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CHERVINSKAYA I.A.**ЧЕРВИНСКАЯ И.А.****ANTI-DUMPING MECHANISMS
OF FOREIGN ECONOMIC POLICY MANAGEMENT****АНТИДЕМПИНГОВЫЕ МЕХАНИЗМЫ УПРАВЛЕНИЯ
ВНЕШНЕЭКОНОМИЧЕСКОЙ ДЕЯТЕЛЬНОСТЬЮ****Abstract**

Since the mechanism of anti-dumping regulation is a specific instrument for promoting competition in transition economies, the anti-dumping should be viewed as a very important component of the trade policy. The main criteria which are traditionally used in determination of the normal value of product should be adapted to the specificity of production in the transition period.

Anti-dumping sanctions are the most common tools in a well-directed struggle with the most competitive foreign products. Therefore antidumping can be regarded as a constitutive and very important part of the trade policy. Its application tends to expand

in connection with the development of globalization processes.

Developed countries are actively using anti-dumping measures and countervailing duties against foreign competitors. Anti-dumping duties may be imposed on the import of goods sold on the market at prices lower than the prices established on the domestic market of the exporting country. Countervailing duties may be imposed on imported goods that were granted with state subsidies.

Keywords: management; economic policy; antidumping regulation; normal price; transition economies.

Аннотация

Использование механизмов антидемпингового регулирования в отношении экспорта товаров из стран с «нерыночной экономикой» может выступать инструментом торговой политики со стороны недобросовестных конкурентов. Основные критерии, традиционно используемые в определении нормальной цены товара,

должны быть адаптированы к реалиям стран с переходной экономикой.

Ключевые слова: демпинг; антидемпинговое регулирование; страны с «нерыночной экономикой»; нормальная цена; переходная экономика.

1. Introduction

The main objective of the economic policy is to ensure the effective protection of the exports from the adverse effects of anti-dumping measures. Therefore, the domestic exporters' protection could be expressed by the following directions:

- how to support economic restructuring and creation of conditions for development of the country's exports; finding the means of protecting national producers from unfair competition from foreign firms on external markets.

This topic is relevant for transition countries as the practice of antidumping policy does not allow them to effectively incorporate into the system of international division of labor. In economic theory there is a lack of research studies on the possibilities and features of the mechanisms of protectionist measures in accordance with the rules of the World Trade Organization (WTO). Therefore it is important to take into consideration the modern methodological approaches in using worldwide protectionist measures, as follows:

- to investigate the system of national producers protection from imports of goods, existing within the WTO system;
- to determine the effectiveness and application of methods and means of protecting national producers;
- to identify the main aspects of special protective, antidumping and countervailing measures use, by taking into account the increasing market competitiveness.

There is a stringent need to follow the dynamics of the anti-dumping policy, to identify key trends, issues, and change possibilities of the forms and methods of its application. This will help the transition from anti-dumping mechanisms pronged treatment to comprehensive understanding of policies in order to protect the interests of exporters.

Certain aspects of the problem have been studied in the literature devoted to the analysis of anti-dumping measures

in international trade. But there are no theoretical justification of the basic criteria in determining the normal price of export goods and services to countries with transition economies.

The findings of this paper can contribute to the development of criteria and safeguards in the system of international economic relations. Basic criteria traditionally used in the determination of the normal price of a product should be adapted to the actual conditions of production in the transition period.

This theoretical study may contribute to a significant enrichment of the methodological potential of scientific developments.

2. Research findings

The traditionally acknowledged dumping exports of goods at below normal prices, given the following three conditions are sufficient, are:

- if exports cause significant damage to one of the participants in the international exchange of goods;
- if the price is recorded on the same trading conditions between countries;
- if the export market threatens the loss of domestic producers.

Dumping is quite common in the international trade practice. Dumping is considered for the sale of goods at a price below the selling price of the domestic manufacturer. Introduction of antidumping measures is possible only when a certain industry complains against the importing country and a special investigation is conducted. And, as a result of this investigation, the existence of dumping practices causing material damage to a national industry has been proved.

Dumping regulation has three main features:

- firstly, it is implemented by the executive;
- secondly, there are basic conditions in dumping and margin of dumping;

- thirdly, anti-dumping duties are imposed either when an industry was damaged, or when there was a threat of damaging it.

Anti-dumping measures are implemented by the state in order to protect domestic producers from the adverse effects of dumped imports. The state can apply antidumping duties, including temporary anti-dumping ones, or adopt exporter pricing obligations. These measures should be preceded by investigations in order to establish three key factors:

- the availability of dumped imports;
- the presence of material damage (or threat thereof) on a sector of the national economy;
- the causal link between the dumped imports and the alleged damaged (or threat thereof) sector of the national economy.

In foreign economic activity practice, material damage is determined on the basis of the analysis of the volume of dumped imports and its consequent impact on the price of similar goods in the domestic market.

The determination of normal rates for transition countries has its own specific features. Ignoring them can provoke the occurrence of complex trade conflicts, with the manifestation of arbitrariness from the part of developed countries.

Therefore, regarding foreign economic activities, transition countries have to demonstrate a willingness to accept compromise. One needs a professional handling of methodical materials based on normative analysis of the particular conflict situation. Also, the determination of normal rates for transition economies requires correlation with the peculiarities of the production volume, sales and market share in the importing country.

The method of determining the price of goods in non-market countries is based on comparative analysis of real rates and the price of goods originating from market countries. On this basis, the calculations are

associated with the definition of the domestic price of goods originating from countries with non-market economies.

The normal price is viewed as the price of commodity on the exporting country's domestic market, i.e. the price of the goods applied in transactions between an export country independent buyer and a domestic consumer.

In market economies, normal price is determined on the basis of the export prices of the manufacturer, taking into account the cost of carriage, the selling conditions and insurance. The producer from non-market economies is required to formally document his actual costs: the costs of materials, labor, energy and capital.

If the following market economy criteria are in place, prices are compared to the ones of similar goods in an analogue country:

- the country's currency is freely convertible;
- the wages are set according to a free bargaining between the employee and the employer;
- the conditions of functioning of the foreign capital enterprises are correctly set;
- state ownership on production means or its control over them is limited;
- state control over resource allocation and prices, as well as over production volumes is limited etc.

The established normal value based on «constructed value» principle is compared to the export price.

The main problems faced by transition countries are connected with the ignorance of the antidumping legislation and relevant procedures. The determination of dumping existence is basically a judicial procedure, during which exporters have the opportunity to provide evidence justifying their positions. Often, non market countries are unable to provide detailed cost and price information in a particular requested format. Therefore, the issue is solved by voluntarism in order to identify the existence of dumping practices.

If a certain economy has a non-market reputation, than it is almost impossible to recognize a particular company-exporter. In practice, transition countries face obvious discrimination in determining normal prices.

During anti-dumping investigations, the utilization of the «choice of the analogue country» method in normal value determination, jeopardizes exports, increases the risks of arbitrariness and attracts biases from the part of officials.

In the absence of strict regulatory rules, a transition country faces the threat of adverse selection of the country analogue and it can be vulnerable to unjustified price changes. Pricing in third (analogue) countries to determine the dumping margin encounters enormous difficulties.

In «non-market» transition economies, anti-dumping measures are often disguised in a form of ordinary protectionism. This situation requires a response from the part of the exporter company to counter the foreign economic injustice.

The allowed by WTO protectionist measures to restrict imports can be divided into three categories:

1) anti-dumping measures against unfair foreign competition price, when products of one country go into the market of another country at lower prices than the ones applied on the domestic market of the exporter or producer;

2) compensatory measures to limit the import of goods with the aim of compensating specific subsidies provided for the production or export, when there is evidence of significant damage to the domestic industry of the like product;

3) special protective measures on the growth of imports, when imports are causing injury to a domestic economy.

If different kinds of goods are subject to anti-dumping analysis, then it should be determined the specific item to be included in the previewed anti-dumping investigation. Also, a description their interchangeability

nature for industrial applications and consumers, is necessary. Any existing materials describing the product subject to dumped imports should be attached to the application.

Antidumping investigation may relate to the import of goods originating from one or more states. If the goods are delivered from several countries, one should specify the manufacturer of each country. Details concerning those producers are given in the appendix to the application. If goods are exported from a third country, one must specify this country and its reputed exporters.

Antidumping law allows agreements with countries that do not have market economies, with temporary suspensions of the anti-dumping investigation and exports limitations.

WTO membership does not guarantee protection against the application of analogue country techniques, if the country is not considered as a «market» one. Thus, the only reliable way to avoid the application of third country rates is to obtain a market economy status.

The procedure of establishing anti-dumping sanctions could be difficult because the authorities have to establish precisely if the damage was caused by the export dumping. It is necessary to identify the causal relation between the increase in exports and the deteriorating economic situation in the exporting country.

The decision to initiate an investigation has to be published. Providing information is strictly time limited. Time is one of the most important factors in anti-dumping investigations. In some cases, the term of contesting on analogue country may be extended on the basis of a written reasoned request from the part of the envisaged enterprise. Information is gathered by the investigation team in different ways. Not providing information or late submission is usually regarded as a refusal to cooperate. This significantly reduces the chances of success.

One of the most common foreign trade falsification methods in determining the normal price is the so-called method of resetting, which is applied when calculating the dumping marginal situation in the exporting country. At the first stage, the normal price can be based on:

- price products on the domestic market of the exporting country;
- the price at which the products are sold by the exporter in another country;
- the cost of similar products in the exporting country.

The normal price is compared to the market selling price for each transaction. The calculated dumping margin represents the difference between the two prices. If the normal price is above the market price of the plaintiff, then the resulting difference is taken into account in calculating the dumping margin. But if the normal price is below the market price of the importing country, than the value of the transaction is reset instead of subtracting the result when calculating the amount of the definitive dumping margin. This practice was called «zeroing» and it leads to an artificially ascending dumping margin. An unscrupulous user can unreasonably declare a damage and then against the products protective duties will be introduced. The country can be subjected to repressive measures, in violation of WTO rules on determination of the dumping margin. Countries that have filled a complaint are entitled to impose duties or other such measures.

Such imports cause substantial damage to competing industries. Population and business ultimately have to pay higher prices for imported goods. Firms that face stiff foreign competition can obtain state protection in various forms. But if the fees are high, the trade becomes impossible, because consumers cannot afford purchasing the items. This leads to a drastic reduction of incentives for a rational resource use and innovative work methods, because of the

falling level of competition. The product can be subjected to tests until its import. In this case, the importer may not have to recognize the certification marks of other countries. The framework agreement establishes the general rules and obligations of the parties.

In a dumping investigation, one should evaluate all economic factors causing damage. If a damage due to dumping practices was established, than there is the possibility to raise the price to an agreed level. This will avoid the introduction of antidumping duties. If the elimination of the anti-dumping measures will not damage the specific industry, the action of anti-dumping measures is completed in five years after their first application.

In many countries, the legislation contains standardization requirements. An important principle to be followed is the state's obligation not to develop standards, specifications or certification systems as long as they create unnecessary trade barriers. The use of zeroing method is not consistent with WTO rules on trade protective measures and leads to serious distortions in the national economy. Therefore, its abandon when conducting antidumping investigations is imperative.

Thus, the analysis allows us to draw the conclusion that, in the actual practice of international economic relations, the normal rates' calculation has no strict criteria. This contributes to the development voluntarism trends, as in the definition of dumping and adoption of anti-dumping measures. The lameness of this approach is particularly evident in the relations with the so-called «countries with non market economies». This practice is a violation of the requirements of a «fair comparison», enshrined in article 2.4.2 of the anti-dumping agreement.

The estimated efficiency of the «zeroing» method induces the perception of falsification of the normal price determination criteria. Its use is a form of hidden protectionism, actively applied in relation to the countries with the unrecognized market economies.

When considering a dumping situation, it is necessary to take into account a number of important circumstances. First of all, the date of the official treatment of claims is considered the time of acceptance of the application. It should be kept in mind that the investigation starts only in the following circumstances:

- the dumping margin shall be not less than 2 %;
- the volume of dumped exports from one country exceeds with 3% the total export volume of a specific product;
- aggregate export share does not exceed 7% of the total volume of imports to the customs territory of the importing country.

Conceptual incompleteness of normative directives provokes subjective interpretation by more powerful economies. This segment of foreign economic relations should be better analyzed in order to identify WTO rules violations. Potential antidumping threat is presented by the goods emerging from transition economies. To preserve and increase the export volumes, a special importance should be accorded to the prevention of new anti-dumping sanctions. The creation of early warning systems through diplomatic representations abroad is a priority.

A particular attention should be given to the relationships with competitors in order to acknowledge mutual interests and to eliminate any possible conflict in its early stages. In this respect, producers and consumer associations are interested in supplying specific products. The anti-dumping issues stimulated the need for training of qualified managers possessing modern knowledge on foreign trade various aspects.

Conclusions

The conclusions emerged from the WTO anti-dumping regulation practice, are the following:

- the current anti-dumping measures are legitimate protectionism instruments, their main purpose being the world trade liberalization;

- when calculating the normal rates for goods, the method of «zeroing» acts as a falsification of the criteria for determining the normal price, and its use is a form of hidden protectionism applied in non market countries;

- criticism in choosing analogue countries in antidumping procedures against exporters aims to minimize subjectivity. Subjectivity regards the use of third countries' companies cost data, selected as counterparts.

To prevent possible anti-dumping sanctions against domestic exporters, institutional reforms in transition economies are needed.

The strategy of minimization of the consequences of antidumping measures implies:

- development of administrative conditions for turning to account of the foreign enterprises' manufacturing potential, companies interested in exports;
- creation of early warning systems with the implementation of preventive function through foreign diplomatic representations;
- enforcement of trade partnerships to ensure joint counteracting of anti-dumping measures driven against national companies;
- creation of a state legal authority specialized in anti-dumping special protective and compensatory investigations;
- organization of seminars for producers and exporters on applied complex problems of anti-dumping regulation, as well as training of specialists in foreign organizations with best practical results in antidumping investigations conducted by the European Commission;
- preparation of a qualified personnel possessing modern knowledge on various aspects of foreign trade;
- development in the curricula of higher education establishments of special courses on anti-dumping regulation topics;
- receipt of a market economy status through the compliance of domestic economic legislation and practice to the criteria of trading partners;

- concluding bilateral agreements with foreign countries based on mutual recognition of market economies.

The anti-dumping regulation needs to be considered as a constitutive important part of the trade policy. It is also a specific competitive tool supporting transition economies.

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