

## CHAPTER 01

### INTRODUCTION

*...CONSUMPTION is the sole end and purpose of all production; and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer. The maxim is so perfectly self-evident, that it would be absurd to attempt to prove it. But in the mercantile system, the interest of the consumer is almost constantly sacrificed to that of the producer; and it seems to consider production, and not consumption, as the ultimate end and object of all industry and commerce. ...*

*It cannot be very difficult to determine who have been the contrivers of this whole mercantile system; not the consumers, we may believe, whose interest has been entirely neglected, but the producers, whose interest has been so carefully attended to; and among this latter class our merchants and manufacturers have been by far the principal architects.*

...

Adam Smith 1926:233.

The purpose of this thesis is to investigate the use of anti-dumping measures in order to make economic sense of what seems to amount to cheating on an international agreement. The hypothesis is that anti-dumping measures are often imposed as a protectionist instrument rather than against dumped imports. Anti-dumping measures are supposed to be the countermeasure to dumping, which is considered to be an unfair trade practice. But economists have shown that anti-dumping duties are being used to protect certain industries against legitimate imports. The reason why economists are concerned about this protectionist element of anti-dumping is because of the negative effect of protectionism on economic welfare. One of the main problems with any protectionist measure is that it is usually producers that are protected against competition, largely at the expense of consumers. Another problem that concerns economists is that protectionism spawns retaliation which can be detrimental to international trade and therefore to economic welfare. And the potential to manipulate the results of anti-dumping investigations to the advantage of

import-competing industries is a problem - as will be shown in this thesis. Although there are a number of ways to manipulate the results of an investigation, this thesis concentrates on one part of the investigative process known as the determination of dumping.

The determination of dumping is the calculation used to assess whether or not an exporter is dumping a product<sup>1</sup> in an export market and it is part of the procedure that must be followed during an anti-dumping investigation. According to the current as well as the previous multilateral trade agreements in respect of goods, known as the General Agreement on Tariffs and Trade (GATT), the dumping of products in an export market is an unacceptable practice. It is important to note at the outset that, in the context of GATT, the word “dumping” has a very specific meaning. According to the Anti-dumping Agreement<sup>2</sup> which forms part of the multilateral trade agreement<sup>3</sup>, a product is being dumped in the export market if it is exported at a price which is less than the comparable price on the domestic market of the exporter.

Although dumping, as defined in the Anti-dumping Agreement, is an unacceptable practice, it is not illegal. So where does this leave the country that is being dumped on? According to the Anti-dumping Agreement, the country of import may, under certain conditions and after following all the necessary procedures<sup>4</sup>, levy an anti-dumping duty on any products being dumped - if the dumping is causing material injury, or if there is a threat of material injury to an industry in an importing country, or if the establishment of an industry is being materially retarded by the dumping (GATT Secretariat 1994:168,493). The stated intent of the Anti-dumping Agreement is to create an opportunity for import-competing industries to obtain protection against injurious dumping which is considered to be an unfair trade practice. Members of the World Trade Organisation (WTO) agreed that such dumping is unacceptable and that there should be a mechanism in place to stop injurious dumping. Members reached this agreement as a result of lengthy negotiations and their agreement is expressed as part of the document known as the *Uruguay Round of multilateral trade*

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1 The Anti-dumping Agreement is applicable to trade in goods only.

2 The Uruguay Round Anti-dumping Agreement (URAA).

3 The Uruguay Round of multilateral trade negotiations was concluded in 1994. The latest round of negotiations, the Doha Development Round, is still in progress (see chapter 2 for more detail on the various Rounds).

4 The necessary procedures are detailed in the URAA.

*negotiations: The legal texts.*

## **1.1 THE PROBLEM**

The Anti-dumping Agreement provides ample opportunity to manipulate the results of investigations and many of the anti-dumping measures that are imposed seem to be protecting import-competing industries against competitive rather than dumped imports. But is this a problem? According to conventional economic wisdom, yes. Free and fair international trade will be mutually beneficial to all participants over the long run. Attempts to restrict imports may have short-term economic benefits for certain parties, but will have long-term negative effects on global economic growth and global economic welfare (Salvatore 2001:261; Smith 1926:219-226).

### *1.1.1 Anti-dumping protectionism*

According to neoclassical economic theory (the Heckscher-Ohlin model), international trade should result in a win-win situation for trading partners. Although the Heckscher-Ohlin (H-O) model has limiting assumptions, it illustrates the economic postulate - first articulated by Adam Smith and later expanded on by David Ricardo - that countries will improve their economic welfare if they specialise in the production of those products in which they have a comparative advantage and are able to export their surplus production without restriction (Salvatore 2001:131). In other words, free international trade will increase the global economic pie to the benefit of all participating countries - a win-win situation. New Trade Theories are more dynamic in nature than the H-O model and are used to explain intra-industry trade (Salvatore 2001:172-195). Although some of the important assumptions of New Trade Theories and the Heckscher-Ohlin model differ, both approaches to international trade argue for free and fair trade between countries in order to maximize global economic welfare. And even after providing some convincing arguments for the need of protection as part of strategic trade and industrial policy, Salvatore (2001:298-302) concludes that “most economists would say that free trade may still be the best policy after all”.

In spite of the apparent benefits of free and fair international trade, countries still protect import-competing industries against imports. The protectionist nature of anti-dumping and other non-tariff trade remedies has elicited concern from economists, and this concern is based on more than just theory. The tariff war of the 1920s and early 1930s precipitated the collapse of international trade which added to the economic disaster known as the Great Depression. The retaliatory tariff impositions that took place during the tariff war were part of the futile attempts to protect the economies of the US, Europe and South America from the post-WWI<sup>5</sup> recession (Deardorff 1995:60; Finger 1993:16-17; Kenen 2000:213-215). The US Congress played a large part in the increasing protectionism that resulted in the decrease in international trade. It was as a result of what happened during and before the Great Depression that the US and its trading partners negotiated tariff reductions and ultimately signed the GATT (Kenen 2000:213-215).

The lesson from this period is that excessive retaliatory protectionism chokes international trade. At the time of writing the world economy was experiencing a recession. More and more countries were using anti-dumping (and other) measures to protect their industries from cheap, ostensibly dumped, imports. And once again the US seemed to be setting an example of how to protect import-competing industries, this time using mainly anti-dumping measures. Many countries' representatives expressed concern about the current misuse of anti-dumping measures and a number initiated negotiations on how to clarify and improve the Anti-dumping Agreement (Negotiating Group on Rules 2002a:1).

The main weapon currently available to "punish" errant users of anti-dumping (and other measures) is to take offenders to dispute. Unfortunately the Dispute Settlement process is lengthy, expensive and the outcomes uncertain. There is also no guarantee that the recommendations of the Dispute Settlement Body will be acted upon. Another option is to punish offenders by retaliating with protectionist measures. Developing countries, which were the main targets of anti-dumping actions for quite a while, are now among the principle users of anti-dumping. Countries like India, Argentina and Republic of South Africa have learnt how to make use of the loopholes in the process. A worrying aspect of this trend is that China, the main target of anti-dumping actions since the early nineties, only recently began to make use of anti-dumping measures. Many countries see China as a potential export market for their products. China is a

huge economy and it is the one country that has experienced consistent economic growth since 1978 (Hu & Khan 1997:1). China wants to export its products in order to maintain its economic growth and this country is currently being targeted with anti-dumping actions. If China chooses the route of retaliation, the number of anti-dumping actions will escalate. The high degree of protectionism as a result of the current misuse of these measures has already stimulated warnings about the chilling effect on trade. If China also starts misusing anti-dumping actions, the effect on international trade could be devastating.

### *1.1.2 Illustrating the danger of reducing the global economic pie*

A slight adaption of the H-O model<sup>6</sup> can be used to illustrate why economists are concerned about this chilling effect of anti-dumping measures on international trade.

#### **Figure 1.1 The chilling effect of anti-dumping measures on international trade**

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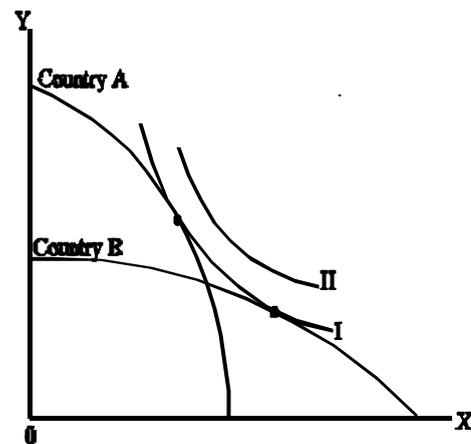
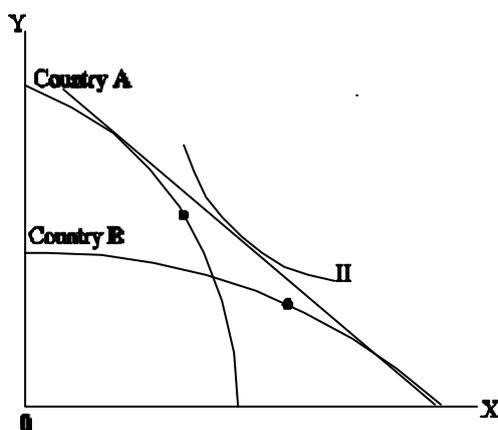
6 In the adaption of the H-O model, the figures are swapped around to show how protectionism can cause countries to end up at a lower level of economic activity, depicted by indifference curve I. The usual depiction of the H-O model firstly explains the scenario depicted in figure 1.1b, a situation of autarky and therefore of no trade, and then proceeds to explain how international trade results in both trading partners reaching the higher indifference curve II, as depicted in figure 1.1a above (Salvatore 2001:131-134).

Figure 1.1a

Figure 1.1b

In figure 1.1 countries A and B are trading partners. It is assumed that as a result of free trade between these two countries both countries have gained and that consumption is at a level illustrated by indifference curve II (fig 1.1a). But then the import-competing industry in country A succeeds in getting an anti-dumping duty imposed on imports from B by cheating on the anti-dumping agreement. In other words, B has a genuine comparative advantage over A in the production of this product, but because of the anti-dumping duty that has been imposed, country A's import-competing industry is now protected against imports from B. The production in A is no longer efficient which means country A will now consume at a level shown by the lower indifference curve I, see figure 1.1b. B can no longer export its surplus which means that economic activity in country B will also be reduced.

Both countries have lost as a result of the cheating started by A - a lose-lose situation. In the illustrated



scenario, protectionism against legitimately competitive imports results in country A producing the products it should be importing. The factors of production that are tied up in this production are, according to mainstream economic analysis, being used inefficiently (Salvatore 2001:131-134; Smith 1926:219-226; Winters 1992:15-24). In other words resources are being wasted. It also means that the exporting country, B, is unable to export its surplus production, so it is more than likely that B cannot import from A. Protection could therefore result in there being no trade between the two countries. The production

possibility of each country has been reduced as a result of protectionism and instead of economic activity being at a level on indifference curve II, it is at a level on indifference curve I. In other words, the global pie has been reduced.

Another type of problem could occur if one of the countries, for example A, is a large closed economy and the other country, B, is a small open economy. In other words country B is dependent on country A for the sale of its surplus production as well as for its imports, while A does not really rely very much on international trade. It means that any abuse of anti-dumping by A would result in A gaining at B's expense - a win-lose situation. This could illustrate the type of problem that is facing developing countries because developed countries tend to be more closed and developing countries more open (Salvatore 2001:255-263). If developed, closed economies misuse anti-dumping, it will be the more open, developing countries that would lose as a result of the misuse of the measure not the developed, closed economies.

### *1.1.3 Anti-dumping - A Prisoner's Dilemma*

The problem explained above can be further illustrated in an adaption of Laussel and Montet's (1994) analysis of tariffs in which they argue that protectionism creates a prisoner's dilemma. According to Laussel and Montet (1994:177, 187-191) free trade is the best option but some tacit cooperation is needed to reach the efficient free trade equilibrium. In other words, tacit cooperation may be needed to stay out or get out of a suboptimal Nash equilibrium. However, there are no institutions that are capable of enforcing international agreements which means that trading partners do not always cooperate. In fact there is often the temptation to cheat and renege on agreements. As a result of one party cheating by using tariffs to protect its import-competing industries and the other retaliating, both parties end up in the suboptimal Nash equilibrium - a lose-lose situation.

This simple but effective illustration can be adapted slightly to show the possible effect of anti-dumping measures. In the adapted version of Laussel and Montet's analysis, free trade is still the best option for both players, but the temptation is to protect industries using anti-dumping measures. If the WTO Dispute

Settlement Body combined with possible retaliation from trading partners has the necessary influence to ensure that members of the WTO adhere to the anti-dumping agreement then one could argue that anti-dumping policies are cooperative. Such cooperative behaviour would ensure the optimal free trade equilibrium. So if both parties stick to their agreement then they will both reach an efficient optimal equilibrium. If one party reneges on the agreement, then both will eventually renege and this will lead to the Nash equilibrium which is sub-optimal. According to the prisoner's dilemma the temptation to renege is high - provided the other party keeps to the original agreement. If both parties agree to be free traders and to only impose anti-dumping duties if trade is unfair, and one party manages to manipulate the results of an anti-dumping investigation to ensure the imposition of an anti-dumping duty, then the other party will at some stage retaliate if it is in a position to do so.

This prisoner's dilemma nature of anti-dumping can be illustrated in the following matrix for a static game. In table 1.1 the world is represented by two countries, A and B. These countries trade with each other but have also signed an anti-dumping agreement. The government of each country has a choice between free trade and protectionism using anti-dumping measures. The choice of free trade includes the potential to use anti-dumping measures, but only against injurious dumping (ie unfair trade). The choice of protectionism means that anti-dumping actions are initiated against products that are being fairly traded and these actions are possible because the results of anti-dumping investigations can be manipulated.

**Table 1.1 The payoff matrix for a static game: Illustrating the prisoner's dilemma of anti-dumping protectionism**

		Country B	
		Free trade	Protectionism using anti-dumping
Country A	Free trade	(8,8)	(2,10)
	Protectionism using anti-dumping	(10,2)	(4,4)

Source: Adapted from Laussel and Montet 1994: table 7.3

If both governments elect to cooperate and stick to their agreement, then they will both enjoy the benefits of free trade (8,8). In other words if both parties cooperate then the choice of free trade will be an efficient equilibrium. If one party decides to cheat, say Country A, thinking that the other, Country B, will stick to their agreement, then Country A will improve its position at Country B's expense (10,2) - a win-lose situation. This is an example of a non-cooperative game. The problem of the prisoner's dilemma is that Country B will more than likely retaliate. Now both countries are cheating and they end up in the sub-optimal Nash equilibrium (4,4) - a lose-lose situation. Neither country is prepared to go back to the free trade option while the other party continues cheating because that will reduce their benefits. The lesson from this simple example is that cooperation is better than not cooperating. And unless countries commit themselves to an agreement and do not cheat, all parties to the agreement could end up as losers.

A different line of argument suggests that the knowledge that the other party will retaliate in response to cheating could in fact prevent cheating. If both parties impose unfair anti-dumping measures the result will be the suboptimal Nash equilibrium of protectionism. In other words, the credible threat of a retaliatory response may result in an efficient equilibrium (Laussel & Montet 1994:193). A credible threat may therefore lead to fairer anti-dumping actions - but this will depend on the relative strength of the individual exporters/countries to impose anti-dumping duties. If the importer is a developed country and the exporter is from a developing country, the exporting country may not have much to retaliate with or to bargain with.

Most economists argue that anti-dumping measures are protectionist and should be used with discretion. In spite of the views expressed by economists, the various signatories to the anti-dumping agreements negotiated and agreed to the right to impose anti-dumping measures under certain conditions and according to Stegemann (1991:393) anti-dumping rules in some countries are designed to protect the interests of the complainants. The way in which some anti-dumping actions are conducted does not always reflect the spirit of the Agreement. Some anti-dumping actions that are initiated are in blatant violation of the Agreement. But such cases are usually rejected during the investigative process. Some anti-dumping duties are imposed even though WTO panels have indicated that such duties are in contravention of the Agreement. But obvious contraventions of the Agreement can usually be dealt with within the existing structures - even though this legal process can sometimes be rather tedious.

A problematic issue is the fact that anti-dumping can be used as a form of protection by import-competing industries against fair, as opposed to unfair, trade. There are numerous loopholes in the Agreement which allow such strategic use of anti-dumping. Some of these loopholes are of a purely legal nature, others are more practical. It is one of the latter type, the calculation involved in order to establish whether or not the accused exporter is or is not dumping known as “the determination of dumping”, that will be the focus of this thesis. The purpose is to investigate how anti-dumping can be and is used as a strategy to protect certain industries against fair trade. One way to manipulate the results of anti-dumping actions in favour of the complainants or applicants is to capture the dumping margin. This thesis will show how easy it is to capture the dumping margin by firstly casting doubt on the prices of sales in the domestic market of the exporter, and then by using proxy values for the determination of dumping calculation.

There are numerous ways in which the results of the calculation, known as the dumping margin, can be manipulated. And it is mainly through the manipulation of the normal value, one of the two values needed for this calculation, that the dumping margin can be captured. In some anti-dumping investigations, no allowance is made for differences in the cost of production in the different countries (Grimwade 1996:100). In other words, the constructed normal value can ignore any cost advantages that exporters may have over import-competing industries. In this way successful anti-dumping actions against imports based on genuine comparative advantage reduce the pro-competitive effect of imports (Smith 1994:50,52). And the import-competing industries gain at the expense of consumers in the importing country and producers in the exporting country. While such manipulation may not necessarily be in contravention of the Agreement, it is contrary to the spirit of the Uruguay Round Anti-dumping Agreement because it is cheating on the agreement. A danger of cheating is that it invites retaliation. And a retaliatory attitude between international trading partners could be detrimental to international trade.

This thesis investigates the use of anti-dumping in order to try to make economic sense of what appears to be the misuse of anti-dumping measures. An important question which this thesis will attempt to answer is why, when it seems so obvious that free and fair trade is beneficial to all concerned, countries would choose to cheat on the international agreement and impose anti-dumping duties. The use of anti-dumping duties doesn't seem to make economic sense from a free market or a neoclassical economic perspective. Free and fair international trade is supposed to improve economic welfare for all parties, while restricting

trade does the opposite. The observed behaviour discussed in this thesis seems to indicate that a type of mercantilistic view of international trade holds sway. In other words it seems that some countries see international trade as a win-lose activity. So if one trading partner believes it can improve its situation at the cost of others by cheating on a trading agreement it will cheat. This thesis will show that there is ample potential to cheat on the Anti-dumping Agreement and that countries often seem to choose to dishonour the Agreement. Although there are numerous ways in which the results of an investigation could be manipulated (see ch 4), this thesis concentrates mainly on the “determination of dumping” part of an anti-dumping investigation, to see how just this one stage of an investigation can be manipulated to affect the findings of the investigation. In other words, this thesis looks specifically at how the “determination of dumping” can be manipulated in order to cheat in anti-dumping investigations. It will become apparent, by explaining just this one stage of an anti-dumping investigation in detail, that what at first glance appears to be a simple procedure, is really very complex. And it is this complexity of the Anti-dumping Agreement which has provided ample opportunity to manipulate results.

## **1.2 METHODOLOGY AND OUTLINE OF STUDY**

The methodology followed in this thesis will be mainly investigative and explanatory in nature. A variety of techniques will be used, for example tables, graphs, equations, elementary game theory, and case studies, to illustrate certain points. Although the principal discipline followed in this thesis is economics, the subject of discussion, namely anti-dumping, crosses the boundaries between disciplines. There will therefore be times when it will be necessary to look in some detail at the actual Agreement or at the anti-dumping legislation of certain countries from a legal perspective. This thesis will therefore at times be interdisciplinary, incorporating both economic and legal arguments.

Although economists do accept (if somewhat reluctantly) that there is a place for anti-dumping in a world of free and fair trade, the problem, as explained above, is that anti-dumping, which is supposed to prevent unfair trade, is open to manipulation and can be used to prevent free and fair trade. One of the main aims of GATT and its umbrella body since 1994, the World Trade Organisation (WTO), was and remains the raising of standards of living for the world’s population through the liberalisation of *fair* international trade

(GATT Secretariat 1994:6,486). The party that is disadvantaged by the unfair trade practice is supposed to impose anti-dumping measures or other trade restrictions only if trade is deemed and shown to be unfair. The different types of trade restrictions which members of the WTO may impose, and the types of circumstance under which these restrictions may be imposed, will be explained in more detail in the following chapter.

In order to understand the different views on anti-dumping, it is necessary to understand the various theories of dumping. These theories of dumping will be explained in detail in the thesis. Amongst economists, the best known explanation of dumping is that of international price discrimination (Ethier 1987:937; Robinson 1946:180; Viner 1966a:3-4). However, it is not the only explanation of dumping. For example, it is also considered unfair if governments subsidise firms or industries which dump their output in other countries (Jackson 1990:2). Dumping can also be defined as goods exported at below cost (Jackson 1990:10-11; Krishna 1997:6). The economic explanations of dumping and the arguments for and against the practice of dumping will be discussed in detail in chapter 3.

Anti-dumping measures may be imposed on products that are being dumped and that are causing or will cause injury to import-competing industries. The two important criteria for the imposition of anti-dumping measures are therefore dumping and injury. Even though the injury criterion receives scant attention in this thesis (section 4.1.14), both criteria are important in an anti-dumping investigation. There are numerous ways in which the injury criterion can be manipulated in favour of an applicant, but a study of the injury criterion would require a thesis of its own. This thesis focuses on the dumping criteria only.

The precise definition of dumping<sup>7</sup> according to the latest anti-dumping agreement known as the Uruguay Round Anti-dumping Agreement (URAA) is “if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country” (GATT Secretariat 1994:168). And “the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country” is known as the *normal value* (GATT Secretariat 1994:168). Given this definition of dumping,

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7 It is often necessary to use the exact wording of the legal text, as the exact wording can be crucial to the interpretation of the Anti-dumping Agreement.

the determination of dumping requires a comparison between two values, the *normal value* and the *export price*. If the normal value is greater than the export price, then the resultant value, the *dumping margin*, is positive, which means the exporter is dumping. However, this seemingly simple comparison of two prices or values is not necessarily a simple calculation as will be seen throughout the rest of this thesis (Cunnane & Stanbrook 1983:19; Jackson 1990:2-3). For example, differences in the terms and conditions of sale in the domestic market of the exporter and the export market must be taken into account when these two values are compared in order to make the comparison as fair as possible (GATT Secretariat 1994:170; Jackson 1990:2; Viner 1966b:347; Haberler 1936:297). Amongst the factors that have to be considered are taxes, time of sale, transport costs, quality and exchange rates. The aim is to make a fair comparison of these two values at the same level of trade (Ethier 1987:937; GATT Secretariat 1994:170-171; Jackson 1990:10). Furthermore, an exporter could produce only for export. Then there is no normal value for the product. In such and in other circumstances, which will be discussed in detail in chapters 5 to 7, it would become necessary to calculate or construct a normal value, or even an export price, for the product. And the determination of dumping can become very complicated if the normal value and/or export price are constructed, because there are a number of factors that could influence these values.

The potential to influence the normal value (NV), the export price ( $P_x$ ) or both of these values, makes it quite easy to *manipulate or capture the dumping margin*. The value of the dumping margin is critical to the determination of dumping as well as to the right of the importing country to impose an anti-dumping duty on products that are allegedly being dumped. Any chance of manipulating either or both the normal value and the export price could therefore allow the importing country to manipulate the result of an anti-dumping action. The odds are stacked against an exporter when the applicant in the importing country is able to cast doubt on the selling prices of the exporter. When the country of export has been classified as a non-market economy, the potential to manipulate especially the normal value, becomes even more pronounced (see ch 6).

The complexities in the determination of dumping are not confined to the factors that influence the value of the normal value and the export price as defined by the Anti-dumping Agreement. Subtle differences between some of the members' anti-dumping regulations or laws also contribute to the potential manipulation of these values. It is almost impossible to ascertain how the investigative authorities arrive at

some of their figures in some anti-dumping cases because much of the data in these investigations are confidential. What does become apparent though from a number of anti-dumping cases analysed in chapter 7, is that the prices in the exporting countries are often discredited. The normal values in many such cases are based on constructed values - which often places the exporter at a disadvantage - or on "facts available" - a situation which is almost guaranteed to give a positive dumping result. These various methods used to calculate proxy values for normal values and/or export prices create a bias in favour of positive dumping findings (Messerlin 1991:52). It is this potential to manipulate the dumping finding that has opened the determination of dumping to abuse. But, as already indicated, an importing country must do more than just show that an exporter is dumping. The margin of dumping must be significant and the dumping must cause injury to the complaining parties.

The degree of significance and the importance of injury, plus all the necessary procedures that must be followed in an anti-dumping action, are detailed in the Uruguay Round Anti-dumping Agreement (URAA), which is explained in chapter 4. The URAA was an improvement on previous anti-dumping agreements, but too many loopholes still exist and these have contributed to the misuse of anti-dumping measures (see chs 2 & 4-7). Although this thesis concentrates on the many ways in which the dumping calculation can be manipulated, there are many other loopholes prevalent in the Anti-dumping Agreement. Some of these other potential loopholes are explained or alluded to in chapter 4. The point of this chapter is to show how complex and open to manipulation the URAA is. Various suggestions have been made about how the current Anti-dumping Agreement could be improved in order to reduce the abuse or misuse of the Agreement (see ch 8). But the Anti-dumping Agreement is already very complex. More rules or more complicated rules could create more loopholes which could increase the potential to manipulate the results of an anti-dumping investigation instead of making it more difficult to cheat.

A current danger to international trade and the world economy which is struggling to extricate itself from a recession, is that the potential number of cheaters has grown rapidly since the establishment of the WTO in 1994. Many countries that were the targets of anti-dumping actions are now new users of anti-dumping measures. As a result the number of anti-dumping initiations and initiators have increased quite alarmingly since the early 1990s (see table 2.3 & ch 7). The anti-dumping legislation introduced and the procedures followed by most new users of anti-dumping is based largely on either the US or the EC anti-dumping

legislation and procedures. In many respects, new users mostly follow the example set by the traditional users of anti-dumping (the US, the EC, Australia and Canada) and - as will become apparent from the next chapter - the use of anti-dumping by the traditional users has quite a history.

Although the number of anti-dumping actions initiated each year are extremely high, not all countries are affected equally by anti-dumping actions and anti-dumping actions are more prolific in certain sectors (see ch 7). China is the country most targeted with anti-dumping actions, while countries like India, the US and the EC are the countries (or group of countries) that initiate the most actions. Another interesting fact is that a high percentage of anti-dumping actions affect the base metals (mainly iron and steel) and chemical sectors. An in-depth discussion of the iron and steel industry in chapter 7 provides some reasons why this industry is particularly anti-dumping prone. It seems that the tendency to cheat on the anti-dumping agreement may be peculiar to certain industries. In other words, there appears to be little or no cheating in the other sectors. It will be suggested in chapter 8 that the industries that are being protected are the very industries that Adam Smith (1926:226-227) suggested would probably need protection from imports. So it would seem that the economic argument is not really about dumping, but about whether or not certain strategic industries should be protected. It may therefore be more productive to concentrate trade negotiations around these strategic industries which are being protected in spite of GATT, instead of trying to renegotiate the Anti-dumping Agreement.

In short, the thesis is organised as follows: some background to the use of non-tariff remedies, especially anti-dumping measures, will be provided in chapter 2. Chapter 3 is devoted to the explanation of dumping and the economic theories of dumping. The URAA is explained in chapter 4 and the determination of dumping equation is introduced and expanded on in this same chapter. The next two chapters (5 & 6) concentrate on the normal value and the circumstances surrounding the use of proxy normal values which enhance the ability to capture the dumping margin. Some anti-dumping data are provided in chapter 7, highlighting the fact that anti-dumping is concentrated in certain sectors. In other words, certain sectors or industries are being protected against competitive imports rather than against dumped products. The next chapter (8) provides an evaluation of the preceding chapters and concludes with some recommendations. The concluding chapter, chapter 9, provides a summary of the thesis.