

ECIPE Press release, April 28, 2009  
**New ECIPE Working Paper**

## **Cause-of-injury analysis in European anti-dumping actions**

**WTO rules require national anti-dumping authorities to answer two questions – does the local industry display symptoms of injury? and, are these symptoms caused by dumping? In this in-depth study of ten recent cases, Brian Hindley finds that the European Commission is good at finding positive responses to the first question, but not the second. He finds that the EC is perfunctory and ritualistic in its approach to determining the cause of injury in anti-dumping investigations. The danger is that duties are imposed on the basis of inaccurate justification.**

The legal requirement that dumping be shown to have caused injury means that an industry without signs of injury should be unlikely to receive anti-dumping assistance. But an anti-dumping authority in practice needs only to prove to its own satisfaction that this is the case and may doubt the need for rigorous enquiry. In a typical case, the EC will have what it regards as proof of dumping and the industry competing with the imports will display symptoms of injury. At the superficial level, the evidence is consistent with the hypothesis that the dumping has caused the injury.

“But consistency is a very weak standard. That a pig is in a field outside Munich on one day, and in a yard in Frankfurt the next, for example, is *consistent* with the hypothesis that it flew between the two. But the stated facts are very far from being *proof* of that proposition” argues Hindley.

Of the ten cases examined in this study, five fail to provide adequate proof that dumped imports have led to injury. One is even riddled with errors and offers non-existent arguments. This raises in the mind of an attentive reader serious doubt that injuries reported are caused by the dumping the EC claims to have discovered.

“The Commission does not go out of its way to generate alternative hypotheses about causation, fails to notice hypotheses that stare it in the face, and ignores suggestions made to it...If the Commission takes seriously the job of showing that dumping has caused injury, alternative hypotheses about the cause of injury should be at the heart of its investigations.”

To achieve effective improvement, reforms are needed that would increase the complexity of analysis in anti-dumping cases. This may run so strongly counter to the anti-dumper culture that it cannot be achieved with existing institutions. If so, this makes a strong case for a new body, independent of the anti-dumping authority, to examine injury and provide cause-of-injury analysis.

**Publication details:**

*Cause-of-injury analysis in European anti-dumping actions*  
ECIPE Working Paper No. 05/2009

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