

INSTITUTIONS OF TRADE DEFENSE IN MERCOSUR: THE CASE OF ARGENTINA'S ANTIDUMPING PRACTICE¹

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1. INTRODUCTION

In the period before the Ouro Preto Agreement (1988/94), despite frequent changes, there was an economic policy decision in Argentina, Brazil, Paraguay and Uruguay oriented to trade liberalization. This started as unilateral liberalization, followed in mid-1991 by preferential liberalization within MERCOSUR, following the signature of the Asunción Treaty in March 1991, which provided reciprocal access to the markets of the partner countries. This agreement was designed to complement unilateral liberalization and to have the benefit of reciprocity, but, as it is well known, it had the danger of trade diversion.

Starting in 1995 the Ouro Preto Agreement added several instruments aimed at perfecting the trade union, some of them announced in March 1991. It was about free trade within the region and a common trade policy with third countries. A Common trade policy is the combination of a Common External Tariff (CET), Tariff revenue distribution criteria, Classification of goods and Valuation of goods at Customs, Concession of Common preferences to third countries and Common special import regimes as well as Common instruments of antidumping, export subsidies and safeguards.

Section 2 presents the main elements of the transition towards a Common External Tariff in MERCOSUR, followed in section 3 by a discussion about the Institutions of trade defense in MERCOSUR, both from the countries' perspective. In section 4 a case study of the Argentine antidumping practice is made, analyzing the normative framework, the product, country and trade dimensions of the antidumping resolutions enacted for the period 1997/2004, and their macroeconomic and industrial organization determinants in the context of econometric estimations. Then in section 5 the final remarks are provided.

2. THE COMMON EXTERNAL TARIFF IN MERCOSUR³

The process of constructing the Common External Tariff (CET) started in Ouro Preto, where an important amount of the tariff items was harmonized, as done before in the Asunción Treaty, admitting flexibility in the more conflictive aspects of the process. This implied the existence of 4 lists of exceptions to the CET, each one with a different elimination

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³ Based on Berlinski (2006, 2004 and 2001), Berlinski and Kume (2006), Berlinski et al (2006).

mechanism. The first included products which were before in the so-called "Régimen de Adecuación", the second included the National lists of specific exceptions, the third and fourth were the sectoral lists of Capital Goods and of Informatic and Telecommunication goods.

Argentina

In 1994 the Common External Tariff was negotiated in MERCOSUR. The lists of exceptions to the CET of Argentina had the following characteristics: an increasing convergence of Capital Goods to 14% in 2001, and of Informatics and Telecommunications, to 16% in 2006; the National list of exceptions (300 items) included mainly Chemical and Petrochemical products (increasing convergence), Metal products (decreasing convergence), Paper and Footwear products. The "Régimen de adecuación" included an intra-zone exception list of the Asunción Treaty not removed, the extra-zone list corresponded to goods with higher regional tariffs vis-à-vis those for the rest of the world.

In August 1996 the tariff on Capital Goods was increased to 14% and the rebates to the domestic industry were suspended. Since then and up to the first quarter of 2001 the important changes in the tariff structure were related, basically, with the CET exceptions. Thus, in 2000 the tariff average of Argentina was 13.8% with a 50% dispersion⁴, the latter being higher for Fuels, due to the fact that 77% of their items had zero tariffs. In March 2001, with the introduction of the Competitiveness Plans, the tariffs of a subset of Consumer Goods were increased to 35%, and a reduction to 0% in Capital Goods took place⁵, with a rebate to their domestic production. In 2002, after the devaluation of the currency,⁶ the number of items with zero tariffs doubled as compared with those in 2001, leading to a reduction of tariff averages, especially in Consumer and Intermediate Goods. The dispersion of the tariff structure, increased since 2001, as compared with the corresponding measure for the period 1996/2000. In 2004 the average rate was 9.8% with a dispersion of 72%.

Brazil

After the implementation of the "Plan Real" in July 1994 trade opening was intensified, owing to the need to impose greater discipline in domestic prices of importable products. In this context, several tariff reductions were anticipated, related to the implementation of the CET. In March 1995 the government increased the tariffs of around 109 Durable Consumer Goods, and reduced tariffs of around 150 Basic Inputs, in order to put pressure on domestic prices. In November 1997, in connection with the international financial

⁴ Measured as the ratio between the standard deviation and the average rate.

⁵ The benefits of zero tariffs for Capital Goods and the exception of the Statistics rate were still in force by the end of 2005, then postponed to 2007.

⁶ The nominal exchange rate increased from one to one to the US dollar, to around three pesos to one dollar. It was a "compensated" devaluation, reducing tariff rates and imposing export taxes, which increased the bias against exports.

crisis, the government increased the tariff rates temporarily by 3 percentage points⁷. This increase was eliminated with future yearly reductions of 0,5%.

In January 1999, a flexible exchange rate regime was adopted, allowing for a more stable import policy. At the end of year 2000, the tariff on Capital Goods converged to the CET and the list of exceptions covering those goods was eliminated. In its turn, the National List of exceptions was postponed to 2002, and then again postponed. The tariff structure in the year 2000 shows an average rate of 14.2% with a dispersion of 49%. But, within that average we find in Automobiles a rate of 24.2%, Consumer Goods 17.9%, Intermediate Goods 12% and Fuels 5%.

Paraguay

In the 90s, parallel to the introduction of economic reforms, the change in trade policy increased the openness of the economy, doubling the level of the 80s. But this could be attributed, at least in part, to a substantial improvement in trade registrations⁸. During the introduction of the CET and the years after 1995, tariff rates were reduced significantly. In that period, the average rates did not show important changes and since 1995 they were around 10%, with a reduction in the coefficient of dispersion since year 2000.

Regarding the insertion of Paraguay in MERCOSUR, the increase in the tariff levels related to the adoption of the CET implied trade diversion, due to the fact that the supply of manufacturing goods was done at higher prices than those traded before with third countries. At the same time, free trade within the region implied, for the domestic industry of Paraguay, the need to face competition of regional products. Thus, from early 2001 to the end of 2003, the government applied a surcharge of 10% at the value of imported products from MERCOSUR and Rest of the World. The goods included under that regime were, basically, those included in the eliminated “Régimen de Adecuación” based on the need to compensate the imbalance in trade flows related to the Brazilian devaluation.

Uruguay

The List of exceptions to the CET of 300 items was implemented with the highest tariff rate set at 32%, at the same time the List of the “Régimen de Adecuación” had exceptions to free trade of around 950 items, with a highest rate of 30%. The latter included products in the list of the Liberalization Program (second part of 1994); additional products not included in that list or removed from it, and products with minimum export prices transformed into tariff rates with a higher level of 30%. Among the goods subject to minimum import prices were: Textile products, Tires, Workbooks and paper for checks

⁷This measure had the support of the Argentine government, by allowing the substitution of the Statistics tax (3%) on imports.

⁸ The averages regarding under-registration were: of exports 19%, and of imports 35%.

(with tariff rates of 30%); Refrigerators (with tariffs of 28%); and other types of products (with tariffs of 26%).⁹

Regarding the 1997 decision to increase the CET with 3 percentage points, Uruguay exempted from that increase the Special import regimes for Industry and Agriculture, the regime of Capital Goods, and the List of exceptions from the CET of 300 products. Also, this increase was not applied to a list of a limited number of products. The Tariff Applied in 2000 indicated an average of 12% with a dispersion of 60%, but this average did not represent all the components. In 2001, the measure taken by Argentina of reducing to 0% tariffs some subsets of Capital Goods, was also applied here. In April of 2002, due to the distortion in relative prices existing in the region, specific tariffs were imposed until the end of this year on various subsets of items, including intra-block trade. The regime was postponed on several occasions, the last one in 2003, with some modifications and a more limited extent.

Further remarks

The political economy problems involved showed the difficulties of constructing a Common External Tariff. However, the governments considered the establishment of the CET and a convergence program to be important. The flexibility of the governments in the implementation of the CET implied discretionary deviation vis-à-vis the agreement, leading to lack of transparency. The disagreement of Paraguay and Uruguay with the structure of the CET induced the creation of a High Level Group in order to analyze the consistency and dispersion of the CET. During some years a process of very gradual reductions of the CET was taking place, by increasing the frequency of items with zero tariff rates. However, in 2007 a new reversion took place increasing the tariff rates of 3 sectors (Footwear, Apparel and Textiles) to the level consolidated in the World Trade Organization. This increase was not applied in the same way by all the countries, thus another source of deviations took place, relative to the common trade policy.

The Rules of Origin are applied in cases where no compliance to the CET is verified, either due to the convergence program or to the application of different commercial policies. But the normative allowed for the possibility of applying the origin requirements to the tariff universe, a practice adopted by all the Customs, and extended for the intra-regional trade until 2010. In addition, the way in which the Rules of Origin were implemented and the lack of coordination efforts among Customs resulted in restrictions to intra-regional trade. The changes proposed in “Decisiones” 54/04 and 37/05 of the “Consejo del Mercado Común” imply a trajectory for the reduction of the negative effects of the Rules of Origin, and at the same time avoid the opportunistic behavior resulting from different national trade policies. They also constitute a useful instrument for the common negotiation with third parties, by allowing common preferences of 100% (zero residual tariffs) to have since 2006, the quality of goods in free practice (free circulation) according to the definitions of the “Decisiones” mentioned.

⁹Another important subject in the regional negotiations concerned the bilateral agreements signed prior to the MERCOSUR agreement, CAUCE with Argentina and PEC with Brazil.

3. INSTITUTIONS OF TRADE DEFENSE IN MERCOSUR¹⁰

The CET of MERCOSUR was implemented in 1995 with exceptions, but up to now, except for Safeguards, the application of the instruments of trade defense was not harmonized, then every country maintains its autonomy in the administration of the antidumping and antisubsidy instruments. Thus, when they are applied on imports of third countries, it implies non-compliance with the CET, and when it concerns the imports of the regional countries it is equivalent to a restriction affecting the free circulation of goods within the region.

Argentina

In the last few years, Argentina has become one of the very active countries in the applications of the instruments of trade defense, using them very intensively. If we take into account the value of imports involved, Brazil has become one of the most affected countries by those antidumping measures, followed by China, Korea and Ukraine. In turn, the actions are concentrated in two industries: Basic Metals, Machinery and Electrical Equipment, which represented around half of the investigations started, and also, those activities concentrate a large part of actions in the international context.

The estimation of the average rate corresponding to 136 applications of antidumping tariffs¹¹, show that the adjusted ad valorem equivalents were 94% with a high standard deviation, and for the rates without adjustment the figure was 14% and a dispersion of 86%. In the industries of Iron and Steel (with 62 observations) the adjusted average was 56% and the dispersion 90%, while the average without adjustment was 8% with similar dispersion. In instruments compensating export subsidies the actions were concentrated on Elaboration and Conservation of Fruits, Oils and Wheat mill. The larger difference between adjusted and not adjusted averages corresponded to Oils, where the first was 50% as compared with 13% without adjustment. Regarding safeguard actions, the larger number of observations corresponded to Footwear and their inputs, with an adjusted ad valorem rate of 80% compared with a 50% for the non adjusted rate due to their specific tariffs.

Brazil

In early 1995, a new antidumping code was implemented, following along general lines the normative approved in the Uruguay Round of the World Trade Organization. Regarding safeguard measures, Brazil implemented its first legislation in 1995. The demand for protection through measures of trade defense was intensified with tariff reductions which started in February 1991 and concluded earlier in July 1993. In the first year of tariff dismantling, 13 investigations were opened, 8 in the next year and 27 in 1993. The number has been reduced since 1994.

¹⁰ Based on Berlinski et al (2006).

¹¹ In force in April 2003.

The concentration of actions regarding antidumping is high as compared with anti-subsidy or safeguards actions. The revisions of antidumping started in 1997, concerning 35 actions; in the period 1996/1999, with the exception of 1997, the number of actions increased with a high level of 27 in 1999. This result could be explained by the appreciation of the exchange rate taking place in the second semester of 1994 with the start of the "Plan Real", and remained during that period. In year 2000, with a new regime of flexible exchange rates, the number of antidumping actions was substantially reduced; if the revision actions are excluded the trend would be clearer. In the distribution of products, according to type of good, subject to antidumping tariffs and safeguard measures in the year 2000, the share of Intermediate Goods is important, such as Iron and Steel Industries, Metallurgy and Non-Metallic Minerals, which represented 61% of total products under antidumping action; while the safeguards measures are applied, basically, to Consumer Goods.

Paraguay

Paraguay, as a member of the World Trade Organization introduced in its legislation the normative related to the Antidumping, Export subsidies and Safeguards of the Uruguay Round. Those mechanisms were practically not used, due basically to lack of information among national producers, regarding the instruments of commercial defense and about the institutions which should have the responsibility of making those investigations. In fact, two cases of dumping were registered, and a third case with a resolution completed, which was never applied. The three cases were Insecticides, Cement and Iron bars.

Uruguay

The existing normative regarding antidumping corresponded to 1996 and the Decree adds to the agreement the procedural aspects for the application of the multilateral normative to the country. The norms regarding the application of safeguards are from 1999, taking into account aspects of the procedures. Regarding subsidized imports, no regulation was passed. The authorities started only 4 investigations under the presumption of dumping, corresponding to extra-regional imports and no antidumping tariffs were applied in any, having established price agreements in 2 of them. In the context of MERCOSUR, 3 antidumping investigations were made, corresponding to Edible Oils originated in Argentina, the antidumping tariffs on those imports are still in force. No investigation regarding safeguards was started.

Further remarks

The application of instruments regarding trade defense in intra-region as well as extra-region trade generates exceptions to the free circulation of goods within the region and deviations vis-à-vis the common trade policy towards third countries. In the context of MERCOSUR, work was done regarding the elaboration of a common normative which regulates the commercial defense disciplines of the World Trade Organization. Up to now, the only approved instrument in MERCOSUR refers to the Safeguards Regulation. The main reason to explain its approval is that its intra-region imposition is not allowed.

Moreover, the harmonization of antidumping and antisubsidy actions faced the willingness of MERCOSUR countries to continue using antidumping legislation, to protect the domestic industry from trade partners' competing imports, and also that a common instrument would increase the requirements during the process of investigation and imposition of those barriers. Furthermore, in this context, another initiative of progressively increasing the requirements to impose antidumping and compensatory tariffs in regional trade was not approved. About the application of the normative on trade defense, Brazil and mainly Argentina, were among the countries in the World using those instruments intensely. In both cases, the relative importance of Safeguards is small, and the antidumping measures are the most important compared with compensatory measures.

4. THE CASE OF ARGENTINA'S ANTIDUMPING PRACTICE (1997-2004)

The objective of this section is to analyze the process of trade defense in Argentina with special reference to antidumping practices. For that purpose, first a discussion of the evolution of the normative framework was done; later on, a data base was built on several dimensions of the antidumping resolutions signed between 1997 and 2004, taking into account, among others: type of product, country of origin, month of year, sector of domestic supply, trade implication. Finally, an econometric estimation was made, where the dependent variable was the number of resolutions enacted in the period under analysis as a function of macroeconomic and industrial organization variables.

4.1 The normative framework¹²

The Argentine legislation concerning instruments of trade defense against disloyal practices follows today the multilateral framework agreed upon in the Uruguay Round. In the early 90s, in spite of being a member of GATT, Argentina did not adopt the Round of Tokyo Agreement related to the Antidumping and Subsidies Code. Trade openness of early 90s showed the limitation of the existing normative framework to face the effects of dumping and export subsidies.

In 1991 Argentina and the USA signed a bilateral agreement according to which Argentina agreed not to subsidize exports, and the USA compromised to apply the proof of damage in their investigations. This was because during the 80s, the USA frequently applied compensatory measures, and several manufacturing exports of Argentina received subsidies.

In Argentina, up to the 90s, when a case of dumping needed to be initiated, the Domestic Customs Code was used, but this legislation was not related to the multilateral disciplines and was resisted by the trade partners¹³. The legislation mentioned assumed the existence of damage to a domestic production in the cases where the dumping margin was higher

¹² Based on Nogues (2000).

¹³ See articles 687 and 723 of Law 22.415 of March 1981.

than 15%. Also, limited experience in its implementation and no specialized institutions existed. In this context it was difficult to face the problems related to the trade openness program.

A Resolution of the former “Secretary of Industry and Commerce” established norms for the initiation of an investigation of a case where damage to a domestic activity by imports at dumping or subsidized prices was perceived¹⁴. In 1992, Law 24.176 approved the Agreement related to the application of article VI of GATT (Antidumping agreement) and the Agreement related to the interpretation and application of GATT’s articles VI, XVI and XXIII (Agreement on subsidies and compensatory measures). Later on, the Decree 2121 of 1994 established the regulations and implementation rules to be applied to those agreements. That decree took into account the new rules of the Uruguay Round, and also included regulations for the investigation procedure just mentioned.

The different steps of the practice were centralized in the “Undersecretary of Foreign Trade” of the Ministry of the Economy, such as: the applications received, the investigations made of dumping margins and damages to domestic production, and the advise to the Ministry about the measures to be applied. Compared with procedures followed in some developed countries, this “Undersecretary” had excessive responsibilities. For this purpose the government established a new institution, the “National Commission of Foreign Trade”, as a specialized agency regarding international competitiveness. Among its specific functions were the investigations of damage in cases of dumping and export subsidies¹⁵. Thus, the setup of this “Commission” was the base for dividing the investigation procedures: the estimation of the dumping (subsidy) margin would be made by the “Undersecretary”, while the damage evaluation would be made by the new “Commission”.

In 1995, the Congress passed Law 24.425, related to the outcome of the Uruguay Round. In this way those regulations were included in the domestic legislation and replaced the existing rules regarding Antidumping and Subsidies Codes. Decree 1326 of 1998, provided the specific regulations, complemented by Resolutions of the “Secretary of Industry, Trade and Mining” referred to specific aspects (Resolutions 224 and 826 of 1999).

4.2 Resolutions enacted, products and countries involved¹⁶

The number of antidumping resolutions enacted in the period 1997/2004 was 143, corresponding to 80% of the total resolutions of trade defense. Their evolution was from

¹⁴ See Resolution 349 of 1991.

¹⁵ Decree 766 of 1994 established the “National Commission of Foreign Trade” depending on the Ministry of the Economy. This was an important institutional innovation for the study of the damage to domestic activities in the legislation against disloyal trade practices, but it was not a right move looking for greater independence of criteria in the evaluations made by the “Commission”. That independence is not only related to the institutional hierarchy mentioned, but also to the present lack of access of the general public to the investigations.

¹⁶ Based on Berlinski 2008.

a level of 18 cases in year 1997 to 26 in 2001 and 34 in 2002, with a substantial reduction in year 2004 of only 8, and a strong concentration in the 2nd and 4^h quarters. It is surprising that in 2002, the year of a substantial change in the exchange rate (from 1 to around 3 pesos to the US dollar), the number of resolutions enacted were the highest in the period analyzed. Also, that the possibility anticipated in Decree 1326 of 1998, of evaluating other circumstances regarding foreign trade and the public interest, when recommending antidumping measures, was not applied.

This high frequency of resolutions enacted in 2002 suggested a priori that following the steps of the legal process may not coincide with the economic opportunity of the signed resolutions. The case is important, because the long period between Requesting the initiation of an investigation and its Final determination might allow the suspension of Provisional measures, in cases where the economic context changed. This would require a close follow-up of the several cases in process, and if a change in the economic context takes place, an analysis should be made of the implications of suspending or cancelling the investigation.

In only 16 products, 76 antidumping resolutions were found (Table 1): Steel handsaws with 13 Resolutions; Rolled iron and steel, 11; Helicoidal drills, 9; with 4 Resolutions for each product: Polystyrene trays, Glass wool, Tires for bicycles, PolyVinylChloride; and with 3 Resolutions: Plumbing accessories, Air conditioning, Bicycles, Playing cards, Paper and cardboard stuccoed, Wooden anatomic hangers, Bicycle and motorcycle spokes, Radial bearings, Thermos bottles; i.e. there is a high concentration of resolutions and products, about half the number of resolutions corresponded to only 16 of the 60 products involved in the period under analysis.

Table 1. Argentina. Antidumping Resolutions enacted by type of good (1997-2004).

Product	1997	1998	1999	2000	2001	2002	2003	2004	Total
Steel handsaws	2	1	3	3	1	1	1	1	13
Rolled iron and steel			2		3	3	2	1	11
Helicoidal drills		1		3	1	2	1	1	9
Polystyrene trays	1			1	2				4
Glass wool					1	2	1		4
Tires for bicycles						2	2		4
PolyVinyl Chloride			1	1			1	1	4
Plumbing accessories	1		1	1					3
Air conditioning						2	1		3
Bicycles	1			1		1			3
Playing cards		1				2			3
Paper and cardboard stuccoed		1	1	1					3
Wooden anatomic hangers				1		1	1		3
Bicycle and motorcycle spokes		1		1	1				3
Radial bearings						2		1	3
Thermos bottles					2			1	3
Sub-total	5	5	8	13	11	18	10	6	76
Rest	13	7	5	6	15	16	3	2	67
Total	18	12	13	19	26	34	13	8	143

Source: Own estimates.

The evidence mentioned of the high frequency of antidumping resolutions in a year where an important change in the exchange rate took place requires further elaboration. The specific products with resolutions signed in 2002 could also be seen in Table 1 where 10 products corresponded to 18 resolutions. The higher number of resolutions corresponded to Rolled iron and steel (3); followed with 2 resolutions by: Air conditioning, Helicoidal drills, Glass wool, Playing cards, Tires for bicycles, Bicycle and motorcycle spokes, Radial bearings; and with one resolution: Steel handsaws, Bicycles and Wooden anatomic hangers. Also, in most of the countries involved in several resolutions, a peak in the number of resolutions-countries is found in year 2002 (Table 2). But, in order to have a better understanding of this finding, one would require access to the official evaluation, which is restricted to the general public.

Regarding the inclusion of the country effects of antidumping resolutions, the implicit increase in the number of them is 52%; this is a relevant rate since in the case of antidumping it is applied to individual countries, compared with safeguards which are applied to imports from all sources. In 1997 the level of resolutions-countries was 23, increasing to 39 in 2001, and of 55 in 2002.

Table 2 presents a list of several of the countries against which 3 or more antidumping resolutions were imposed in the period 1997/2004. For them, up to 10 resolutions, 6 countries corresponded to a total of 142 resolutions-countries, which compared with a total of 217 implied a ratio of 65%.

Table 2. Argentina. Countries involved in antidumping resolutions (1997-2004)

Country	1997	1998	1999	2000	2001	2002	2003	2004	Total
China	10	6	2	7	5	15	8	6	59
Brazil	6	2	6	3	6	7	2	1	33
Taiwan	3	2	1	4	1	3	2		16
South-Africa	1				5	5	2		13
Korea		1		3	1	4	2		11
USA		1	1	1		5	1	1	10
Chile				1	5	1			7
Italy	1	1	1	1	1	1			6
Mexico			1	2	1		1	1	6
Ukraine			2			1	1	1	5
Spain				2	2	1			5
Russia			2		1			1	4
Kazakhstan					1	2	1		4
Turkey					3	1			4
Japan					2	1			3
Sweden		1	1	1					3
Czech Republic					2	1			3
Sub-total	21	14	17	25	36	48	20	11	192
Rest	2	3	2	2	3	7	6	0	25
Total	23	17	19	27	39	55	26	11	217

Source: Own estimates.

The countries involved in such a high number of resolutions were: China, 59; Brazil, 33, Taiwan, 16; South-Africa, 13; Korea, 11; and the USA, 10. The inclusion of 11 additional countries (between 3 and 7 resolutions-countries) increased the number to a sub-total of 192 (88% of the total).

In the determination of antidumping measures, Argentina has adopted the principle of “lesser duty” (Decreets 766 of 1994 and 1326 of 1998). This means that it will impose the least compensatory tax between the dumping margin and the rate needed to eliminate the damage to domestic production. In estimations by Nogués and Baracat (2005), that criterion was followed in around 20% of the cases. For this reason, it was of interest to evaluate the trade magnitudes involved.

In Table 3, the incidence of remaining import flows was estimated, corresponding to the items (8 digits) of the Common Nomenclature of MERCOSUR (CNM), with antidumping measures included in each resolution, as follows: i) first, values of imports by country of origin where antidumping measures were applied (remaining trade); ii) second, total values of imports of the items of the CNM corresponding to antidumping resolutions; and (iii), the ratio between the values of trade remained and total trade was estimated. In all cases a division was made between the items where a price agreement was reached and those that did not, the hypothesis being that the combination of “lesser duty” and price agreements should result in a lower restrictive effect of the corresponding imports.

Table 3. Argentina. Trade flows affected by antidumping resolutions (1997-2004).

	1997	1998	1999	2000	2001	2002	2003	2004
i). Remaining trade (US\$ millions)								
Antidumping and price agreements	135.4	185.6	128.7	117.7	109.3	24.0	45.7	88.7
Antidumping	343.4	362.4	331.4	302.0	262.5	38.6	79.7	102.6
Totals	478.8	548.0	460.1	419.7	371.7	62.7	125.4	191.3
ii). Total trade (US\$ millions)								
Antidumping and price agreements	205.1	316.7	213.8	161.9	173.6	60.9	83.1	152.1
Antidumping	889.2	892.3	819.2	771.6	625.3	115.8	233.7	338.3
Totals	1094.3	1209.0	1033.0	933.6	798.8	176.7	316.8	490.5
iii). Ratio between Remaining trade and Total trade (in percentage)								
Antidumping and price agreements	66.0	58.6	60.2	72.7	63.0	39.5	55.0	58.3
Antidumping	38.6	40.6	40.4	39.1	42.0	33.3	34.1	30.3
Totals	43.8	45.3	44.5	45.0	46.5	35.5	39.6	39.0

Source: Own estimates.

The highest value of imports related to antidumping resolutions with price agreement was of 185.6 US\$ million in 1998, the lowest was in 2002 with US\$ 24 million, related to the

devaluation of that year, and a more normal value corresponding to 2004 of US\$ 88.7 million. While imports having plain antidumping had in 1998 a level of US\$ 362.4 million, drastically reduced in 2002 to US\$ 38.6 million, and recovering to US\$ 102.6 in 2004. If those magnitudes are compared with the values of total imports for the same CNM items, in the case with price agreements, they were 316.7 US\$ million in 1998, followed by US\$ 60.9 million in 2002, and US\$ 152.1 million in 2004; the highest values of the antidumping cases not subject to price agreements were in 1998 US\$ 892.3 million, US\$ 115.8 million in 2002, and of US\$ 338.3 million in 2004.

The outcome was that in the first group, the relative importance of remaining trade was higher than in the second group. It was in the first 58.6% en 1998, 39.5% in 2002 and 58.3% en el 2004; in its turn, in the second group, it was 40.6% en 1998, compared with 33.3% in 2002 and 30.3 in year 2004. In the cases with price agreements the ratios of 1998 were recovered in 2004, while in the cases without such agreements the trade restriction was higher.

At the product level the dispersion (standard deviation/average) of the ratio between remaining and total trade is lower in the sub-group with price agreements (10 products), compared with the other sub-group (50 products). This is so in each of the years mentioned earlier, so the dispersion coefficients corresponding to both sub-groups were respectively: 33.5%/73.2% in 1998, of 62.0%/95.3% in 2002, and of 60.3%/97.8% in 2004. Thus, before the devaluation, the dispersion of the ratios of trade remaining after the antidumping measures with price agreements was about half the dispersion of the other, while in the following years the dispersion of the first is higher in absolute and relative terms.

The a priori expectation was that the trade restriction effects would be important given the high ad valorem equivalents of the antidumping measures.¹⁷ This suggested several questions for further research: i) did the cases with antidumping and price agreements correspond to related firms?, ii) were those imports deviations of the countries of origin identified in the resolutions?, iii) did local importers pay the antidumping duty when local production was unable to meet the demand, or did they manage to get an exception?, iv) were importers the corresponding domestic producers, since they know the market and have established distribution networks?. Answering some of those questions requires specific case studies or having access to official information regarding the data base of the different resolutions.

4.3 Determinants of the number of antidumping resolutions enacted (1997-2004)

The legal process between Opening the antidumping investigation, establishing Provisional measures, and Final determination is long. From the analysis of the Decrees 2121 of 1994 and 1326 of 1998 it is difficult to establish the total time evolved in the procedure; this is due to the heterogeneity of the different terms required in each step. The analysis of the procedure set by the Decree 1326 of 1998, indicates that taking into account the stages and deadlines, the total time involved is around 500 days ($\pm 5\%$), and

¹⁷ See estimates mentioned in section 3 for Argentina.

of 200 days between the resolutions of Provisional measures and Final determinations, i.e. more than 2 quarters¹⁸.

In this section several models were estimated of the interaction between the number of those resolutions and of several determinants. The literature revised (Irwin 2005, Knetter and Prusa 2003, Francois and Niels 2004)¹⁹ mainly analyzed the determinants of the petitions for an investigation, but, in our case, the long period evolved between such request and the final resolution was the motivation for using the number of signed resolutions with positive results as the dependent variable. Several macroeconomic determinants were used (Manufacturing GDP, Real Exchange Rate, Unemployment rate). Other variables used in the regressions represented pressure groups, like trade unions (Wages/sectoral GDP), or the influence of the firms, either their size (GDP/per plant), or taking an estimation of Manufacturing concentration. Also, some dummy variables were used to represent if those resolutions concern Consumer goods, the cases against Brazil and whether they were enacted in the 2nd and/or 4th quarter.

First estimates were made using Ordinary Least Squares, but there is consensus that in cases where the dependent variables are natural numbers, in this case referred to the number of antidumping resolutions, an unbiased estimate corresponds to Poisson or Negative binomial models. The decision of using the Poisson model was made considering the alternative of Negative binomial; i.e. due to the nature of the dependent variable “count” a search was started regarding the regression model of Negative binomial which best adjusted to the existent information. After several tests, it was concluded that a robust (Huber/White) Poisson model would be the most adequate²⁰.

In Table 4 the number of antidumping resolutions showed a negative and significant relationship with Manufacturing GDP with a lag of 2 quarters (Regression 1) or 3 quarters (Regression 4), but with coefficients of small size; the Real Exchange Rate (RER) is negative and significant, either with a lag of 2 quarters (Regression 1) or of 3 quarters in Regressions 2, 3 and 4. In Regression 1, apart of the RER mentioned, the sign for the trade unions pressure was positive and significant (Wages/GDP), and the same sign and significance corresponded to the dummy variable concerning the cases against Brazil.

In Regression 4, the level of Manufacturing GDP has a lag of 3 quarters already mentioned, adding the effect of the dummy variables for Consumer goods (positive), and of Sectoral concentration (negative). The latter requires an explanation, the sectoral

¹⁸ Nogués (2000).

¹⁹ But, their estimation method differs, in the first two “negative binomial estimation” were used, and in Knetter and Prusa a comparison with “OLS” estimates is also made. Francois and Niels used Logit (“outcome” positive one, negative zero), or Generalized Least Squares when the dependent variable is the antidumping ad valorem equivalent. Due to the type of independent variables used it is clear that they had access to the investigations data base, among them: products and firms, exporters, detailed manufacturing indicators, incidence in employment, if in determining the dumping margin it was a constructed value, etc.

²⁰ To do the selection, a preliminary test of the significance of the “shape” coefficient was made for each regression, being the outcome of the Negative binomial which captures the over dispersion, and of the test of Cameron and Trivedi (1990).

concentration was measured through an ordinal indicator (from 1 to 5), where the sector with larger plants compared with the value of sectoral production corresponded to level 1 and 2. That is why an increase in concentration implies reducing the coefficient and increasing the number of antidumping resolutions.

In Regressions 2 and 3 the macroeconomic variables were the combinations of the Unemployment rate and the RER both with lags of 3 quarters, statistically significant, but the first is positive and the second negative as expected, the Concentration index is negative and the dummy variable for the cases against Brazil is significant and positive. Regression 3 also included an indicator of the size of the plants (GDP/Plant) with positive and significant sign, showing the entrepreneurs' pressure.

Finally, in all regressions dummies were included corresponding to resolutions enacted in the 2nd and 4th quarters, where a more intensive activity was observed, the coefficients are positive and significant in all cases for quarter 4, and only in Regression 1 also for quarter 2.

Table 4. Argentina. Determinants of the number of antidumping resolutions enacted in the period 1997 a 2004 (quarterly values). Method of Poisson with standard errors of Huber-White (N=32).

Dependent variable: Number of Antidumping Resolutions	Regression 1		Regression 2		Regression 3		Regression 4	
	Coef.	Stat. z	Coef.	Stat. z	Coef.	Stat. z	Coef.	Stat. z
Constant	3.6160	2.8852 ***	0.1288	0.2049	0.1879	0.2046	6.4655	3.6916 ***
GDP Man. (-2)	-6.6E-08	-2.9923 ***						
GDP Man. (-3)							-7.5E-08	-2.7407 ***
RER, USA (-2)	-0.8759	-2.4128 **						
RER, USA (-3)			-1.6251	-2.4892 **	-2.3100	-2.5147 **	-1.4588	-3.7088 ***
Wages/GDP	2.0436	3.3179 ***						
D.Consumer Gs	0.0852	0.3970					0.4245	1.7776 *
Unemploy. (-3)			0.1975	2.7454 ***	0.2109	2.0198 **		
Concentration			-0.2553	-2.8251 ***			-0.2223	-1.9324 *
GDP/Plant					0.0006	3.0447 ***		
D. Brazil	0.5938	2.8461 *	0.7952	3.7472 ***				
D.2 nd Quarter	0.2607	1.6964 **	0.1774	1.0269	0.2287	0.9354	0.3040	1.3022
D.4 th Quarter	0.4747	2.3283 **	0.5421	2.4799 **	0.6725	2.6197 ***	0.3395	1.7302 *
Pseudo R2		0.3096		0.2817		0.1634		0.2468
LR statistic		54.4647 ***		49.5683 ***		28.7465 ***		43.4139 ***

Source: Own estimates.

***, **, * Indicate significance levels of 1, 5 and 10 percent, respectively.

Summing up, the regressions show, with a lag of 2 or 3 quarters (probable distance between resolutions for Provisional measures and Final determination), that a fall in the level of Manufacturing activity and/or an appreciation of the Real Exchange Rate, would

imply an increase in the average number of antidumping resolutions enacted.²¹ Also, the positive association with the proxies used to represent Trade unions and Entrepreneurial pressures, and within MERCOSUR the importance of Brazil receiving the Argentine antidumping actions.²² Consumer goods have a positive and significant association in regression 4 (not significant in Regression 1), representing the fact that consumers have lower opposition power against antidumping measures, compared with producers of intermediate goods.²³ Finally, we should mention the positive and significant sign regarding the higher frequency of Resolutions enacted in the 4th quarter, which is related to bureaucratic routines.

5. FINAL REMARKS

Advances towards a common tariff policy and free circulation intra-MERCOSUR, as mentioned in section 2, require the harmonization or elimination of mechanisms allowing unilateral deviations vis-à-vis the common trade policy. In that direction one could anticipate important difficulties, given the multiplicity of interests that would differ among countries. Concerning the instruments of trade defense which remained to be harmonized in MERCOSUR (antidumping and export subsidies), the evidence of section 3 for Argentina and Brazil showed either their high ad valorem equivalent or that an important share of them were intermediate goods. The evidence of the case study of Argentina's antidumping practices (section 4) showed important findings, among them the high frequency of cases against Brazil. Thus, leading to the regional harmonization of the existing national procedures, would be essential to improve the instruments of the Common Trade Policy in MERCOSUR. This would reduce the uncertainty regarding the way antidumping investigations are today initiated, mainly in Argentina and Brazil, which resulted in restrictions to the free movement of goods within the region.

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²¹ Those two variables were also used by Knetter and Prusa (2003) referred to the initiation of the investigation on antidumping cases.

²² The legal and administrative change related to Decree 1326 of 1998 did not show results statistically significant.

²³ Also used by Francois and Niels.

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