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The 112th Congress Should Tackle Antidumping Reform

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The U.S. antidumping law still enjoys broad bipartisan support in Congress and within pockets of the executive branch. Although some of that support can be chalked up to politicians representing the narrow interests of influential constituencies that have mastered the use of antidumping as a bludgeon to cripple the competition, much more support stems from a fundamental misunderstanding of the purpose, history, mechanics, and consequences of the law.

Too many policymakers passively accept the anachronistic rationalizations proffered by the steel industry, labor unions, other big antidumping users, and their hired guns in Washington. Too many buy into the idealized imagery of a patriotic, upstanding American producer working tirelessly to ensure the preservation of well-paying jobs for hard-

working Americans, but is suffering the ravages of unscrupulous, predatory foreign traders intent on destroying U.S. firms and monopolizing the U.S. market. What politician could oppose a law presumed to protect that kind of a company against that kind of a scourge?

But when the curtain is peeled back, exposing the reality of the operation of the U.S. antidumping law, one discerns a very different reality. Antidumping measures always raise the costs of firms in downstream industries that rely on the affected imports. The law routinely claims domestic firms as victims. The law is often used as a tool by domestic firms waging battle for supremacy over other domestic firms. Sometimes foreign-owned firms are the petitioners and U.S-owned firms are the respondents. Rarely does the law lead to job creation or job restoration in the domestic industry. And never is the allegation of "unfair trade" substantiated, or even investigated. Myth and misinformation explain the persistence of the U.S. antidumping regime.

Over the next few months, the Cato Institute's Center for Trade Policy Studies will shine the spotlight on U.S. antidumping policy and update its large body of research on the subject by publishing some new papers and hosting discussions about the prospects for meaningful antidumping reform. The new Congress should pay attention. After all, if renewed talk about completing the Doha Round in 2011 is to become action, so must antidumping reform.

The first of those studies is now available on the Cato home page. That paper describes the evolution of U.S. antidumping policy from an obscure offshoot of competition law into the predominant instrument of contingent protection that it is today and provides an account of some of the crucial statutory and administrative changes that have occurred over the decades. Its purpose is to demonstrate that the increase in antidumping activity reflects several developments that have nothing to do with foreign behavior whatsoever, including a progressive expansion of the definition of dumping, relaxation of evidentiary standards, and a pro-domestic-industry bias in the law's administration at the U.S. Department of Commerce. The arcane mix of statutory rules and discretionary whimsy that emerged as contemporary antidumping policy is a far cry from the first antidumping law—in practice and intent. Today, antidumping is little more than an elaborate excuse for run-of-the-mill protectionism. And overwhelmingly, U.S. businesses and consumers are its victims.

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