

create market power for dumpers), refined qualitatively to a modest degree.<sup>13</sup> The absence of sufficiently disaggregated information precludes a definitive conclusion for 16 of these remaining 27 cases, but, with regard to the others, only one appeared to come close to what could be fairly portrayed as possible predatory behaviour.<sup>14</sup>

Moreover, it should be noted that the above screens merely help us to gauge whether a firm may be acquiring a large market share. A finding of a negative impact on competition would also require an analysis of whether the firm would have the capacity to exercise and keep the market power so achieved, i.e., the analyst would also want to judge the ease with which future competitors might enter the market before reaching a final conclusion on the competitive impact of present shifts in market share.

Another part of the same draft study takes a similar look at the U.S. system. This work focusses on 282 investigations between 1979 and 1989 that concluded in an antidumping order or that were suspended or terminated without reaching a final determination, likely because other protective arrangements were made (e.g., price undertakings entered into by off-shore suppliers; so-called voluntary export restraints). Once again, five screens are used, although with a greater emphasis on market concentration indexes and sunk cost data.<sup>15</sup> Nonetheless, the end result is very similar.

The first test eliminates all but those cases in which the U.S. industry is sufficiently concentrated to create potential market power for dumpers if injury results from the dumping. All but 86 cases are eliminated. The second screen combines the former with a concentration test applied to the exporter companies under investigation. This yields a total of only 75 cases in which both exports from the challenged country and domestic production are highly concentrated. The third screen filters out the 13 cases involving exporters from five or more countries. The fourth test eliminates those cases for which the imports are decreasing or do not comprise more than a 20% market share or have not increased by at least 15% over an immediately preceding period. This process leaves 39 cases. The final test attempts

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<sup>13</sup> A Herfindahl index is created and applied.

<sup>14</sup> OECD, "EC Antidumping Regulations", paragraphs 63-74.

<sup>15</sup> Herfindahl indexes are created to measure concentration in domestic production and among exporters of the challenged product. A Kessides ratio is used to measure sunk machine and equipment costs as a gauge of barriers to entry. See OECD, "Antidumping and Competition Policy: Census and Analysis of Antidumping Actions in the United States", DAFNE/CLP/WP1(92)3, pages 8-13.