

an arbitrary markup for profit and carrying expenditures.⁹ In fact, firms often find it rational to price below average total cost without the slightest suggestion of abuse of market power, "unfair" practices or predatory intent. Some have emphasized that even the marginal or average variable cost approaches can be deficient when dealing with high technology industries. In these areas, significant economies of scale and learning mean that, when introducing a new product, there exists a perfectly appropriate tendency to set current prices in terms of future anticipated costs (which will be considerably lower) - the so-called forward or life-cycle pricing widely practised for products such as aircraft and semi-conductors.¹⁰

More generally, the emphasis on the home market price compared to the price of the imported product, whether or not the constructed value approach is followed, places inordinate focus on what is occurring in the home market of the exporter, rather than on an analysis of the import market itself. Trade remedy practice has not been able to resolve satisfactorily frequent cases of "technical dumping" (the great majority of dumping investigations initiated). This involves imports that are sold at less than the home market price (or its "constructed" approximation) in order, for example:

- to compete with a like domestic product that is being discounted (or simply sold at marginal or average variable cost, rather than average total cost per unit);¹¹
- to develop local market presence when introducing a new product; or
- to act as a loss-leader involving the marketing of other products.

⁹ The U.S. uses a minimum 8% profit markup. The EU usually opts for a 5% margin. See Powell, et. al, "Current Administration", p.186 and OECD, "EC Antidumping Regulations", paragraph 14 and p.29. The new MTN agreement should help to address this specific issue. Its Article 2.2.2 provides for the mandatory use of actual market data to determine the appropriate amount on a case-by-case basis. Although the methodologies suggested remain open to abuse, they nonetheless represent a useful improvement on the 1980 Code. Average total cost is also the key concept for determining whether sales in the exporter's home market should be included in determining normal value. See Article 2.2.1.

¹⁰ For accessible, and, given the source, more than usually interesting comments in this regard, see Tyson, *Who's Bashing Whom?*, pp.267-72. Ms. Tyson is currently Chairperson of the Council of Economic Advisors in the Clinton Administration.

¹¹ Even the new MTN antidumping agreement defines the impact of "dumped" - below home market price - imports on the domestic industry in terms, *inter alia*, of their impact on "actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments" of the domestic industry (Article 3.4). Clearly, an imported product priced to compete locally could well have such impacts.