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Anti-Dumping and India: A Temporal and Sectoral Perspective

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Abstract:

Dumping of products by different countries has become quite common in today's globalized world. Tariff cuts have been administered during various rounds of the General Agreement on Tariffs and Trade (GATT). However, some countries started employing Non-Tariff Barriers (NTBs) to trade. It is against this backdrop that Temporary Trade Barriers (TTBs) such as Anti-Dumping duties, Countervailing duties and safeguards assume prominence. This paper is a status report on Anti-Dumping and India on an 'as-is' basis. It seeks to identify the Anti-Dumping initiations and measures taken by India as a reporting member and those taken by other countries when India is an exporting country. This temporal analysis is done for the period 1995-2015. Further, a sectoral analysis of Anti-Dumping initiations and measures for the period 1995-2014 is also dwelt upon. The data for the aforementioned variables has been sourced from the website of World Trade Organization (WTO). The year 1995 is co-terminus with the formation of WTO and the consequent amendment in Indian laws, to bring about conformity with provisions under the former. The top 5 countries/regions in descending order of initiations and measures are elucidated in this study. Also, the impact of sub-prime crisis, on the sectoral and total number of Anti-Dumping initiations and measures by Reporting Member/Exporting country, is explained in this article. Further, the proportion of Indian Anti-Dumping cases, when it was exporter and reporting member, with respect to initiations and measures, is elaborated. There is clear indication of the growing prominence of emerging economies, especially India, with respect to Anti-Dumping.

Keywords: Anti-Dumping, India, WTO, emerging economies

1. Introduction

Dumping is a condition of international price discrimination. The appropriate price in the market of exporting country is known as normal value and such price in that of the importing country is called export price. Dumping occurs when goods are exported at a price less than their normal value, implying that they are exported for less than they are sold in the domestic market or third-country markets, or at less than production cost.

The Agreement on Implementation of Article VI of GATT 1994 is commonly called the Anti-Dumping Agreement. A member of World Trade Organization (WTO) can initiate Anti-Dumping measures on the fulfilment of three conditions, viz., there is dumping; there is material injury to the domestic industry producing like products and there is causal link between dumping and material injury. Anti-dumping duties are equal to the difference between the goods' export price and their normal value, if dumping causes injury. According to WTO, the twin principles of binding a tariff and non-discrimination among trading partners can be violated in the case of Anti-dumping.

In the 1970s and 1980s, the developed economies were frequent users of Anti-dumping actions. However, such legislations in developing countries proliferated since the late 1980s. The Customs Tariff Rules in India were amended in 1985 to deal with the issue of Anti-dumping. However, on account of restrictions on trade and high import duties on products, the above provisions were used sparingly. They were made WTO-compliant in 1995. The Directorate-General of Anti-Dumping and Allied Duties (DGAD), under the Ministry of Commerce and Industry, Government of India (GoI), was constituted in India in 1998 to make investigations and recommend the amount of Anti-dumping duty. The imposition and collection of such duty is done by the Department of Revenue, Ministry of Finance, GoI.

2. Literature Review

Viner (1923) stated that dumping is a problem in international trade. He noted the perceptible change towards cost-reducing type of dumping after 1890, the aim of which is to lower the unit cost through increase in output. More recently, in 2004, Zanardi outlined the evolution of Anti-dumping laws across the globe. He mentioned that Anti-Dumping may, by functioning as a pressure valve, nurture further liberalization of trade. Feinberg (2010) outlined the trends and impact of India's Anti-dumping enforcement. Such petitions as well as safeguard measures have increased. The latter have the potential to target all imports, obviating the requirement of specifying exporters and have broader scope than the former. Vandenbussche and Zanardi (2010) referred to the 'chilling trade effect', i.e., a country's aggregate imports from all trading partners across all commodities get affected by the frequent use of Anti-dumping laws. It

was found that Anti-dumping laws in India significantly dampened trade flows and offset the liberalization-induced increased trade volume.

Tovar (2011) found the tilt of India's Anti-Dumping policy towards China and other developing economies. This was in addition to increase in application of global safeguard investigations during 2008-09, during which there was progress in terms of liberalization of tariff lines. Haddad and Shepherd (2011) observed that the number of products that were exposed to Temporary Trade Barriers (TTBs) increased in the post-crisis period. Many emerging economies such as India saw a great proportion of their exports being subject to TTBs in 2009, by other developing countries.

Rai (2014) elucidated the unjustified criticism of Anti-Dumping. She showed the general susceptibility of domestic industry in India when it took recourse to Anti-Dumping measures. The trade remedy measure of Anti-Dumping can be employed as an instrument by the government in order to maintain control on distortions in the market. Bagchi, Bhattacharyya and Narayanan (2014) described the evolution of Anti-Dumping as a popular 'contingent protection' measure. It generates threat for exporters and eventually results in a win-win situation for foreign as well as domestic companies. Bown and Tovar (2016) found that preferential trade liberalization led to 'stumbling block effect' in MERCOSUR during the period of it being a customs union. This gets bolstered when TTBs such as Anti-Dumping duties are included.

This paper undertakes the study at a macro (country-wise) and meso (sector-wise) levels. The data was sourced from the website of WTO.

3. Data Analysis

Table 1 shows the data for initiations and measures from 1 January 1995 to 31 December 2015.

S. No.	Country/Region	No. of Initiations	No. of Measures
1	China	179	146
2	European Union	57	43
3	Korea, Republic of	57	43
4	Taipei, Chinese	56	44
5	Thailand	42	31

Table 1: Number of Initiations vs Measures with India as Reporting Member
Source: Culled from WTO website

India reported the maximum number of initiations and measures of Anti-dumping against China (179 and 146 respectively) for the period 1995 to 2015. The second slot is occupied by EU and Republic of Korea (57 initiations). Chinese Taipei is the third, with 56 initiations made by India, but second in terms of such measures (44 in number). With reference to the number of Anti-Dumping measures taken by India, EU and Republic of Korea occupy the third place (43 in number), as depicted in Figure 1.

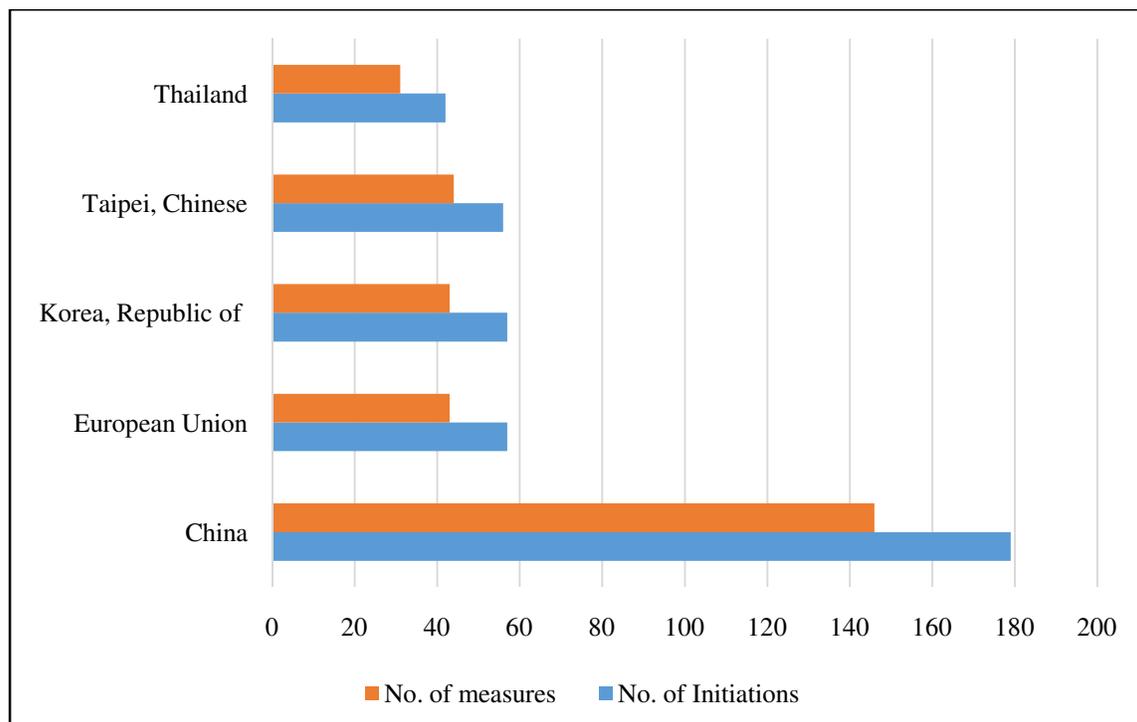


Figure 1: Number of Initiations vs Measures with India as Reporting Member

S. No.	Destination of India's export	No. of Initiations	No. of measures
1	European Union	37	20
2	USA	30	14
3	South Africa	22	12
4	Brazil	18	9
5	Indonesia	15	9

Table 2: Number of Initiations and Measures with India as Exporting Country
Source: Culled from WTO website.

As given in Table 2, when India was exporting country, EU made the maximum number of Anti-Dumping initiations and measures (37 and 20 respectively) for the period 1995 to 2015. EU was closely followed by USA, South Africa and Brazil in descending order, as shown graphically in Figure 2.

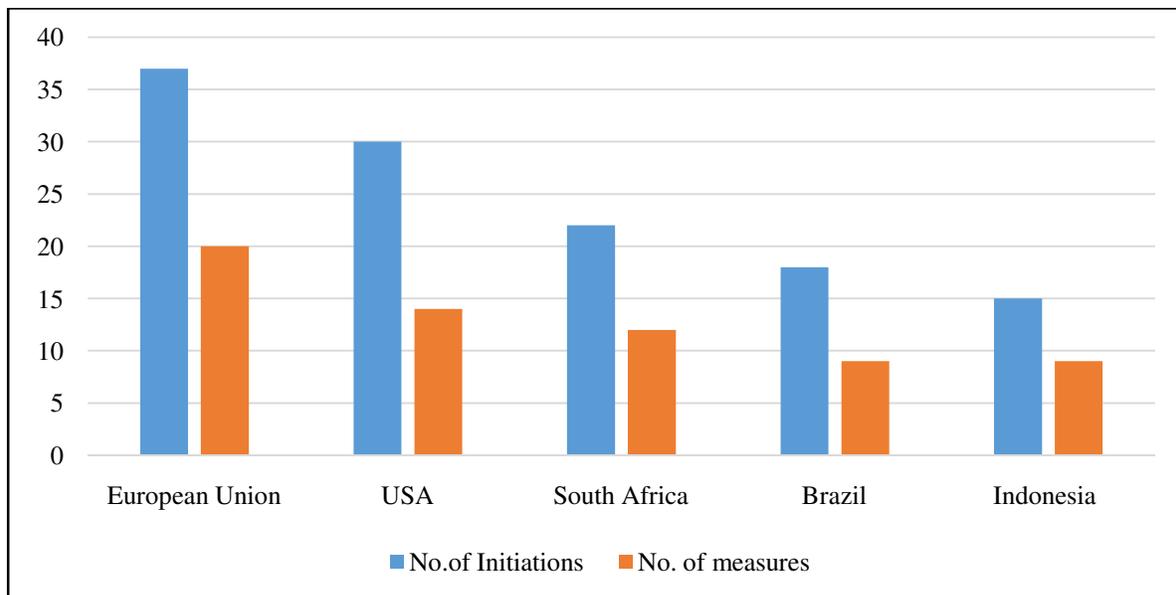


Figure 2: Number of Initiations & Measures with India as Exporting Country

S. No.	Reporting Member	Total
1	India	770
2	United States	569
3	European Union	480
4	Brazil	392
5	Argentina	322

Table 3: Total number of Anti-Dumping Initiations by Reporting Member:
Source: Extracted from WTO website

In terms of the number of Anti-Dumping initiations made by a reporting member, India is at the top of the list with a sum of 770 initiations made for the period of study. USA, EU and Brazil (in descending order) are next in the list, as given in Table 3. The impact of sub-prime crisis on Anti-Dumping initiations made by reporting members is ascertained. In this context, amongst the top 10 countries in terms of Anti-Dumping initiations, USA, Argentina, Australia, China and Canada registered rise in such initiations. This is when one compares the data in 2008 and 2009. The countries/regions which registered a decline in such initiations immediately subsequent to the crisis are India, EU, Brazil and Turkey. In the case of South Africa, the number of such initiations remained the same in 2008 and 2009.

S. No.	Exporting Country	Total
1	China	820
2	Korea, Republic of	225
3	Taipei, Chinese	184
4	United States	169
5	Japan	139

Table 4: Total Number of Anti-Dumping Measures by Exporting Country:
Source: Extracted from WTO website

China tops the list of cumulative number of Anti-Dumping measures by exporter for the time period 1995 to 2015, as shown in Table 4. Republic of Korea is a distant second with 225 as the number of such measures. India stands at eighth slot, with the number of such measures totalling to 116. The global financial crisis had mixed impact on the imposition of such measures. When a comparison is drawn between the measures undertaken in 2008 and 2009, China, Thailand, Indonesia and Brazil registered a marginal increase. On the other hand, Republic of Korea, Chinese Taipei, USA, Japan, India and Russian Federation witnessed decline in such measures immediately after the financial meltdown. In the case of China, such measures declined until 2012 (35), before recording a rise in 2013 (52 in number). It declined again in 2014, but increased in 2015. These measures declined in 2010 (2 measures) in the case of India, but increased from 2013 and 2015. Such measures remained the same in 2011 and 2012.

Sectoral Analysis:

A sectoral analysis is drawn up with respect to the number of Anti-Dumping initiations and measures (Tables 5 and 6 respectively) for the period 1 January 1995 to 31 December 2014.

S. No.	Product group	1995	2014	Total	%
1	Base metals and articles	43	89	1379	28.99
2	Products of chemicals and allied industries	31	53	961	20.20
3	Resins, plastics and articles, rubber and articles	20	45	635	13.35
4	Machinery and electrical equipment	24	17	408	8.58
5	Textiles and articles	1	7	346	7.27
6	Others	38	25	1028	21.61
	Total	157	236	4757	100

Table 5: Anti-Dumping Initiations by sector

Source: Author's calculations based on data extracted from WTO website

The percentage of Anti-Dumping initiations on a sector-wise basis is given in the pie chart (Figure 3).

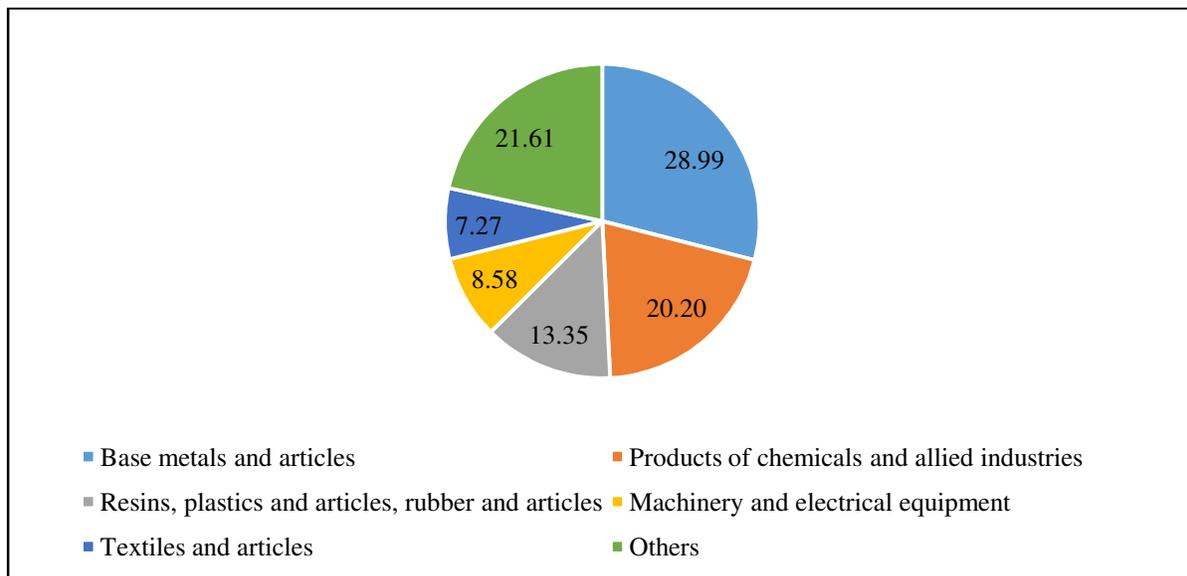


Figure 3: Anti-Dumping initiations by sector

As regards 'Base metals and articles', the number of Anti-Dumping initiations fell after the global crisis, i.e., the number which stood at 70 (2008) fell to 52 (2009) and further down to 43 (2010). They picked up momentum in the subsequent years, before declining again in 2014. Regarding 'chemicals and allied industries', the initiations saw an increase in 2009, when compared to 2008. They were on an undulating terrain before increasing to 53 in 2014. The group of 'resins, plastics and articles, rubber and articles' exhibited a similar pattern. Both the second and third categories of products increased significantly in terms of initiations, as compared to the number in 1995.

The category of 'machinery and electrical equipment' witnessed an increase immediately after the crisis, but declined by a major proportion, before increasing in 2013. The 'textiles and articles' group saw a decline in 2009 from the previous year, but declined significantly in 2014 (7) from the number in previous year (21).

From a temporal perspective, the total number of Anti-Dumping initiations are given below:

Number of Anti-Dumping initiations	1995	2014
Total	157	236

There was only a marginal decline in the total initiations in 2009 (217), when compared to 2008 (218).

S. No.	Product group	1995	2014	Total	%
1	Base metals and articles	49	61	918	30.02
2	Products of chemicals and allied industries	19	31	640	20.93
3	Resins, plastics and articles, rubber and articles	10	21	389	12.72
4	Textiles and articles	4	8	253	8.27
5	Machinery and electrical equipment	9	8	252	8.24
	Others	29	28	606	19.82
	Total	120	157	3058	100

Table 6: Anti-Dumping measures by sector

Source: Author's calculations based on data extracted from WTO website

The measures undertaken by the members of WTO showed a different pattern, as opposed to the number of Anti-Dumping initiations. As per Table 6, while base metals and articles, machinery and electrical equipment, textiles and articles reported an increase in the measures undertaken in 2009, when compared to 2008, the other groups, viz., chemicals and allied products, in addition to resins, plastics, rubber and articles registered a decline immediately after the crisis.

Amongst the top 5 categories, only machinery and electrical equipment declined in 2014, when compared to 1995, though it reached an all-time high of 30 (1998) and was at 27 (2009). The other 4 categories saw a reasonable measure of increase in the period of study. The total number of Anti-Dumping initiations decreased slightly from 218 (2008) to 217 (2009).

From a temporal viewpoint, the data is given as under:

Number of Anti-Dumping measures	1995	2014
Total	120	157

The global financial meltdown in 2008-09 had marginal impact on the number of Anti-Dumping measures as they increased from 142 (2008) to 143 (2009). There were undulations during the time span of 2010 to 2014.

S. No.	Product code	HS Section name	No. of Anti-Dumping initiations	No. of Anti-Dumping measures
1	VI	Products of chemicals and allied industries	327	244
2	VII	Resins, plastics and articles, rubber and articles	101	83
3	XVI	Machinery and electrical equipment	90	57
4	XV	Base metals and articles	89	46
5	XI	Textiles and articles	67	61

Table 7: Anti-Dumping sectoral distribution of Initiations and Measures with India as a Reporting Member:

Legend: HS- Harmonized System

Source: Extracted from WTO website

S. No.	Product Code	HS Section Name	No. of Anti-Dumping initiations	No. of Anti-Dumping measures
1	XV	Base metals and articles	61	30
2	VI	Products of chemicals and allied industries	44	26
3	VII	Resins, plastics and articles, rubber and articles	33	22
4	XI	Textiles and articles	23	14
5	XVI	Machinery and electrical equipment	13	7

Table 8: Anti-Dumping sectoral distribution of Initiations and Measures with India as Exporting Country:

Source: Extracted from WTO website

When India was a reporting member, the products of 'chemicals and allied industries' had the highest number of initiations and measures (Table 7). On the other hand, as an exporting country, India faced the maximum number of Anti-Dumping initiations with respect to 'base metals and articles' category (Table 8).

Total Anti-Dumping initiations		Total Anti-Dumping measures	
India as exporter=192	India as Reporting member=740	India as exporter=109	India as Reporting Member=534
World=4757	World=4757	World=3058	World=3058
%=4.04	%=15.56	%=3.56	%=17.46

Table 9: Proportion of Initiations vs Measures w.r.t. India

Source: Author's calculations based on data from WTO website

It can be seen from the Table 9 that the proportion of India is high in terms of both initiations and measures when it is a reporting member. On the other hand, when it is an exporter, the proportion is close to a minimal 4%.

4. Findings and Conclusion

India reported the maximum number of Anti-Dumping initiations and measures against China. The highest number of such initiations and measures were made by European Union against India, when the latter was an exporter. India made the maximum number of Anti-Dumping initiations as a Reporting Member of WTO. India witnessed a large decline in the number of such initiations and measures in the immediate period after the global crisis in 2009. However, the global trading order, under the auspices of WTO, was resilient in the face of the sub-prime crisis. This was proved by the marginal change in the total number of Anti-Dumping initiations and measures, on a global scale in 2009, as compared to those in 2008. However, at a global level, there was a significant decline in initiations and measures in 2010 and 2011, before increasing in 2012. This implies the probable impact of the crisis with a lag. This is in spite of the wide and varied patterns exhibited by countries and sectors before and after the crisis. The protectionist tendencies induced by the global crisis are affected by nations resorting to sunset reviews and safeguards, in addition to WTO's Dispute Settlement Mechanism.

As regards sectoral analysis, the product group of 'base metals and articles' recorded the maximum number of Anti-Dumping initiations as well as measures. The substantial increase in the aggregate number of such initiations and measures over the period of study is indicative of the fact that a lot more of such dealings are being undertaken after the advent of WTO in 1995. In the case of India being a reporting member, the product group of 'chemicals and allied industries' occupied the top slot with India initiating the maximum number of cases. When India was exporter, the product group of 'base metals and articles' faced the maximum number of Anti-Dumping initiations. When India is a reporting member, the percentage of Anti-Dumping initiations and measures taken is much higher than what it had to face as an exporter. In 2016, India initiated Anti-Dumping cases regarding steel imports from China, Japan and South Korea, among others.

China faced the maximum number of Anti-Dumping measures as an exporting country. Thus, the application of WTO-permitted TTBs, such as Anti-Dumping, are becoming increasingly positioned around developing economies. This brings to light the enhanced standing of Emerging Market Economies (EMEs) in the current multi-polar world order. The South-South trade has the potential for improvement and the grouping of Brazil, Russian Federation, India, China and South Africa (BRICS) is a case in point. Efforts are to be made to iron out trade barriers across the board, in order to herald the development of 'export-led growth version 2.0 model'. The Globalized Production Networks (GPNs), which got fused as a result of the crisis, can morph into cross-border value chains. This can be expedited by Regional Trade Agreements (RTAs) being undertaken by developed and developing countries alike.

5. Scope for Future Research

Though Anti-dumping is the primary TTB employed by India, other forms such as countervailing duty (CVD) and safeguards need to be examined in greater detail. Furthermore, the impact of Anti-Dumping on competition and quantum of India's exports and imports; the removal of tariff restrictions as well as the right to take Anti-Dumping actions in the case of framework of a Free Trade Agreement can also be taken up for further research. As this study covers the macro and meso levels, the micro-level case studies, regarding Anti-Dumping, on India's shrimp exports and steel imports, are some of the extensions that provide food for thought in future research.

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