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Antidumping policy in the EU

A COMMENT TO THE GREEN PAPER ON TRADE DEFENCE INSTRUMENTS

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In December 2006, the European Commission published a Green Paper on trade defence instruments: that is, antidumping; action against exports to the EU that are subsidized by foreign governments; and safeguards against sudden surges of imports. The Commission says that: "The Green Paper does not question the fundamental value of trade defence instruments, but invites a public reflection on how the EU can continue to use them to the best effect in the European interest".[1] This Policy Brief is a response to that invitation.

The Green Paper says that its call for reflection is driven by globalization: "[m]any more EU companies now produce goods outside the EU for import into the EU, or operate supply chains that stretch beyond the EU market".[2] This issue, however, seems slight. If the operations of a foreign-based manufacturing facility call for deployment of trade defence instruments, there is no obvious reason why the nationality of the owners of the facility should affect their application – if the basic laws themselves are properly drawn up.

Moreover, if EU ownership is a mitigating circumstance, EU law already allows that circumstance to be taken into account. EU antidumping law requires an assessment by the Commission of "the Community interest" in the measures proposed in each antidumping case. If EU ownership of a foreign-based facility does

SUMMARY

The European Union is currently reviewing its policy for trade defence instruments; instruments purported to defend European producers from unfair trade practices such as dumping and subsidized exports as well as protect them from sudden surges of imports. In a Green Paper published late last year, the European Commission offers a justification for trade defence instruments but also signals an ambition to take account of changes in the global economy.

It is a commendable ambition to provide a justification – an economic rationale – of the use of trade defence instruments, in particular antidumping, the most frequently used instrument. Antidumping practice is not transparent and often rests on convoluted investigations. It can easily degenerate into protectionism. An unambiguous rationale is therefore warranted to enable outside scrutiny of applied practices.

But the European Commission fails to give a convincing justification of antidumping. Its overall defence of antidumping confuses the concepts of trade defence instruments and disregards basic economic analysis.

alter the Community interest in acting against it, the argument can be made under the Community interest rubric.

A better ground for reflection lies in evidence and argument that suggest that the basic trade-defence laws are defective. Many of the specific questions raised by the Green Paper, moreover, seem to be directed at this issue rather than at ownership of foreign manufacturing facilities by EU companies.

A second ground for reflection lies in the sheer volume of antidumping actions. The WTO reports that a worldwide total of 2,938 antidumping actions were initiated in the period from 1 January 1995 to 30 June 2006. The EU contributed 345 of these and the US 366. These levels of activity suggest a substantial burden on international trade. It is right to ask whether that burden is justified. [3]

The prominent presence of developing countries in the WTO reports of antidumping activity provides a final reason for reflection by the EU and by rich countries in general. In earlier periods, almost all reported antidumping activity was by rich countries. In the last decade, though, the position has radically altered. India, for example, recorded 448 initiations, and China 126 (even though China has only reported its activities since the year 2000).

Antidumping has proliferated. Rather than being a weapon for the exclusive use of rich countries, it is now available for use against them. This simple fact gives rich countries sound cause to re-examine their antidumping policies – both their conduct of actual cases, and the positions they take in WTO negotiations on antidumping rules.

The Green Paper raises many issues. Here, I touch on only two, both concerned with antidumping, which is by far the most important of the trade defence instruments. The first is the question of what economic rationale can be provided for antidumping; and the second is the arithmetic of antidumping – how the Commission calculates dumping magnitudes and the consequences of its methods.

JUSTIFYING ANTIDUMPING

The authors of the Green Paper try to provide an economic rationale for antidumping, and that is greatly to their credit. They are, though, uneasy with the issue. Perhaps that is because they can't find a rationale that justifies all of the activities currently included under the heading "antidumping". But that is difficult – I would say impossible.

Any public policy needs a rationale in terms of the public interest. A stated rationale allows those outside officialdom to assess the objectives of the policy and to judge whether the government's actions are consistent with those objectives. That requirement, though, applies to any policy. The need for a rationale of antidumping is greater than this.

That is because antidumping so easily degenerates into protectionism. Even those who maintain that antidumping has a proper role in policy can hardly deny this (though they may regard the ease with which antidumping becomes a tool of protectionism as a desirable characteristic rather than degeneration). One factor that leads to degeneration is the difficulty of calculating the magnitudes on which antidumping is based. There is a lot of room for error in antidumping calculations – and where there is room for error, there is room for abuse.

A product is dumped in country B if its price in B is lower than its price in its country of origin, A; or if its price in B is less than its cost of production in A, "plus", in the words of the GATT, "a reasonable addition for selling costs and profit". If dumping is demonstrated and the dumping causes injury to the B industry that competes with the dumped product, the WTO authorizes the government of B to impose an antidumping duty on the dumped product.

These tests may sound straightforward. Implementing them, however, requires answers to questions of great difficulty. The price of a product, for example, typically varies – sometimes a great deal – within the investigation period. Which prices in country A should then be compared with which prices in country B? If costs are calculated, overheads and advertising must be taken into account, but these costs are frequently spread across a number of products: how should these costs be allocated between the product that is alleged to be dumped and others? What is a "reasonable" addition for selling costs and profit? The specifications of a product sold in one market may differ from those of a similar product sold in another: how are the differences to be taken into account when comparing prices or costs of production? Are symptoms of injury displayed by the B industry attributable to dumping or to other causes?

The many problems of this kind would raise difficulties for a national antidumping authority doing its best to conform to the spirit of the GATT. For a national authority more concerned with protecting domestic producers against foreign competition, the difficulties create a field of opportunity in which the alternative that is least favourable to foreign producers can always be chosen in order to "prove" dumping, and so to justify "remedial" duties.

A second pressure promoting degeneration into protectionism arises from the temptations that antidumping creates for domestic producers. A high percentage of antidumping investigations end with a finding of guilty-as-charged and the imposition of duties. Laws that give a good chance of obtaining a legal barrier to imports must attract the attention of domestic producers who compete with imports. It would be astonishing if such producers never tried to exploit antidumping law. It would not be surprising if they sometimes succeeded – or even if they succeeded quite often.

So antidumping badly needs a rationale. The Green Paper provides one, but not one that is entirely satisfactory:

> "The economic justification for antidumping measures derives chiefly from the fact that international markets are imperfectly competitive – there is no international competition authority to regulate anti-competitive behaviour between countries. In contrast to an internal market like the EU, there are few rules that regulate business behaviour on international markets." [4]

This purported justification is just that: purported, not actual. Two and a half centuries ago, David Hume convinced most of the world that 'ought' cannot be derived from 'is' –that a proposition about what ought to be cannot be deduced from facts alone. The authors of the Green Paper should have heeded his argument.

It is true that there is no international competition authority. It is true that some international markets are imperfectly competitive. But how do these facts justify antidumping?

Everything that a proper justification requires is lacking. There is, for example, no discussion of the relevant effects of imperfectly competitive foreign markets; or of how antidumping corrects these effects; or whether antidumping is the *best* means of correcting them.

The absence of an international competition authority is central to the Green Paper's purported justification of antidumping. But the implicit proposition that such an authority would solve the "problems" that antidumping authorities present themselves as facing is disingenuous. EU competition law does not prohibit a company from selling a product at different prices in different EU markets, or below its cost of production, except, perhaps, when the company has a dominant position. Essentially the same is true of the US. An international competition authority is very unlikely to have more powers in this respect than are now possessed by competition authorities in the EU or the US.

Yet the great bulk of antidumping actions by the EU (and the US) target the actions of companies that do not have a dominant position. EU law, for example, permits antidumping action against companies from countries that have no more than 1.01 per cent share of the EU market. [5] An international competition authority is most unlikely to help the EU in its antidumping dealings with such industries. The suggestion that antidumping as it exists today is justified by the lack of an international competition authority is a red herring.

It is, however, more than a red herring. It says something about the sensitivities of antidumpers. Antidumping authorities know that they are held in less high regard than competition authorities, and they sometimes react to this lack of prestige by suggesting that their activities are *really* part of competition policy.

That is not true, however. Moreover, the prestige of competition law and its application derives from the serious public debate in that area, accompanied by genuine efforts on the part of competition authorities to come to grips with the issues. Antidumping has no such tradition. Nor will it develop one while antidumping authorities prosecute dumping to the limits that the words of the law permit, and yet are uneasy with – and probably unwilling to enter – discussion of what public interest antidumping serves.

CONFOUNDING ANTIDUMPING AND ANTI-SUBSIDY

The Green Paper nowhere fills in the gaps in the purported justification quoted above. The closest it comes is in Box 1, which says that:

> "Antidumping rules are the European Union's most used form of trade defence instrument. Antidumping measures address the import of goods to the EU at less than normal value in their home market – usually as a result of the lack of competition and/or state interference in the production process … Dumping harms both EU producers but also other producers in third countries that compete for access to the EU market. Typical examples of distortions leading to dumping include: significant tariff and non-tariff barriers, insufficient enforcement of competition rules, export tax breaks; artificially low raw material and/or energy prices. Where an investigation shows that these imports are harming EU producers, antidumping rules allow for remedial measures to correct the injury. Normally this is the imposition of a duty on the dumped import."

This statement confuses the case for antidumping and the case for anti-subsidy action. Most of the distortions it lists make a case for action against subsidies, not dumping. This is presumably deliberate. The case for anti-subsidy action is stronger than that for antidumping. To confound the two in a document such as the Green Paper seems implicitly to recognize that the case for antidumping is weak and needs help from its more persuasive cousin. [6]

Moreover, the statement in Box 1 is in the antidumping tradition of ignoring the interests of buyers and treating as paramount those of producers. But justification of antidumping turns on the question of whether there is net harm to the community as a whole – buyers and sellers together – if foreign producers export to it at "low" prices; and whether rectifying the consequent position of domestic producers by taxing domestic buyers is either sensible or fair. Domestic producers of a product will always prefer producers elsewhere to charge higher prices.

Finally, the Box 1 statement ignores the feeble logical connection between dumping and harm to domestic producers. A monopolist, protected in her home market by tariffs of 50 per cent, is likely to sell her widgets in her home market at 50 per cent more than the price at which she sells abroad. She is dumping, under WTO law, but ending that dumping – for example by removing the tariff -- will not raise the price at which she sells abroad. What harm, then, does her dumping cause in importing countries? [7]

Antidumping law requires that before antidumping duties are imposed, dumping should be shown to be the *cause* of the injury sustained by the domestic industry producing a like product. Were that test properly applied, it would eliminate cases such as that posed in the last paragraph. But the causation test is often applied very loosely in practice.

Antidumping authorities often prove to their own satisfaction that dumping has occurred. At the same time, domestic producers of the like product display symptoms of injury – that is why they want antidumping action. Where, the authorities might think, is the need for rigorous enquiry into whether the dumping has caused the injury? Isn't it *obvious*?

Thus, domestic producers whose difficulties have nothing to do with dumping are tempted to claim that their injuries *are* due to dumping. And in the absence of a strong cause-of-injury test, that claim will not be rigorously examined. Hence, the domestic producers will be able to parlay their troubles into protection.

CAN ANTIDUMPING BE JUSTIFIED?

The Green Paper does not explicitly mention the economic justification that is widely regarded as making the most cogent case for antidumping. This is that antidumping is a response to predatory pricing by foreign producers. Thus, an exporter to the EU might set a low price to drive other producers out of business and then – using the monopoly power that their exit confers on her – hoist the price of the product above its original level. Domestic producers suffer injury; but, unlike the standard case, there is no offsetting gain of domestic buyers, who, if the predatory pricing succeeds, will in due course face higher prices. [8]

The predatory-pricing story, though, to be plausible, requires fulfilment of stringent conditions – at the very least, possession by the exporter of what the EU competition authority would call a dominant position in the EU market. In the great bulk of antidumping cases, however, this condition is not fulfilled. From the standpoint of an antidumping authority, therefore, this story is unsatisfactory in that it leaves the great mass of actual antidumping cases out in the cold and unjustified. Perhaps this is why the Green Paper does not explicitly mention it.

Can these many cases in which predatory pricing is inconceivable be justified in terms of the public interest? I think not.[9] Antidumping is massively over-extended. New rules and methodologies have multiplied to deal with "threats" that are not even half plausible – until it is antidumping, not dumping, that acts as a clog on world trade.

ANTIDUMPING OVER-REACH: AN EXAMPLE

The fact that EU antidumping can target exporters with a 1.01 per cent share of the EU market has already been noted. The Green Paper offers another example of antidumping over-reach:

> "Q15: Should the Commission refine the approach on 'start-up costs' for dumping calculations in Anti-Dumping investigations in order to give a longer 'grace period' to exporters in start-up situations?"

When a manufacturing facility is newly established, its costs of production will typically at first be high. The owner of the facility is betting (unless she receives some kind of subsidy) that costs will fall as management and workers "learn by doing". It's a good bet: costs typically do fall.

During the start-up period, however, when costs are high, the new plant is vulnerable to antidumping. It sells its product at the world price, but its production costs are likely to be higher than that. If so, it is selling for export at a price less than its costs of production – it is technically dumping. The EU and the US may treat it as actually dumping.

The antidumping agreement that emerged from the Uruguay Round requires, in Article 2.2.2.1, that:

> "… costs shall be adjusted appropriately for those non-recurring items of cost which benefit future and/or current production, or for circumstances in which costs during the period of investigation are affected by start-up operations".

A footnote amplifies these words: "The adjustment made for start-up operations shall reflect costs at the end of the start-up period or, if that period extends beyond the period of investigation, the most recent costs which can reasonably be taken into account by the authorities during the investigation". These provisions are carried into EU law by the third paragraph of Article 2.A.5 of the EC Basic (antidumping) regulation. [10]

It is in the nature of the economic world that new producers – of old products and new – set up all the time, and that costs in newly established production facilities are likely initially to be high. Sometimes, indeed, their costs *stay* high: those who invested in them lose money.

Does this state of affairs raise concerns for public policy? Should domestic producers be protected by antidumping tariffs against products produced elsewhere on the basis that the producers of those products are new to the business or that their owners have made mistaken investment choices, so that their costs of production are higher than the prices at which they sell?

These questions answer themselves. Absent governmental subsidies, this "natural" state of the world economy does not raise proper concerns for public policy in any country. That costs are greater than prices is not a result of targeting the European market or of other aggressive sales tactics, but a consequence of the normal behaviour of production costs – or, perhaps, of investment mistakes. Any alternative hypothesis calls for proof. Absent such proof, nothing in this situation calls for "remedy."

The thought that a remedy is needed reflects the mechanical notion of fairness to which antidumping gives rise – or perhaps which gives rise to antidumping. In the antidumping world, price less than cost equals unfair. In the real world, a producer might sell below cost for entirely legitimate reasons, without any hint of unfairness. The most obvious case is when an industry experiences a global slump in demand. What is actually unfair is attacks by antidumping authorities on production facilities that are in their start-up phase.

Facilities targeted on this basis are often located in developing countries. Quite often, these are countries that another branch of the Commission says it is helping to develop and industrialize. To use antidumping to penalize exports from such a country on the basis of high start-up costs is little short of lunatic.

ANTIDUMPING ARITHMETIC

Antidumping authorities tend to speak with great confidence and precision: they say things such as: "the dumping margin on widgets from X, is 23.71 per cent." A central issue in antidumping economics, however, is the credence that can be placed in such statements.

As already noted, there are two problems. The first is that the calculations an antidumping authority is required to perform are intrinsically difficult: errors are inevitable. The second is that where errors are possible, so is manipulation.

An antidumping authority can bias its findings against exporters in numerous ways. Lindsey and Ikenson, 2002, list many dubious methodologies of the Department of Commerce, in the US. The European Commission certainly used to play such tricks;[11] but claims that it no longer does. I shall not challenge that claim here, because I do not know whether or not it is true – to the best of my knowledge, there is no up-to-date independent inventory of questionable antidumping calculations of the European Commission. If the Green Paper indicates an intention to think seriously about antidumping, compiling such an inventory is an urgent priority.

The Green Paper itself, however, draws attention to one such issue. Q16 touches on what the Green Paper calls the "ordinary course of trade test."

> "Q16: Are there other changes to the dumping margin calculation methodology in antidumping investigations – for example existing rules on 'the ordinary course of trade-test' – that need to be reconsidered?"

THE ORDINARY COURSE OF TRADE TEST

In the words of the WTO (GATT Article VI), antidumping authorities seeking to prove differential-price dumping are required to compare "the price of the product when exported" with "…the comparable price, *in the ordinary course of trade*, for the like product when destined for consumption in the exporting country" (emphasis added). Antidumping authorities, though, typically reject transactions on the home market of the exporter that they allege have been made at a loss. Sales at a loss, they say, cannot be "in the ordinary course of trade" and should therefore be ignored. They do not, of course, throw out low-price sales on the export side – these constitute the "dumping" that the antidumping authority is going to find.

Neglecting low-price transactions in the home market of the exporter has two effects. One is to raise the apparent rate of profit of the exporter on her home-market sales, which can then be used to inflate her costs if these are constructed (the inflated rate of profit becomes the aforementioned "reasonable addition for profits"). The second is to raise the normal value discovered by the authority and thus make more likely a finding of dumping.

This procedure may seem odd to persons unused to the shadowy world of antidumping. It is, though, legal: authorised by paragraph 2.2.2.1 of the Antidumping Agreement that emerged from the Uruguay Round.

Whatever its legal status, however, the practice may lead to a finding of dumping when there has in fact been none, except in a sterile definitional sense. Suppose, for example, that the price of a product varies across time, but that the price at which it is offered in the home market is at all times the same as that at which it is offered in the export market. That sales prices are always the same in the two markets suggests that dumping has not occurred, and suggests the possibility that the price variations are due to causes that affect both markets similarly and have nothing to do with dumping. That is also possible in the real world – for example, changes in prices caused by variations in raw material prices. An antidumping investigation that rejects consideration of the low-priced sales on the home market of the exporter, however, is under these circumstances very likely to discover a positive dumping margin (and will *inevitably* do so if sales in the two markets stay in the same proportion through the period of investigation).

Lindsey and Ikenson say of the ordinary-course-of-trade test (which they call the cost test):

> "Empirically, the cost test is among the most significant causes of inflated dumping margins. In the 17 actual Department of Commerce dumping determinations that we examined in which the cost test was applied, the dumping margin decreased each and every time – by an average of 60 percent – when the cost test was eliminated from the protocol. In two cases, one involving DRAMs from Taiwan and the other involving stainless steel sheet and strip from Japan, the margins fell all the way to zero. Margins in a review of preserved mushrooms from Indonesia and an investigation of polyester staple fibre from Taiwan decreased by

more than 90 percent each. All but three cases showed double-digit declines, and all but five decreased by more than 50 percent." [12]

An antidumping authority concerned about the public interest would explore the possibility that prices in the home market of the exporter and in export markets are being driven by forces having nothing to do with dumping. But that is not how antidumpers behave. An antidumping authority will ignore the possibility that the dumping margin they find is artificial – the result of their own methods of calculation, not of anything that an informed observer would call dumping.

The Commission sometimes suggests that if a practice is authorized by the WTO Antidumping Agreement, then it must be fair and just. A major difficulty for that position is that the Commission itself had a large hand in shaping the Agreement. Negotiating jointly with the US on antidumping in the latter stages of the Uruguay Round, the Commission obdurately blocked or perverted reforms suggested by other parties. In the case of what the Commission now calls "the ordinary-course-of-trade-test," what emerged was authorization by the WTO of a practice that was not authorized (though in widespread use) before the Uruguay Round.

The authorization appears to be subject to restrictions. The most important of these is that at least twenty percent of home-market sales must be below cost for the antidumping authority to reject *any* home-market sales on that ground.

This condition may challenge the ability of a national antidumping authority to construct costs to a level high enough to find twenty per cent of sales below cost; and to that extent, acts as a genuine constraint on authorities. It is also, however, a condition that defines the usefulness of the tactic to an antidumping authority that wants to inflate dumping margins. If only a few sales are "below cost," throwing them out is not going to have much effect on the calculated dumping margin. To have a substantial effect, an authority needs to throw out a substantial number of such sales – say 20 per cent or more. [13]

It is to the credit of the authors of the Green Paper that they draw attention to the "ordinary-course-of-trade test." But, having identified the issue, why on earth do they ask whether the practice should be retained? The choice is between honest and dishonest calculation. Are there circumstances under which the EU should choose dishonesty?

CONCLUSION: ANTIDUMPING VERSUS SAFEGUARDS

That European industries in trouble can so often be shown to be facing dumping or subsidized competition from abroad is fortunate for antidumpers – though perhaps not entirely fortuitous. What, though, if a troubled European industry faces imports that cannot be shown by the Commission to be either dumped or subsidized? – however implausible that situation might be.

One possibility would be to apply a safeguard measure. Article XIX of the GATT permits members of the WTO to restrict imports into their markets "[i]f," in the words of paragraph 1(a), "as a result of unforeseen developments and the effects of concessions incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory…"

The EU makes very little use of safeguards. "The EU has only ever imposed eight definitive safeguard measures under WTO rules", says the Green Paper (Box 1).

Yet why? Antidumping is used as a safeguard. Why not use the real thing?

That the Commission uses antidumping so often and safeguards so little suggests that it thinks that antidumping is in some sense more efficient than safeguards. Certainly antidumping places the blame for the problems of a European industry on the unfair practices of foreign exporters rather than on the behaviour of the European industry itself; and that emollient position might be more satisfying for Europeans than the harsher course of suggesting that the European industry should adjust. The problem, of course, is that adjustment will quite often be in the interests of the industry – to say nothing of the wider community that will pay for artificially supporting it. And availability of fault-free doses of antidumping is likely to strengthen resistance to adjustment even when adjustment is in the best interests of the industry.

Whatever it is that attracts the Commission to antidumping rather than safeguards, however, greater use of safeguards will give rise to intangible gains that the Commission may not have fully taken into account. First, use of safeguards rather than antidumping will make the Commission's trade-defence operations more open and transparent; second, use of safeguards avoids the risk, always present in antidumping, of a degeneration into outright protectionism; and, third, by providing an alternative means of slowing the decline of European industries threatened with competition from imports, a more active role for safeguards allows a clearer focus on the dangers and defects of antidumping.

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NOTES

1 European Commission (2006), p 3.

2 European Commission (2006), p 2.

3 An "initiation" does not necessarily imply antidumping measures, though the probability of such action is high (the WTO reports that 1875 measures were imposed in the period; and "informal" measures are likely to account for some, and perhaps most, of the difference between initiations and measures). Moreover, to be the target of an antidumping investigation is a time-consuming and expensive matter for an exporter, even if no measure is imposed. "Initiations" may therefore capture the dampening effect on trade of antidumping better than "measures".

4 European Commission (2006), p 4.

5 "Proceedings are not initiated" the Green Paper says, discussing the EU de minimis conditions (p 9) "against countries whose imports represent less than 1 % of the EU market".

6 This comment is not intended to take any position on the procedure the Commission should choose, faced with the circumstances of a particular case. The Green Paper, however, opens the issue of justification – and it therefore should have clearly separated the rationale for antidumping from the different rationale for action against governmental subsidies.

7 Simple economics suggests that if the tariff is removed, the price in her home market will fall, hence that more will be demanded in that market, and therefore that net exports will fall. If she produces a significant fraction of world output, therefore, the world price might rise as a consequence of removing the tariff that creates the "sanctuary market".
Antidumping authorities, incidentally, like to suggest that the higher profits she obtains from her tariff-protected monopoly allow her to subsidise loss-making exports, and that is certainly logically possible. An explanation of why she might want to spend her profits in this way would be useful, however – a major improvement on dark innuendo based on mere logical possibility (but often treated by antidumpers as certainty).

8 Though widely regarded as the best economic justification for antidumping, the predatory-pricing argument has a weakness. EU (and US) competition law contains provisions for dealing with predatory pricing by domestic firms with a dominant position; and this raises the question why EU competition law cannot deal with predatory pricing in the EU market by foreign firms. Presumably the answer – not entirely convincing –lies in the difficulty and expense of enforcing judgements against foreign sellers.

9 Hindley and Messerlin, 1996, explore this issue in more detail than is possible here.

10 Council Regulation (EC) No 384/96 of 22 December 1995, Official Journal L 056, 06/03/1996 pp 0001 – 0020. The EC document is more specific about the length of the start-up phase: "The length of a start-up phase shall be determined in relation to the circumstances of the producer or exporter concerned, but shall not exceed an appropriate initial portion of the period for cost recovery". This is more specific, but hardly precise – what "circumstances" of the producer or exporter are relevant, for example? What determines the "appropriate initial portion of the period for cost recovery"?

11 See for example, Hindley (1988), and Hindley (1997). The second paper deals with a particularly egregious case ("Grey cotton fabric") in which the Commission not only used dubious methods of calculation, but also tried to argue that injury was caused to the EU import-competing industry by a product whose importation into the EU was controlled by fully utilized quotas.
The Green Paper's comment inviting "reflection on how the EU *can continue* to use [trade defence instruments] to best effect in the European interest" (emphasis added) has already been quoted. These two papers (and many others) cast massive doubt on the Commission's implicit claim that antidumping has in the past succeeded in furthering the interests of the EU.

12 Lindsey & Ikenson (2002), pp 15-16.

13 The tactic of authorizing practices that had not previously been authorized, subject to conditions that appear to be restrictions, but that on closer examination turn out to be conditions under which the practice will have a large effect on calculated dumping margins also occurs in paragraph 2.4.2 of the Antidumping Agreement, where the practice at issue is zeroing (which involves the rejection from the calculation of high-price sales in the export market). See Hindley (1994).

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