i>	49.4%
Tube and pipe fitting of iron or steel	1996	<i>Ad valorem</i>	58.6%
Tungsten carbide and fused tungsten carbide	1998	<i>Ad valorem</i>	33.0%

\* Case reviewed and anti-dumping duty extended.

Source: European Commission, various *Official Journal* reports.

TABLE 3: RESULT OF EU ANTI-DUMPING PROCEEDINGS AGAINST CHINESE PRODUCTS

Total initiated	Price Undertaking	Definitive duties	Termination	Undecided
90	10	55	22	3

Source: European Commission, *The Community's Anti-dumping and Antisubsidy Activities*, annual reports from the Commission to the European Parliament.

In the 1980s, price undertakings offered by Chinese companies were normally accepted. But after 1988, the EU was much less inclined to accept price undertakings offered by Chinese companies. Since then, *ad valorem* duties have been most often applied. The definitive duties ranged from about 10 percent to 130 percent, and averaged around 41 percent over all duty cases. This is documented in Table 4.

TABLE 4: DUMPING MARGIN, INJURY MARGIN AND DUTY LEVEL—CHINA CASES

	Dumping margin (%)	Injury margin (%)	Duty level (%)
Average figure	50.4	40.3	41.2
Range of variation	11–138.7	10–94.1	10–102

Source: European Commission, various *Official Journal* reports.

In most of the cases where more than one country was listed as a defendant, China was normally the recipient of the most severe duties. Table 5 lists a few random examples. For instance, in *Stainless Steel Fasteners*,<sup>4</sup> the EU applied a definitive duty of 74.4 percent to China while only 26.7 percent to Korea, 54.0 percent to India, 23.1 percent to Taiwan, 7.0 percent to Malaysia, and 8.4 percent to Thailand.

TABLE 5: EXAMPLES OF SOME ANTI-DUMPING CASES DECIDED IN 2000 AND INVOLVING CHINA

Product	Year	Duties (%)
Stainless steel fasteners	1998	China 74.4, Korea 26.7, India 54.0, Taiwan 23.1, Malaysia 7.0, Thailand 8.4
Steel ropes and cable	1999	China 60.4, Hungary 28.1, India 30.8, Mexico 6.1, Poland 48.3, South Africa 38.6, Ukraine 51.8
Colour television	2000	China 44.6, Malaysia 23.4, Korea 15.1, Singapore 23.6, Thailand 29.8
Silicon carbide	2000	China 52.6, Russia 23.3, Ukraine 24

Source: European Commission, various *Official Journal* reports published in 2000.

## B. SECTOR INCIDENCES

Table 6 shows the sector distribution of EU anti-dumping cases against Chinese products over time. The number of total EU anti-dumping cases against China shows cyclical patterns. It appears there has been a shift of EU anti-dumping initiations from chemical, mineral/ores and machinery sectors in earlier 1980s to electronics and mechanical goods in the later 1990s.

The chemical sector involves products like artificial corundum, potassium permanganate, barium chloride, oxalic acid, silicon carbide, unwrought magnesium etc. Ores involve products like magnesite, ferro-silicon, fluorspar, tungsten ores. Mechanical goods refer to mainly light manufacturing goods such as bicycles and its

<sup>4</sup> OJ L50/4-20.2.98.

TABLE 6: EU ANTI-DUMPING CASES AGAINST CHINESE IMPORTS ACROSS YEAR AND SECTORS (1979–2000)

Year	Chemical	Textile	Mechanical	Electronics	Iron and steel	Ores	Agricultural	Total
1979	1	0	1	0	0	0	0	2
1980	1	0	0	0	0	0	0	1
1981	2	0	0	0	0	0	0	2
1982	1	0	0	0	0	2	1	4
1983	2	0	0	0	0	0	0	2
1984	1	0	1	0	0	0	0	2
1985	0	0	1	0	0	0	0	1
1986	1	0	1	0	0	0	0	2
1987	0	0	0	0	0	0	0	0
1988	4	0	0	1	0	2	0	7
1989	0	3	0	0	0	2	0	5
1990	2	1	2	1	0	1	0	6
1991	0	0	1	1	0	2	0	4
1992	3	0	2	1	0	2	0	8
1993	2	0	0	1	0	1	0	4
1994	3	1	0	0	1	0	0	5
1995	2	2	1	0	0	0	0	5
1996	1	4	0	0	1	0	0	6
1997	2	1	0	2	0	0	0	5
1998	0	0	0	0	1	0	0	1
1999	3	0	4	3	2	0	0	12
2000	3	0	0	1	0	2	0	6
Total	34	12	14	11	5	13	1	90

Source: European Commission, *The Community's Anti-dumping and Antisubsidy Activities*, annual reports from the Commission to the European Parliament.

parts and ring binder mechanisms, roller chains, and some consumer goods for instance photo album. Textile goods that have been involved in European anti-dumping cases are cotton fabrics, polyester yarn, synthetic fabrics, polyolefin sacks, silk ribbon and handbags. Electronics refers to microwave ovens, small colour television, cathode-ray colour television tubes etc. Iron and steel products include steel fasteners, iron tube or pipe, steel ropes and cables. Agriculture involves products like pearls in syrup but rarely occur under the anti-dumping cases.

Cases involving exports of Chinese chemicals and ores accounted for about half of the total cases. Also frequently affected sectors include electronics and textile products.

In Table 7 we show the EU's anti-dumping cases against China per broadly defined sector in the EUROSTAT extra-EU trade statistics, as well as the sectoral share in total Chinese exports in 1999. From column two in Table 7 we can see that China is mainly exporting basic manufactures (12.4 percent), machines and transport equipment (30.5 percent) and miscellaneous manufactured goods (49.6 percent) to the EU. Based on the figures for 1999, we note that the chemicals imports from China only constitute 3.8 percent of total Chinese imports. Incidentally, the percentage of

EU anti-dumping cases are highest in the chemical sector, representing 37.8 percent of total EU anti-dumping cases against China during 1979–2000, which can be seen from column one. Also in basic manufactures and crude materials is the percentage of EU anti-dumping cases high in comparison with the imports they constitute. At this stage we can only guess why some EU sectors seem to be more effective in getting anti-dumping protection from Chinese imports than others. What is clear from Table 7, is that the number of anti-dumping initiations per sector does not seem to be related to its relative significance in total import flows, which is most apparent in the case of the chemicals sector.

TABLE 7: EU SECTORAL IMPORTS FROM CHINA

Sectors	Percentage of EU anti-dumping cases against China per sector 1979–2000 (%)	Sectoral imports as a share of total EU imports from China in 1999 (%)
Food and live animals	0.02	1.4
Beverages and tobacco	0	0.05
Crude materials, excluding fuels	14.5	1.8
Mineral fuels, etc.	0	0.25
Animal, vegetable oil, fat	0	0.01
Chemicals	37.8	3.8
Basic manufactures	34.6	12.4
Machines, transport equipment	12.4	30.5
Miscellaneous manufactured goods	0	49.6
Goods not classed by kind	0	0.005
Total	100	100

Source: EUROSTAT—intra-extra EU trade statistics 1976–2000.

### C. COMPLAINANTS

In this section, we argue that anti-dumping complaints against China are usually initiated by very concentrated EU industries. A first idea of concentration can be obtained by looking at the number of EU firms that are actually involved in the filing of anti-dumping complaints. Table 8 gives an overview of the EU complainants identified in EU anti-dumping cases against China. About 400 EU firms were involved in EU anti-dumping cases against Chinese products during 1979–2000. This represents an average of 4.5 EU complaining firms per case. Only in 5 percent of the cases, there are more than 10 EU firms involved.

In Table 9 we look in more detail at these EU firms involved in the formulation of the complaint by listing their share in total EU production of the product under investigation. As can be seen from Table 9, the complaining firms often represented a major proportion of total EU production.

TABLE 8: EU COMPLAINANTS IDENTIFIED IN CASES INVOLVING CHINESE IMPORTS (1979–2000)

Number of EU complainants	1	1–2	1–5	1–10	>10
Percentage in total cases	25%	40%	70%	80%	5%

Source: European Commission, various *Official Journal* reports.

TABLE 9: SOME EXAMPLES OF THE NUMBER OF EU COMPLAINANTS AND THE PERCENTAGE OF PRODUCTION THEY REPRESENTED

Product	Number of complaining firms	Percentage of total EU production
Hairbrush (1999)	11	70
Hot-rolled flat products (2000)	10	77
Malleable cast-iron tube (1999)	6	100
Coke 80+ (2000)	6	80
Paracetamol (1981)	4	78
Electronic weighing scales (1999)	3	50
Antimony trioxide (1992, 1994)	5	100
Silicon carbide (2000)	4	100
Magnesite (caustic-burned) (2000)	4	100
Ring binder mechanism (1995)	2	90
Magnesite (dead-burned) (2000)	2	62
Furfural (1980)	4	95
Saccharin and its salts (1979)	1	100
Paracetamol (2000)	1	100
Calcium metal (1992)	1	100
Furfuraldehyde (1999)	1	100
Furazolidone (1993)	1	100
Coumarin (1996)	1	100
Unwrought magnesium (1993, 1997)	1	100
Yellow phosphorus (1999)	1	100
Glycine (1999)	1	100
Potassium permanganate (2001)	1	100
Cathode-ray TV picture tubes (1999)	1	100
Ferrosilicon manganese (1996)	7	major
Tube or pipe fittings (1994)	6	major
Photo albums (1992)	5	major
Gum-rosin (1992)	5	major
Microwave ovens (1993)	4	major
Activated powdered carbon (1994)	3	major
Glyphosate (1998)	3	major
Handbags (1998)	2	major
Fax machines (1997)	2	major
Refractory chamottes (1993)	2	major

Source: European Commission, various *Official Journal* reports.

These figures seem to suggest that anti-dumping complaints against China are usually dominated by a few firms in highly concentrated industries. In many cases the complaining EU firm is a monopolist representing 100 percent of total EU production. The concentrated nature of EU complaining industries, with often only a few players in the market, is another explanation for the frequent occurrence of China in EU anti-dumping statistics. The concentrated nature of the EU industries involved in filing anti-dumping cases against China is not specific to the China cases alone but is a more general feature of EU anti-dumping policy. Concentration of the domestic industry can be considered as an indication of domestic political influence and has been found to be statistically significant. Previous research suggests that the concentrated nature of the domestic EU industry (few firms in the industry) makes it more likely that the European Commission arrives at an affirmative finding in anti-dumping cases (see Tharakan and Waelbroeck, 1994).

#### D. DEFENDANTS

Another interesting feature of anti-dumping policy against China is that among the hundreds of Chinese firms which have been involved in the EU anti-dumping cases between 1979 and 2000, over 50 percent of them are state-owned enterprises (SOE). The others are joint-venture (JV) companies and sole foreign-funded enterprises (FFE). This can be seen from Table 10.

TABLE 10: OWNERSHIP OF THE CHINESE DEFENDANTS NAMED IN EU ANTI-DUMPING CASES

Period	State-owned (%)	Joint-ventures and sole foreign funded (%)
1979–1989	92	8
1990–2000	49	51

Source: European Commission, various *Official Journal* reports.

To some extent this is not surprising since in the early 1980s, China's foreign trade was dominated by state-owned enterprises and almost all those named as defenders in anti-dumping cases were state-owned enterprises. In late 1980s, more Chinese joint venture companies were named as offenders. For instance, in a 1988 anti-dumping case on small colour televisions (final decision in OJ L195/1, 18.7.91) two Sino-Japanese joint-ventures, Fujian Hitachi Television Co Ltd and Huaquiang Sanyo Electronics Co Ltd, were listed as offenders together with three Chinese SOEs.

The large amount of state-owned enterprises in China involved in export activities is no doubt another reason for the frequent anti-dumping action by the EU against China. State firms are known to be operating more under softer budget constraints than private firms because they are either subsidized by the state or enjoy tax or credit arrears (Everaert and Vandebussche, 2001). This is all likely to lead to low prices that can consequently result in anti-dumping protection. The case evidence presented here is suggestive of the fact that state ownership of the Chinese defendants positively affects the probability of EU anti-dumping protection.

#### E. DEGREE OF CO-OPERATION OF CHINESE EXPORTERS

In most EU anti-dumping cases against China, there was no co-operation or very limited co-operation from the accused Chinese exporting companies in the investigation. In the 1980s, targeted Chinese companies largely ignored the demand for information by the Commission. In earlier 1990s, occasionally there was limited co-operation from Chinese companies. However, in the instances where Chinese companies responded, documentation often had been incomplete and untimely. In later 1990s, the response rate of Chinese companies improved. From earlier 1990s up to now, about 60 Chinese companies involved in 14 cases responded to the information demand of the Commission. These respondents were mainly joint ventures and foreign-funded enterprises. By and large, the response rate and the degree of co-operation of Chinese companies can still be considered as low.

For example, in *Glyphosate* (OJ L47/2, 18.2.98) the Commission sent questionnaires to all the 35 Chinese exporters and producers. Only one company responded. The sole co-operating exporter also requested individual treatment and submitted some information to support its claim. The Commission deemed such information insufficient and sent a specific individual treatment questionnaire to the Chinese company. No reply was made to this questionnaire.

In the absence of co-operation from the Chinese exporters, the Commission can use whatever information is available, i.e., the so-called “best fact available” practice. In the review case, *Glyphosate* (OJ L47/2, 18.2.98), the complaining community producers submitted some evidence to show that the imposition of the original anti-dumping duty of 24 percent had no impact on the selling prices in the Community. The Chinese exporters did not respond to the dumping charge. Despite the fact that the fall of the resale prices of glyphosate was partly attributed to a world-wide decline in the cost of production of glyphosate, the Commission decided to impose a new duty on Chinese glyphosate, which was 48 percent.

#### F. SELECTION OF “LIKE PRODUCTS”

In some cases, the Chinese producers raised objections to the “like product” definition and its interpretation by the European Commission. In some cases with low prices of Chinese goods in the EU, it was argued by China that these prices reflected their low level of technology and value added. For instance, in *Hot-rolled Flat Products of Non-alloy Steel* (OJ, L202/21, 10.8.2000), Chinese producers argued that in comparison to the Community produced product, the Chinese product was made from lower quality raw materials with less capital-intensive production processes, and in general were of a lower quality than the EU product. In *Lamps* (OJ, L38/8, 8.2.2001), the Chinese producers alleged that the Community industry produced “lifelong” product with life times above 8,000 hours, while Chinese products have life times of up to 6,000 hours. Table 11 gives an overview of these objections. However, in none of the cases did the Commission take these alleged quality differences into account.

TABLE 11: THE EU'S SELECTION OF LIKE PRODUCTS AND THE DIFFERENCES SUGGESTED BY CHINESE COMPANIES (2000–2001)

Product	Difference claimed	Considered by the EU?	Measures
Lamps	Life time	No	Provisional duty
Malleable cast iron tubes	Grade	No	Provisional duty
Hot-rolled flat products	Quality	No	Provisional duty
Dead-burned magnesia	Quality	No	Definitive duty
Glycine	Grade	No	Provisional duty

Source: European Commission, various *Official Journal* reports.

#### G. MARKET ECONOMY TREATMENT

In determining normal values, the EU makes a distinction between market economy (ME) and non-market economy (NME). Up to 1996, China was classified as a non-market economy country.<sup>5</sup> In all the anti-dumping cases against China before that date, an analogue country has been used for the determination of the normal value.

In most of the cases, the Commission simply accepted the analogue countries suggested by EU complainants. Only in minority of the cases, the initial choice of analogue country was reversed due to objections from the defendants and the unwillingness of co-operation from the producers in the proposed analogue countries.

TABLE 12: FREQUENCY OF ANALOGUE COUNTRY CRITERIA USED IN ANTI-DUMPING CASES AGAINST CHINA DURING 1979–2000

Country	Frequency	Country	Frequency
USA	18	Brazil	3
South Korea	9	South Africa	3
India	8	Hong Kong	3
Turkey	6	Argentina	3
Japan	5	Spain	2
Taiwan	5	Yugoslavia	2
Thailand	5	Sri Lanka	2
Indonesia	5	Austria	1
Mexico	4	Australia	1
EC	4	Poland	1
Norway	4		

Source: European Commission, various *Official Journal* reports.

Table 12 reports on the analogue countries selected by the Commission to construct the normal values of Chinese products. They involved countries such as the United States, South Korea, Japan and Norway. It is clear that most of these analogue

<sup>5</sup> Article 2(7) of EC Regulation 384/96 lays down that in case of imports from China, normal value may be determined in accordance with the rules applicable to market economy status in cases where it can be shown that market conditions prevail for one or more producers subject to investigation.

countries listed have a much higher level of economic and/or industrial development than China, which made China vulnerable to violation of the dumping conditions in the EU law.

Although in the mid 1990s, the EU deleted China from the list of NME countries, market economy status is not granted automatically to defending Chinese companies. Only if Chinese exporters can prove that they are operating under market economy conditions, the domestic prices and costs of Chinese exporters will be used to establish the normal value rather than information from an analogue country. Until now, 32 Chinese companies involved in nine cases have applied for market economy status, but the Commission has approved only five of them. All of these five companies are FFEs or JVs. None of SOEs has been granted market economy status. In Table 13, typical reasons for rejection of Chinese companies' ME status application are given. These include state interference, accounting criteria, degree of co-operation etc.

TABLE 13: FREQUENCY OF REASONS FOR REJECTION OF ME TREATMENT TO CHINESE EXPORTING COMPANIES (1998–2000)

<i>Related to state interference</i>	
Wholly or majority state-owned	10
State interference as regards the	
Raw material sourcing	5
Setting of the salaries of workers	3
Tax rebates	1
Exports made through state-owned trader	3
Restrictions in its buying and selling activities	1
Land ownership	5
<i>Accounting criteria not met</i>	
Accounts not independently audited	7
International accounting standards were not respected	3
Financial situation and production costs distorted	2
Accounts and audit reports were not made public	1
Accounting record incomplete	1
<i>Related to co-operation</i>	
Did not co-operate	3
Information insufficient	3
<i>Other</i>	
Barter trade	5
Not producers	3

Source: European Commission, various *Official Journal* reports.

The non-market economy status of China throughout most of the period under investigation is another factor that has accounted for its vulnerability under EU anti-dumping policy. While after 1996, Chinese companies can apply for market economy treatment, many firms applied but failed to convince the Commission of their market economy status, especially state-owned enterprises.

## H. DETERMINATION OF INJURY

The establishment of dumping is necessary but not sufficient to impose anti-dumping measures. It also has to be shown that the dumped imports are injurious to the Community industry. In determining the injury, the EU Commission looks at the volume and prices of dumped imports, and at the actual or potential impact on the EU industry, such as on production, utilization of capacity, stocks, sales, market share, price, profits, return on investment, cash flow and employment. Table 14 gives an overview of the frequency of injury criteria used in anti-dumping cases against China.

TABLE 14: FREQUENCY OF INJURY CRITERIA USED IN ANTI-DUMPING CASES AGAINST CHINA (1990–2000)

Injury criteria	Number of cases	Average figure	Range of variation
Changes in:			
Imports	44	20.0%	15.1–1,500%
Importer's market share	44	37.9%	2–372%
Price undercutting	44	34.8%	4–75%
EU price depression	44	29.9%	1–59%
EU market share	43	16.2%	5–55%
EU sales decrease	33	26.2%	5–55%
EU financial situation	31	–	–
EU profitability	24	24.7%	–
EU financial loss	4	–	small–heavy
EU expected financial loss	1	–	–
EU employment	28	20.1%	–
EU job loss	4	–	20–19,000
Exit of EU producers	7	–	1–88
EU quantity	14	–	–
EU production	27	19.3%	8–33%
EU productivity	2	3%	–
EU cost of production	4	5%	–
EU capacity utilization	16	8.8%	–
EU stocks	6	37%	–
EU cash flow	1	67.7%	–
EU investment	7	16%	–
EU return on sales	2	–	–
EU overall performance	6	–	–
Total numbers of cases investigated	44	–	–

Source: European Commission, various *Official Journal* reports.

The evolution of market shares is the injury criteria most often mentioned by the Commission, together with price undercutting by the Chinese products in the European market and the price depression caused to EU products as a result of cheap imports. Criteria like EU employment and capacity utilization play a lesser role in the decision of whether injury has taken place as a result of Chinese dumping or not.

#### I. DETERMINATION OF CAUSAL RELATIONSHIP

To determine a causal relationship between Chinese dumping and injury suffered by the EU Community industry as a result of dumped goods, the Commission tries to control for other factors that may explain the condition of the EU industry apart from dumped imports. These factors may include the evolution of demand in the Community market, imports from third countries, the situation on the world market, etc. If none of these other factors seem accountable for the state of the EU industry, a causal link between dumping and injury is assumed to exist and the Commission would conclude that the dumped goods caused the material injury suffered by the Community industry.

In some cases, the causal link between Chinese imports and the injury suffered by the Community industry was rather weak. An example is a reviewed case, *Silicon Carbide* (OJ C99/18, 10.04.99), originating from China, Russia and Ukraine. As a result of the previous anti-dumping measure, China and Ukraine had lost significant sales volume and their market share was minimized over time. However, the Russian imports did not decrease sharply and remained stable, and imports from other third countries, such as Venezuela and the Czech Republic, had significantly increased their market shares during the initial anti-dumping conviction. However, in the review case, the Chinese exporters did not reply to the information demand of the Commission. As a result, the review case was decided with new protectionist anti-dumping measures against China, Ukraine and Russia, in which the Commission applied the highest definitive duty to China, despite the fact that its market share in the EU had gone down (China, 52.6 percent; Russia, 23.3 percent; Ukraine, 24 percent).

#### J. COMMUNITY INTEREST TEST

Before protection can be applied, it has to be shown that the imposition of anti-dumping measures is in the overall Community interest. The short-term benefits of low prices for consumers are weighed against the injurious effects of the dumped imports in terms of the industrial and social costs of the contraction or elimination of firms, sectors or whole industries. Table 15 gives an overview of reasons cited by the EU Commission for imposing anti-dumping measures.

In some cases, the Community interest clause put more emphasis on consumer interests than on EU producers' interest and decided in favour of consumers, especially when consumers were intermediated users of the product under investigation and showed that protection would hurt their profitability. For example, in a number of cases such as *Fluorspar* (OJ C62/3, 4.3.99), *Glycine* (OJ L118/6, 19.5.2000), EU users argued that without anti-dumping measures against China in force, it would continue "to benefit from the existing low prices of Chinese products on the Community market". The imposition of measures would result in an increase in their purchase

TABLE 15: EU'S REASONS FOR IMPOSING ANTI-DUMPING MEASURES CITED IN THE COMMUNITY INTEREST TEST

Year	Product	Effect of non-imposition	Anti-dumping measure
1991.7	Micro disks	Existence	37%
1991.10	Magnesite (dead-burned)	Shut-down	120ECU/ton
1991.10	Magnesite (caustic-burned)	Shut-down	112ECU/ton
1992.5	Photo album	Cease production	19%
1992.7	Ferro-silicon	Disappearance	49.7%
1992.11	Calcium metal	Continue to operate	2074ECU/ton
1993.7	Furfuraldehyde	Disappearance	24%
1994.3	Peroxodisulphates	Shut-down	83%
1994.5	Coumarin	Shut-down	3479ECU/ton
1995.2	Footwear	Disappearance	49.2%
1995.10	Glyphosate	Cease production	24%
1995.10	Ring binder mechanism	Disappearance	325ECU/ton
1997.8	Unwrought magnesium	Disappearance	31.7% (2622ECU/ton)
1999.4	Silicon carbide	Cease production	52.6%
1999.5	Malleable cast-iron tubes	Disappearance	49.4%
1999.7	Cathode-ray TV picture tubes	Shut-down	11%
1999.8	Hairbrush	Cease production	48.2%
1999.8	Glycine	Closure	45.9%
1999.9	Coke 80+	Disappearance	45.1%

Source: European Commission, various *Official Journal* reports.

costs, which could affect their own competitiveness. The Commission did not impose definitive measures in those cases.

However, the argument most often used by the EU Commission to impose protection was that the EU industry would otherwise disappear or be forced to shut down. For example, in *Cotton Fabrics* (OJ L295/3, 20.11.96), EU producers argued that as a result of Chinese imports, their market share had decreased from 30.7 percent to 28.4 percent and prices had declined by 35 percent. As a result, 88 Community firms were closed down, 8,625 EU jobs were lost and EU profitability reduced from 100 percent to -25 percent. In view of this evolution, the EU Commission installed a duty on Chinese exports in order to alleviate EU producers.

A comparison of Table 15 and Table 9 reveals that most of these endangered Community producers are in a highly concentrated industry, often involving only one producer. The difficulty here of course also refers to the causality issue. Is an industry disappearing because of dumped imports or is it largely due to inefficiencies on behalf of the European industries. A few examples illustrate that in some cases reasonable doubt can be expressed. For example, in *Magnetic Micro Disks* (OJ L307/1, 2.12.1999) the Community producer and complainant was a new entrant to the industry. In *Bicycles* (OJ L175/39, 14.7.2000), the EU complaining industry showed low profits in a period of increased demand. In *Gum-rosin* (OJ L41/51, 12.2.94), a similar situation occurred, financial losses for the EU industry despite market expansion (by 24 percent). The Commission terminated this case.

### K. IMPOSITION OF DUTY

The average duty levels together with the average dumping and injury margins over the 90 EU AD-cases against China are summarized in Table 4. The average duty lies around 41 percent with the lowest duty imposed equal to 10 percent and the highest duty being 102 percent. While the average dumping margin is about 50 percent with a range of variation across cases between 11 percent and 138 percent, the average injury margin is somewhat smaller and lies around 40 percent and has a smaller range of variation across cases that lies between 10 percent and 94 percent. The EU anti-dumping law stipulates that the smallest of dumping and injury margin is used to determine the duty level ("lesser-duty-rule"). The margins reported in Table 4 suggest that on average the injury margin was smaller in the cases against China than the dumping margins. This also explains why the average duty level is closer to the average injury margin than to the average dumping margin.

### III. OUTLOOK WITH RESPECT TO CHINA'S WTO MEMBERSHIP

Since the end of 2001, China has successfully completed its bid for WTO membership. Up to that point China's bargaining power to exert political pressure on the EU in anti-dumping disputes was rather weak. Before 2001, China was not a WTO Member, did not have a legal anti-dumping system of its own and was unable to resort to the WTO dispute settlement procedure.

China's WTO membership is likely to have a lowering impact on the EU's AD practice against Chinese products for the following reasons. First, China's WTO entry is expected to expedite the country's reforms and to encourage Chinese companies to restructure themselves so that they are more market-oriented. WTO membership is also likely to result in capital inflows for China. Foreign ownership and privatization of firms are expected to follow suit. The market access focus of the WTO and trade liberalization is market-disciplining forces (Hoekman and Holmes, 2001) and will increase competition in the Chinese economy. This increase in competition, privatization and other market forces will help Chinese exporters to convince EU officials of their greater market economy status in EU anti-dumping proceedings, which is generally regarded as a more favourable treatment for them (Tharakan and Waelbroeck, 1994).

Second, upon entry to the WTO, China will have to cut import tariffs and open up its markets to the EU. In its WTO accession deal with the EU, China has agreed to reduce import tariffs on over 150 leading export products "ranging from gin to building materials" (the Sino-EU Agreement on China's Accession to the WTO, 2001). A sharp reduction in tariffs and non-tariff trade barriers is agreed in the bilateral negotiations between the EU and China. Also, as a result of higher capital inflows from the rest of the World, the Chinese currency is likely to appreciate. Both the appreciation of the Chinese currency and the reduction in trade barriers are expected

to lead to a surge of EU exports to China and a reduction of China's trade surplus with EU. Since empirical evidence has clearly shown that there is a positive relation between large trade surpluses with the EU and anti-dumping measures (Tharakan, 1991), the number of EU anti-dumping actions is likely to go down.

Third, as a WTO Member, China can legally implement an anti-dumping system of its own. This implies that EU industries, when filing for EU anti-dumping protection, will have to take into account the possibility of retaliation from Chinese counterparts. As a WTO Member, China will also be able to resort to the WTO dispute settlement mechanism to resolve disputes with its trading partners in relation to anti-dumping measures. Moreover, China will in future be able to take part in the development of WTO rules and procedures and can counter possible changes that may be unfavourable to the country's exports. It can be expected that China in future will actively use its anti-dumping regulations.<sup>6</sup> The use of anti-dumping as a potential retaliatory means against actions from the developed world is becoming a widespread phenomenon in less developed countries. The potential for China to initiate anti-dumping actions against the EU is then in turn likely to translate in a lower number of EU anti-dumping cases against China.

#### IV. CONCLUSION

Our analysis finds that for the largest part, EU anti-dumping protection against China has involved chemical products, followed by mechanical goods (bicycles, ring binders, etc.), and in most cases concluded with duties rather than price-undertakings. China has always received high duties compared to other defendants, with an average duty level across cases of 41 percent. Many Chinese exporting companies accused of dumping were state-owned companies that often did not follow up the Commission's demand for additional information, when asked for it. Regarding the dumping decision, we note that the EU Commission often rejected Chinese requests for market economy treatment. Regarding injury determinations, we note that market share evolutions in the EU and price undercutting are the two factors mostly resulting in injury findings. EU employment effects and capacity utilization seem to play a lesser role in the injury decision.

Another interesting observation that emerges from scrutinizing the 90 EU anti-dumping cases against China during 1979–2000 is the very concentrated nature of the EU industry filing for protection. In the majority of cases, a few EU complaining firms represented well over 50 percent of total EU production. This seems to confirm

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<sup>6</sup> In March 1997, China introduced its own anti-dumping regulation, outside of the WTO. This anti-dumping regulation allowed Chinese firms to take retaliatory action "when foreign countries take discriminatory anti-dumping action against Chinese products". By the end of 2000, Chinese companies had already lodged five anti-dumping investigations under this regulation against exporters from countries in North America, Asia and Europe.

political economy studies suggesting that concentrated industries are more successful when applying for protection than diffused industries.

Over the past two decades, China has been consistently running a trade surplus with the EU, which may have contributed to the large number of EU complaints under the anti-dumping laws. In the future, however, this is likely to change, at least in part, as a result of China's WTO membership. It is expected now that China has become a WTO Member, that its currency will appreciate and this will lower China's exports. WTO membership for China also implies lower tariffs and greater openness and transparency—factors that are all likely to improve the EU's exports to China. The outlook is therefore that European anti-dumping cases against China will fall. Also, China is likely to install its own anti-dumping clause, which was unofficially already in place, even before its accession to WTO membership. Just as we have observed in other countries, we can expect this to have a chilling effect on the number of anti-dumping initiations by the large trade blocs. China's WTO membership is also expected to expedite the country's reforms and market orientation, which is likely to lead to more market economy treatment under EU anti-dumping laws which again will have a lowering effect on the number of positive dumping cases.

#### REFERENCES

- Boardman, A. and Vining, A. (1989), "Ownership And Performance in Competition Environments: A Comparison Of The Performance Of Private, Mixed And State-Owned Enterprise", *Journal of Law and Economics*, 1989.
- Brown, S. (1988), "The People's Republic of China and US Unfair Trade Laws", 22 *Journal of World Trade* 4, pp. 74–94.
- Brown, S. and Deborah, H. (1990), "Centrally Planned Economy Vulnerability to Antidumping Protection", *Comparative Economic Studies*, vol. 32, issue 4.
- Eeckhout, P. (1997) "European Antidumping Law and China", *European Integration online papers*, vol. 11, no. 7.
- Everaert, G. and Vandenbussche, H. (2001), "Does Protection Harden Budget Constraints?", *LICOS Discussion Paper* 8/2001, Catholic University of Leuven (KULeuven), p. 25.
- Hoekman, B. and Holmes, P. (2001), "Competition Policy, Developing Countries and the WTO", *working paper-Fondazione Eni Enrico Mattei*, Italy.
- Huang, T.W. (2002), "The Gathering Storm of Antidumping Enforcement in China", 36 *Journal of World Trade* 2.
- Jacques, B. and Steinert, T. (1991), "Protecting Europe's markets", *China Business Review*, vol. 18, issue 4.
- Kong, Q. (2001), "Enforcement of WTO Agreements in China illusion of reality", 35 *Journal of World Trade* 6.
- Konings, J. (1997), "Competition And Firm Performance in Transition Economics: Evidence From Firm Level Surveys in Slovenia, Hungary and Romania", *CEPR Discussion Paper*, no. 1770, 1997.
- Konings, J., Vandenbussche, H. and Springael, L. (2002), "Import Diversion under European Antidumping Policy", *Journal of Industry, Competition and Trade*, 1:3, pp. 283–299.
- McGee, R.W. (1998), "Antidumping and the People's Republic of China: five case studies", *Working paper 98.2 of the Dumont Institute for Public Policy Research*.

- Tharakan, P.K.M. (ed) (1991), *Policy implications of antidumping measures*, North Holland, p. 292.
- Tharakan, P.K.M. and Waelbroeck, J. (1994), "Antidumping and Countervailing Duty decisions in the E.C. and in the U.S.", *European Economic Review*, 38, pp. 171–193.
- Vandenbussche, H. (1996), "Is European antidumping protection against Central Europe too high?", *Weltwirtschaftliches Archiv/Review of World Economics*, March, vol. 132, pp. 116–138.
- Vermulst, E. and Graafsma, F. (1992), "A decade of European Community Antidumping Law and Practice applicable to imports from China", 26 *Journal of World Trade* 3.