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The Political Economy of EU Anti-dumping Policy: Decoding Member States Votes

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Abstract. The imposition of antidumping duties on allegedly underpriced imports to the European Union is ultimately a political decision taken by the Council with simple majority. Using a unique dataset based on the notes taken by the Swedish delegates to the advisory committee on antidumping, we conduct a statistical analysis of the determinants of the votes. The basic vote pattern is strongly correlated with national trade policy preferences. Deviations from the ideological default positions in individual cases are primarily driven by the domestic lobbying for or against a particular measure. Macroeconomic conditions also matters. Governments are more likely to support antidumping petitions when unemployment is rising. The statistical analysis also indicates some apprehension to support measures against key markets for the export industry, presumably because of the retaliation risk. We also find some indirect evidence of vote-trading across cases, which in turn may explain why most measures are passed at the end of the day.

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1. Introduction

“In the absence of international competition rules ... trade defence instruments are the only possible means of protecting our industry against unfairly traded goods ... I am aware that ... there are many interests at stake and that some stakeholders attempt to influence the decision. Nevertheless, I can confirm that the decision making process is effective and transparent, based on factual evidence and thorough analysis.”

Trade Commissioner Karel De Gucht, November 2010¹

The imposition of antidumping duties on allegedly “dumped” imports to the European Union is ultimately a political decision taken by the Council with simple majority. The involvement of the member states in these purportedly “technical” decisions has been criticized by the Community industry and others because of the uncertainty it brings.² The suspicion of extraneous (political) considerations is fuelled by the opaque decision-making process. Neither the case files, nor the records of the Antidumping Committee, nor the votes of the Council are open for public scrutiny. What drives the decisions is therefore an open question.

The formal process and requisites are of course known from the basic regulation and other public sources. The process starts with a dumping complaint by individual firms or industry groups acting on behalf of the members. The complaint is addressed to the Trade Directorate of the European Commission, which has 45 days to decide whether or not to initiate antidumping proceedings based on the evidence received, hearing also the views of the member states in the Advisory Committee. Initiations of anti-dumping proceedings are announced in the *Official Journal* with information of the products and countries concerned and the timeframe for interested parties to submit evidence. The investigation usually takes a good year to complete. The Commission must establish that the export price to the EU is below the “normal value” and that the dumping causes “material injury” to the Community industry. The Commission must also assess the cost of antidumping measures for consumers, importers, retailers and industrial users. Measures may not be applied where the authorities, on the basis of all the information submitted, can clearly conclude that it is not in the “Community interest” to apply such measures.

The member states are consulted at each decision node of the investigation. The consultations are held behind closed doors and cover both the factual circumstances and the appropriate remedy. The opinion of the Advisory Committee is *advisory* and the Commission may open an investigation and impose provisional measures even if the majority of the member states are against. However, the Commission must take the balance of views into account in the final recommendation to the Council, which decides on definitive measures with simple majority. The final decision is thus political

¹ Address to the European Parliament, available at:
http://trade.ec.europa.eu/doclib/docs/2010/november/tradoc_147051.pdf.

² The opinions of the Community industry on the decision-making institutions are surveyed in a report Commissioned by DG Trade. See Mayer, Brown, Rowe & MAV LLP (2005).

and may hence involve other considerations than those laid down in the basic regulation.

Because of the closed door policy, there is hardly any research on the decision-making process and consequently not on what decides antidumping cases at the end of the day.³ The only attempt to peek behind the closed door thus far is a study by Evenett and Vermulst (2005) based on second-hand information compiled from the business press. The leaked information suggests – for whatever it is worth – that the member states are deeply divided on antidumping; a divide that rose to the surface in the failed attempt to reform the trade defence instruments in 2006-2007.⁴ The basic conflict line is between the protectionist “south” and the liberal “north”, where the former usually wins by virtue of their number. However, some measures require considerable compromises to pass, as illustrated by Evenett and Vermulst. The perhaps best example from recent years is the shoe case against China and Vietnam, where the proponents had to agree to an exemption of children and sport shoes and an early review after two years to swing the final votes.⁵ Another factor that tipped the balance according to *Financial Times* was a side-agreement between UK and Italy, whereby UK dropped its reservation against the shoe duties in return for Italian support for a UK opt-out from the working time directive.⁶ There are also some reports of vote-trading across antidumping cases, which may explain the high approval rate. For example, *Financial Times* (28-07-1998) reports that “it is suspected that Italy changed sides in a recent vote on duties on personal fax machines – of which Austria is the main EU producer – in attempt to win Austrian support on grey cotton”.⁷

While Evenett and Vermulst make a convincing case that the antidumping process is politicized – and seemingly increasingly so after the accession of Austria, Finland and Sweden in 1995, which strengthened the liberal block– they are not able to get to the bottom of the issue because of the vote secrecy. Specifically, on what grounds do the member states make their decisions for or against? Are votes driven by ideological positions, economic self-interest or the domestic lobbying pressure for or against? Are governments more inclined to support antidumping petitions in economic slumps? Does it matter who is targeted? Are votes traded across cases?

The National Board of Trade (Kommerskollegium) represents Sweden in the Advisory Committee in a technical capacity alongside the Ministry of Foreign Affairs. Of course, as other insiders the Board is bound by confidentiality requirements. However, we believe that a statistical analysis of the votes is both permissible and necessary to facilitate the debate on how this instrument operates in practice.⁸ We will not disclose how the votes fell in individual proceedings. However, we will present some summary

³ By contrast there is a large literature on the votes of the US International Trade Commission (USITC). See the survey by Douglas Nelson (2006).

⁴ See De Bièvre and Eckhardt (2011) for a discussion of why the reforms failed.

⁵ COUNCIL REGULATION (EC) No 1472/2006 of 5 October 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam (OJ, L 275, 06.10.2006, p.1).

⁶ *Financial Times*, September 22, 2006, “UK in Secret deal with Italy on China Trade”.

⁷ Quoted in <http://www.kc3.co.uk/~dt/protectionism.htm>

⁸ The confidentiality aspects are analyzed in Annex II.

statistics to set the parameters for the discussion. (The basic pattern is already known from the leaked information compiled by Evenett and Vermulst). As a final safeguard to protect “sensitive” data we look backward at the EU15 period, i.e., at measures decided by previous governments, most of which are now revoked.

As we do not have access to the final votes in the Council, we use the preliminary votes cast in the Advisory Committee. This is a problem in so far as the member states may change foot in the Council when the political pressure is brought to bear. The number of reversals should be rather limited, however, since the Council only reviews the most controversial cases. Most cases are *de facto* decided already at the Committee stage, although the formal decision is retained by the Council. The vote panel is put together from the memory notes of the Swedish delegates to the Advisory Committee. These notes vary in detail and it is not possible to read out the position of each member state in each and every case. The missing observations may be due to omissions in the notes, absence of some delegations or ambiguous statements at the table. We opt for quality instead of quantity and do not include cases where more than half of the votes are missing, reducing the number of cases we can exploit in the statistical analysis by roughly a half.

The focus of this study is on cases that went the full course to a vote on *definitive* measures; i.e., cases where the Commission recommends antidumping measures on basis of the factual evidence. Cases that were withdrawn by the petitioners⁹ or terminated on recommendation of the Commission are not included in the panel.¹⁰ The retained panel covers 45 cases decided between 6 March 1996, when the current antidumping regulation entered into force, and 20 March 2004, when the voting rules were amended in the run-up to the accession of ten new member states. 40 of the 45 cases were adopted by the Council, but only in *one* case with a *unanimous* vote (judging from the vote records of the Advisory Committee). The retained vote panel is almost balanced with an average of 14.2 vote observations per antidumping case (out of the 15 votes cast by the EU15 member states) and 640 observations in total. The empirical question is why the member states take different positions on the same case, and why they take different positions in different cases. The micro-approach in this study set it apart from the earlier literature that had to rely on Communitywide factors in want for the vote records, thereby missing out on half the action.¹¹

To summarize the results, the analysis corroborates the observation of Evenett and Vermulst (2005) of two or perhaps three voting blocks in the Community. The basic vote pattern is strongly correlated with national trade policy preferences. Deviations from the ideological default positions are primarily driven by the domestic lobbying for

⁹ A study by Rutkowski (2007) suggests that petitions are withdrawn because the objectives have been met by other means. Specifically, reviewing the trade data he finds a significant “collusive” effect on prices and volumes even for complaints that were withdrawn.

¹⁰ The only termination cases that are somewhat comparable to those resulting in an affirmative proposal are those that pass the dumping and injury test but fail on the public interest test. This subset is relatively small and usually predicated on a negative outlook for the Community industry even *with* the measures. We exclude these cases to keep the panel as comparable as possible.

¹¹ Studies using “macro” (Communitywide) explanatory variables include, *inter alia*, Eymann and Schuknecht (1996), Knetter and Prusa (2003), and Weifeng and Cuyvers (2009).

or against a particular measure. Macroeconomic conditions also matters. Governments are more likely to support antidumping petitions when unemployment is rising. The statistical analysis also indicates some apprehension to support measures against key markets for the export industry, presumably because of the retaliation risk. We also find some indirect evidence of vote-trading across cases, which in turn may explain why most measures are passed at the end of the day.

The paper is structured as follows: Section 2 outlines the key provisions of the basic antidumping regulation and the decision-making process. The focus is on the less known features of the system, including the meaning of the “Community interest”, the *de facto* powers of the Advisory Committee, and the limits of the political discretion in the light of the *Eurocoton* judgment of the Court of Justice. Readers familiar with these subjects may skip this section without loss of continuity. Section 3 presents the database and the explanatory variables. This section is rather lengthy, but we believe that some extra explaining is needed since we are navigating a partially uncharted territory. The empirical results are presented in Section 4. The final section concludes.

2. Regulation, process and decision-making

2.1 The three requisites

Antidumping proceedings in the EU are governed by the amended Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, which entered into force on 6 March 1996.¹² The Regulation defines three conditions that must be satisfied in order to intervene against allegedly dumped imports. It must be established that the export price to the EU is below the “normal value” and that the dumping *causes* “material injury” to the Community industry. The EU also applies a public interest test, which is not mandatory in the WTO antidumping agreement.

2.1.1 Dumping¹³

A product is considered as being dumped if its export price to the Community is less than a comparable price for the like product, in the ordinary course of trade, as established for the exporting country.

The Regulation provides different ways for establishing the “normal value” of the exports to the EU. The default is to use the domestic price in the exporting country as the benchmark. If the domestic price is not deemed to be representative, the normal value is calculated on basis of the (estimated) production cost plus overhead and a reasonable profit margin, or in the alternative, a representative export price to a third country. In the case of dumping by non-market economy firms, the normal value is established from the production costs of an “analogue” market economy. For example, the normal value of Chinese steel may be established from the production costs in e.g. Brazil.¹⁴

The *dumping margin* is the difference between the “normal value” and the export price to the Community in the reference period. The exporters in the investigated countries are assessed individually if possible. However, if there are many exporters, the Commission may investigate only a sample of the firms. Firms that are willing to cooperate but are excluded from the sample are assigned the average duty established for their national peers in the sample. Non-cooperating firms are placed in the highest

¹² The amendments include Council Regulation (EC) No 2331/96 of 2 December 1996, Council Regulation (EC) No 905/98 of 27 April 1998, Council Regulation (EC) No 2238/2000 of 9 October 2000, Council Regulation (EC) No 1972/2002 of 5 November 2002, Council Regulation (EC) No 461/2004 of 8 March 2004 and Council Regulation (EC) No 2117/2005 of 21 December 2005. The consolidated (“codified”) version of the antidumping regulation (Council regulation (EC) No 1225/2009 of 30 November 2009) can be downloaded at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:343:0051:0073:EN:PDF>

¹³ Ibid, Article 2.

¹⁴ See the Commission note “Anti-dumping: How does the ‘analogue country’ procedure work? Brussels, 23 February 2006”: http://trade.ec.europa.eu/doclib/docs/2006/february/tradoc_127603.pdf

dumping bracket or somewhat above in want for the actual numbers and, unofficially, to deter non-cooperation.¹⁵

2.1.2 Material injury caused by the dumping¹⁶

The second requisite is that the dumping causes, or threatens to cause, “material injury” to the Community industry or material retardation of the establishment of such an industry. All relevant economic factors and indices having a bearing on the state of the Community industry should be examined, including actual and potential decline in sales, profits, output, market share, productivity, return on investments and capacity utilization. If the investigation covers several countries, the injury should be assessed with respect to the cumulative effects. It must be demonstrated that the dumping is of such an order that it causes *material* injury to the Community industry. Other factors that are injuring the Community industry at the same time are also examined in order to isolate the impact of dumped imports (which is difficult in both theory and practice).

The level of the anti-dumping duty shall be less than the dumping margin if such lesser duty would be adequate to remove the injury to the Community industry.¹⁷

2.1.3 Community interest¹⁸

The third requisite is that the proposed remedy does not cause disproportionate harm to the rest of the society, including consumers, retailers, importers and industrial users of the targeted products.

The Community interest assessment is a *negative test*, where the proposed measures are presumed to be in the interest of the Community *unless*, on the basis of all the information submitted by the stakeholders, it can be clearly concluded that it is *not* in the interest of the Community to apply such measures. In this assessment, special considerations *shall* be given to the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition. The commercial interests of the Community industry should in other words be given particular consideration, i.e., higher weights in the cost-benefit analysis. The presumption of a Community interest unless otherwise proven is underscored also in an interpretative note issued by the Commission to the members of the Advisory Committee:¹⁹

“The main purpose of the Community interest test is to decide whether there are particular reasons not to impose measures in a given proceeding, despite a finding that the dumped or subsidised imports caused material injury to the Community industry. Since Community interest considerations

¹⁵ Firms are deemed to be non-cooperating if they refuse to co-operate in the investigation or if they submit false or incomplete data or are late in their submissions.

¹⁶ Ibid, Article 3.

¹⁷ Ibid, Article 9(4).

¹⁸ Ibid, Article 21.

¹⁹ European Commission, 13 January 2006 (Trade.B.1/AS D(2005) D/568), The Community interest test in anti-dumping and anti-subsidy proceedings:

<http://wikileaks.org/leak/ec-dumping-community-interest-2006.pdf>

can lead to the conclusion that a proceeding should be terminated, despite the existence of unfair (dumped and/or subsidised) trade, the standards applied must be high. [...] The Community interest test addresses in particular the viability and future perspectives of the Community industry with and without measures, as well as the likely impact of measures (or their absence) on other interested parties such as importers, suppliers, users or consumers. [...] When measures are not likely to bring any benefits to the Community industry, any increase in costs for users, importers or consumers – even a very tiny one – would be disproportionate. However, when measures are likely to improve the situation of the Community industry, a certain increase in costs for other parties will generally be considered to be tolerable.”

The presumption of a Community interest unless otherwise proven means that the burden of proof rests on the parties that *object* to the proposed measures. They have to show that the costs of antidumping measures are clearly disproportional to the benefits for the complaining industry. The opponents must thus get *actively* involved in the investigation to prevent or scale back the proposed measures. A silence is taken as evidence that the costs are tolerable, although it may simply reflect that the costs are spread thinly over many users and consumers in the EU – none of which may be ready to shoulder the administrative burden for the benefit of all (filling in long questionnaires and open the books to the Commission’s investigating team).²⁰ The overwhelming majority of the proposed measures are therefore – rightly or wrongly – found to be in the “Community interest.”²¹

The interpretative note also includes a “pointer” to the member states to make their arguments for or against antidumping measures within the premises of the regulation. As underscored by the Commission in the interpretative note, the Community interest test is not open-ended but an assessment of the *economic effects on the operators concerned*. Other aspects should be left out of the argument:

“In this respect the question might be raised whether the test should also cover certain broader considerations (e.g. foreign policy, environmental policy, labour standards, regional policy, macroeconomic effects of measures) that are sometimes invoked as relevant in the context of the imposition or non-imposition of measures, although the alleged link might be rather indirect. As a general rule, taking this type of considerations into account would conflict with the precision and technical nature of the investigation and the instrument. Moreover, the above mentioned broader topics are already covered by specific legislation, which includes public interest considerations. Concerns relating to such broader aspects should consequently be addressed by other means than anti-dumping measures, in the appropriate respective context.”

²⁰ The theory we are referring to here is the logic of collective actions by Mancur Olson (1965).

²¹ See Maclean and Eccles (2001), National Board of Trade (2005) and Wellhausen (2001) for a critical review of the Community interest test *in practice*.

The Commission illustrates this point with the proceedings against dumped imports of low-energy lamps from China, resulting in anti-dumping duties of up to 66.1 percent:²²

“In lamps, it was argued that the imposition of measures was against the Community energy saving policies, as measures would result in the increase of retail prices for consumers and thus reduce the sales of energy saving lamps. This argument was rejected since the Community interest analysis focuses on the economic impact of measures on the economic operators concerned and the Community industry cannot be expected to bear the costs of the Community energy saving policies through suffering from unfair trade practices.”

The note also “reminds” the member states that the Community interest is that of the Community *as a whole*:

“It should not be confused with the national interest of individual Member States, nor should it be considered as the mere sum of the interests.”

The note stops short, however, of defining what the Community interest *is* in positive terms, i.e., how various interests should be weighed against each other. The practice does not give much guidance either since the Commission use different arguments in different cases to justify the Community interest.²³ The meaning of the “Community interest” is thus open to interpretation and a common issue of contention in the Advisory Committee.

2.2 Proceedings

Dumping complaints can be lodged both by individual firms and industry groups acting on behalf of the members. The petition must include data substantiating the allegation and be supported by at least 25 percent of the Community industry of like products (and not be opposed by EU companies accounting for a larger production volume than the complainants).²⁴

Complaints are addressed to the Trade Directorate of the European Commission (the trade defence unit).²⁵ The Commission has 45 days to decide whether to initiate antidumping proceedings based on the evidence received, hearing also the views of the Advisory Committee. Initiations of antidumping proceedings are announced in the *Official Journal of the European Communities* (OJ) with information of the products and countries concerned and the timeframe for interested parties to submit evidence. The investigation shall whenever possible be completed within one year or exceptionally

²² Council Regulation (EC) No 1470/2001 of 16 July 2001, imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China.

²³ Ibid, footnote 21.

²⁴ The procedures and requirements are outlined in the “Guide on How to Draft an Anti-dumping Complaint”: http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_112295.pdf

²⁵ The mission of the Trade Defence Directorate is available at: http://trade.ec.europa.eu/doclib/docs/2010/july/tradoc_146391.pdf

15 months. Provisional duties may in cases of extreme urgency be imposed already after 60 days, although this decision node is usually reached first after 6 to 9 months into the investigation.

Figure 1. Proceedings

	Commission (Trade defence unit, DG Trade)		Advisory Committee (Member States)	Council of the EU (Ministers)
	Complaint lodged by individual firms or industry association (representing at least 25 % of the Community industry)	↔	Consultations with the MS whether or not to initiate antidumping proceedings	
45 days	Notice of initiation (OJ) if prima facie evidence of dumping and injury: - Products - Countries Investigation commence - Exporters and other “interested parties” (users, importers, retailers, consumer organizations) must make themselves known to the Commission within 15 days . - Commission questionnaires due within 37 days . - Verification visits. - “Best available information” if non-cooperation			
6-9 months	Proposal for provisional measures - Investigation continues	→	Advisory vote (Commission decides)	
12-13 months	Proposal for definitive measures	→	“Advisory” vote (Commission shall take the majority opinion into account)	Mediation in WPTQ/COREPER if the majority is against
Max 15 months	(Revised) definitive proposal			Decision by simple majority

The consultations with the member states are held in the Advisory Committee set up for that purpose.²⁶ The meetings are chaired by an official of the Trade Directorate, usually the head of the trade defence unit seconded by the case handlers. The member states are represented by trade officials acting on instructions from the government. The consultations cover both the factual circumstances and the appropriate remedy. The opinion of the Advisory Committee is *advisory* and the Commission may open an investigation and decide on provisional measures even if the majority vote against. However, the Commission must take the balance of views of the Committee into account in the final recommendation to the Council, which decides on definitive

²⁶ <http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence/advisory-committees/>

measures with simple majority.²⁷ A failure to do so may lead to a defeat in the Council, and the Commission therefore strives to accommodate the concerns of the opponents to the possible extent before a proposal is submitted to the Council for final approval.

The stocktaking (“vote”) in the Advisory Committee is done in different ways. In less controversial cases the Commission may simply ask if anyone is against. Delegations that remain silent are assumed to support the proposal. In more controversial cases, the delegations may state their position one after the other in a tour around the table. Formal votes by a raise of hand are occasionally employed if the majority hangs in the balance. The vote records used in this study are gathered from the notes of the Board’s representative to the Committee, coding unclear positions as missing values.

The draft proposal and the minutes of the Advisory Committee are then transferred to the General Secretariat of the Council, which decides on the subsequent procedures depending on the majority situation in the Committee. Proposals that are supported by a clear majority are usually decided by a mechanism known as “silent procedures”. The General Secretariat announces a deadline for submitting reservations. Member states that do not file a reservation are assumed to support the proposed measures. The General Secretariat may alternatively use “written procedures”, calling upon *all* member states to submit their final vote in writing. A third option is to continue the mediation in the Council. This option is resorted to when the majority of the Advisory Committee leans against the proposal but where some delegations have indicated some flexibility subject to certain adjustments. These cases are mediated either by the Council’s *Working Party on Trade Questions* or – if the case is extremely sensitive – the *Permanent Representatives Committee* (COREPER) composed of the EU ambassadors of the member states.²⁸ These high-level mediations may result in some “fine-tuning” of a proposal in order to allow a majority of the ministers to sign off. The shoe case referred to in the introductory section of this paper is a good example.²⁹

Affirmative proposals (as amended by the consultative bodies) are then listed under “part A” of the Council’s agenda and adopted without discussion. Dissenting member states may enter a written reservation or statement in the Council minutes, although this is rarely done in practice because of the pressure to keep a united front.³⁰ The

²⁷ Art. 21(5).

²⁸ COREPER is the French acronym for the **Comité des Représentants Permanents**.

²⁹ The shoe duties were extended in December 2009 for another 15 months after very tough negotiations in the Council, reversing the negative opinion of the Advisory Committee.

³⁰ Reviewing the press releases and monthly summaries of Council acts, we can only find a handful of cases where dissenting views were recorded. A case in point is the decision to impose definitive antidumping duties on imports of trichloroisocyanuric acid originating in the People’s Republic of China and the United States of America (OJ L 261, 7.10.2005, p. 1), where the *press release* reports that the Danish, Netherlands, Estonian, Finnish and Swedish delegations voted against (http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/86442.pdf). Another example is the statement issued by Sweden with regard to Council Regulation (EC) No 91/2009 of 26 January 2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People’s Republic of China. It reads: “Sweden is strongly against imposing definitive anti-dumping measures on imports of certain iron or steel fasteners originating in the People’s Republic of China. We question the conclusion regarding material injury for the Community industry, since almost all injury indicators show a very positive trend including the profit that touches the industry’s own target

residual cases for which no agreement was possible are usually allowed to “expire” without a formal decision at the 15 months deadline set by the regulation. These cases could in principle have been submitted to the ministers as “B points” on the agenda (discussion points) and rejected by a vote at the table, but the ministers usually prefer the less visible automatic route.³¹

2.3 Majority requirement

The majority requirement to adopt antidumping measures has changed three times in the past decades, all in the direction of lowering the threshold.

The first amendment effective on 7 March 1994 reduced the threshold from *qualified* to *simple* majority in favour of the proposed measures.³² According to Woolcock (2005, p. 387), the amendment was prompted by a French-led group of member states that feared that the more demanding rules under the new WTO agreement on antidumping would make it more difficult to use this instrument. Another perhaps equally important reason was the imminent enlargement of the EU in 1995 (the entrance of Austria, Finland and Sweden), which was anticipated to strengthen the liberal block in the Council. By lowering the threshold from qualified to simple majority, the liberal impetus of the new member states was neutralized.

The rules were amended a second time on 8 March 2004, ostensibly to “facilitate” the decision-making in a union that was growing from 15 to 25 member states.³³ The amendment reduced the threshold by reversing the majority count from a majority to *adopt* a proposal to a majority to *block* a proposal. The most immediate consequence of this amendment was that abstentions changed meaning from a silent no to a silent yes, which at least arithmetically facilitates the adoptions of antidumping measures.³⁴

The decision-making rules were further amended by the new “comitology” decision adopted by the European Parliament and the Council on 16 February 2011, which in turn was an adjustment to the *Treaty of Lisbon* that entered into force on 1 December

level. The only indicator that could have caused “injury” in this case is a drop in market share despite a growth in sale by 12%” (<http://register.consilium.europa.eu/pdf/en/09/st07/st07259.en09.pdf>).

³¹ We cannot recall any cases that were rejected by a vote at the table.

³² Council Regulation (EC) No 522/94 of 7 March 1994 on the streamlining of decision-making procedures for certain Community instruments of commercial defence and amending Regulations (EEC) No 2641/84 and No 2423/88, Official Journal L 66 , 10/03/1994 P. 10-11.

³³ COUNCIL REGULATION (EC) No 461/2004 of 8 March 2004 amending Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community and Regulation (EC) No 2026/97 on protection against subsidised imports from countries not members of the European Community (OJ, L 77/12, 13.3.2004, p. 12).

³⁴ A good example is provided by Shu (2008) on the antidumping cases against Chinese and Vietnamese footwear with leather uppers, which were adopted in spite of receiving fewer votes for (9) than against (12). What tipped the balance were the 4 abstentions that were counted as implicit yes-votes under the new rules (9+4 votes for and 12 votes against). Had the vote been taken under the old majority requirement, it would have fallen under the same vote distribution (9 votes for and 12+4 votes against). However, while this example is suggestive, the implication of the majority reversal depends on *why* governments abstain rather than taking explicit side. If abstentions are a vote of indifference while being counted as implicit yes-votes after the vote reform, more proposals will be adopted as a matter of simple arithmetic. However, if abstentions are a silent way of taking side, the amendment may not matter much since governments are not ignorant to the changing meaning of an abstention.

2009.³⁵ The comitology decision streamlines the decision-making for all “implementing acts” delegated to the Commission, including trade defence measures. The new comitology decision means that the power is shifted to the Commission. The measures proposed by the Commission will still be “examined” by the member states but the possibility to overturn a proposal is effectively nil since a proposal can only be blocked by a double majority requirement: at least 15 of the 27 member states, representing 65 percent of the population of the EU). Simulations undertaken by the National Board of Trade on basis of the vote records from 2007 to 2010 suggests that 100 percent of the measures will pass in the future (unless the protectionist sentiment in the Council shifts radically in a liberal direction).

In summary, the amendments adopted over the last decades have all gone in the direction of facilitating the introduction of antidumping measures. Before 1994, these measures could only be introduced if a qualified majority of the member states was in favour. The situation has now turned 180 degrees. Antidumping measures will in the future be introduced unless a qualified majority of the member states are against, which is highly unlikely even in the best of times.

We mention these amendments to avoid confusion with the current rules and also to highlight that the approval process has become more automatic over time because of the shifts in the threshold to overrule the Commission. Having said that, the rules used in the period covered by *this* study (EU15 period) was simple majority for antidumping measures, counting abstentions as negative votes.

2.4 How much discretion does the Council enjoy? (the Eurocoton case)

Given that antidumping decisions are supposedly delegated to the Commission, one may wonder how much discretion the Council has. This question was referred to the *European Court of Justice* by the Cotton and Allied Textile Industries of the European Communities (Eurocoton) after the Council had rejected a petition for antidumping measures against imports of unbleached cotton fabrics originating in China, Egypt, India, Indonesia, Pakistan and Turkey.³⁶ The applicant asked the Court to annul the Council’s decision since all requisites were satisfied according to the Commission. The investigation had established the existence of dumping, injury caused thereby and a Community interest to intervene. In such circumstances, the Council *shall* adopt the proposal of the Commission according to Article 9(4) of the basic regulation.³⁷ In the alternative, the applicant submitted that the decision should be annulled by the Court because of the breach of the obligation to state reasons for the rejection. The only communication from the Council was a press release informing the parties that the

³⁵ REGULATION (EU) No 182/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers.

³⁶ The politics of this case is discussed in Wellhausen (2000), pp. 1044-1046.

³⁷ Article 9(4) reads: “Where the facts as finally established show that there is dumping and injury caused thereby, and the Community interest calls for intervention in accordance with Article 21, a definitive anti-dumping duty shall be imposed by the Council, acting on a proposal submitted by the Commission after consultation of the Advisory Committee. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission.”

written procedure had expired (at the 15 months deadline for a decision) with a negative result.

The application was dismissed by the *Court of First Instance* on both grounds but accepted on appeal by the *Court of Justice* on the second ground. The quintessence of the Judgment is recitals 89-91.³⁸

89. When the Council decides not to adopt a proposal for a regulation imposing definitive anti-dumping duties, it should provide an adequate statement of reasons which shows clearly and unambiguously why, in the light of the provisions of the basic regulation, there is no need to adopt the proposal.

90. Under Article 9(4) of the basic regulation, where the facts as finally established show that there is dumping and injury caused thereby, and the Community interest calls for intervention in accordance with Article 21 of that regulation, a definitive anti-dumping duty shall be imposed by the Council.

91. Compliance with the obligation to state reasons therefore requires the act in question to indicate the absence of dumping or corresponding injury or that the Community interest does not call for intervention on its part.

The *Eurocton* judgment clarifies that the Council cannot reject Commission proposals *at will*. Rejections can only be based on provisions in the antidumping regulation and must be adequately motivated.

2.5 Empirical question

The antidumping regulation would not seem to give much discretion to the Council (and indirectly the Advisory Committee that decides most cases in practice). The measures proposed by the Commission *shall* be adopted if the statutory requisites are satisfied. However, this does not mean that member states must uncritically accept the findings of the Commission. They may take issue both with the calculation of dumping and injury margins and the causal link, as well as the Commission's assessment of the Community interest. In particular the latter is ultimately a judgment call that depends on the weights given to different stakeholders. These weights are not clearly defined in the basic regulation, although the language suggests that the needs of the Community industry shall be given "special consideration".³⁹

Against this background, we now turn to the empirical analysis. What determines the member states' votes in practice and hence the outcome of antidumping proceedings, given the simple majority requirement?

³⁸ JUDGMENT OF THE COURT of 30 September 2003 in Case C-76/01 P, Committee of the Cotton and Allied Textile Industries of the European Union (Eurocoton) and Others v Council of the European Union.

³⁹ "In such an examination [of the Community interest], the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition shall be given special consideration." (Article 21(1) of the basic regulation).

3. Data and hypotheses

3.1 Coverage

The 45 cases covered by this study are listed in Table 1, including product headings, investigated countries, case references and the antidumping duties (simple average). The sample represents about half of the caseload that went the full course to a vote over definitive measures between 6 March 1996 and 20 March 2004. Most complaints were filed by traditional industrial sectors struggling with competition from emerging economies in Asia, Latin America and Eastern Europe, including becoming members of the EU (acceding in 2004 and 2007).⁴⁰ The steel industry, the chemical industry and the textiles industry were (and still are) among the most active petitioners. Also producers of low-tech consumer goods made use of the AD instrument to defend their market shares and profit margins. The case sample includes consumer items such as bed linen, personal fax machines, bicycles, cathode-ray television sets (“fat” TVs), hair brushes and recordable compact discs. The evidence is summarized in the Commission’s *draft proposal* and is thus common knowledge to the member states when they vote on the issue, as are the proposed measures (coverage, duties and duration). The member states are expected to support the measures *unless* they read the evidence differently, including the assessment of the Community interest. 40 of the 45 cases in our sample were adopted by the Council, but only in *one* case with an *unanimous* vote (judging from the vote records of the Advisory Committee).^{41,42} The dataset thus include a considerable amount of variability both within and across cases that we shall exploit in the statistical analysis.

⁴⁰ One reason for why EU antidumping measures have fallen somewhat over the last decade (with the exception of the financial crises) is the accession of Eastern European countries to the EU. Antidumping duties are not permitted between the member states on the theory that dumping is not possible in an integrated market because of the arbitrage possibilities that leads to a common price (which is empirically questionable). The route available to firms suffering from internal “dumping” is instead to lodge a complaint under the common competition rules. The prospect is however considerable less than under the antidumping rules against external firms since internal “dumping” is only prohibited if it is construed as an abuse of a “dominant market position”, a very sensible qualifier that unfortunately has not made it into the WTO antidumping agreement (and hence not the EU antidumping regulation).

⁴¹ Rejected cases are indicated by a reference to the draft proposal of the Commission (COM) and adopted cases by the Council regulation imposing definitive measures.

⁴² As we do not have access to the final votes in the Council, we cannot rule out that more than one case were adopted unanimously by the Council. Some member states may have dropped their reservations because of a last-minute adjustment of the proposal. Others may have dropped their reservations for tactical reasons once it became clear that the majority is for.

Table 1. Case sample

Case	Investigated countries	Official Journal / Commission Draft Proposal			Duty**
		Initiation	Provisional	Definitive	
Seamless pipes and tubes, of iron or non-alloy steel	CZE, ROU, RUS, SVK	C253, 31.08.96, p. 26	L141, 31.05.97, p. 36	L322, 25.11.97, p.1	16.3
Bed linen	EGY, IND, PAK	C266, 13.09.96, p.2	L156, 13.06.97, p.11	L332, 04.12.97, p.1	8.8
Stainless steel fasteners	CHN, IND, MYS, KOR, TWN, THA	C369, 07.12.96, p. 3	L243, 05.09.97, p. 17	L50, 20.02.98, p.1	16.7
Personal fax machines	CHN, JPN, MYS, SGP, KOR, TWN, THA	C32, 01.02.97, p. 3	L297, 31.10.97, p. 61	L128, 30.04.98, p.1	24.6
Potassium permanganate	IND, UKR	C130, 26.04.97, p. 4	L19, 24.01.98, p. 23	L200, 16.07.98, p.4	18.7
Polysulphide Polymers	USA	C187, 19.06.97, p. 4	L82, 19.03.98, p. 25	L255, 17.09.98, p.1	13.2
Synthetic fibre ropes	IND	C201, 01.07.97, p. 8	L4, 08.01.98, p. 28	L183, 26.06.98, p.1	67.5
Cotton fabrics (unbleached)	CHN, EGY, IND, IDN, PAK, TUR*	C210, 11.07.97, p. 12	L111, 09.04.98, p. 19	COM(1998) 540 final	11.2
Magnesium, unwrought	CHN	C256, 21.08.97, p. 3	L142, 14.05.98, p. 24	L298, 07.11.98, p.1	31.7
Stainless steel bright bars	IND	C264, 30.08.97, p. 2	L155, 29.05.98, p. 3	COM(1998) 581 final/2	1.2
Hardboard	BRA*, BGR, EST, LVA, LTU, POL, RUS	C336, 07.11.97, p. 2	L218, 06.08.98, p. 16	L22, 29.01.99, p.16	13.5
Bicycles	TWN	C360, 26.11.97, p.5	L238, 26.08.98, p.10	L49, 25.02.99, p.1	5.3
Capacitors (large electrolytic aluminium)	THA, USA	C363, 29.11.97, p. 2	L240, 28.08.98, p. 4	COM(1999) 37 final	23.5
Binder or baler twine (polypropylene)	POL, CZE, HUN, SAU*	C1, 03.01.98, p.10	L267, 02.10.98, p.7	L75, 20.03.99, p.1	21.7
Steel ropes and cables	CHN, IND, ZAF, KOR*, UKR, MEX, HUN, POL	C155, 20.05.98, p.11	L45, 19.02.99, p.8	L217, 17.08.99, p.1	39.9
Seamless pipes and tubes, of iron or non-alloy steel	HRV, UKR	C353, 19.11.98, p.13	L218, 18.08.99, p.3	L45, 17.02.2000, p.1	34.6
Steel quarto plates (hot-rolled flat products)	CHN, IND, ROU	C133, 13.05.99, p. 17	L36, 11.02.2000, p. 4	L202, 10.08.2000, p.21	14.5
Malleable tube or pipe fittings	BRA, CHN, HRV*, CZE, JPN, KOR, THA, YUG*	C151, 29.05.99, p.21	L55, 29.02.2000, p.3	L208, 18.08.2000, p.8	35.2
Urea and ammonium nitrate solutions	DZA, BLR, LTU, RUS, SVK*, UKR	C181, 26.06.99, p.27	L75, 24.03.2000, p.3	L238, 22.09.2000, p.15	18.1
Black colorformers	JPN	C213, 24.07.99, p.3	N.A.	L259, 13.10.2000, p.1	18.9
Cathode-ray colour television picture tubes	CHN*, IND, LTU*, MYS*, KOR	C216, 29.07.99, p.3	L102, 27.04.2000, p.15	L267, 20.10.2000, p.1	5.9
Hair brushes	CHN, HKG*, KOR, TWN, THA	C231, 13.08.99, p.2	L111, 09.05.2000, p.4	COM(2000) 635 final	37.5
Glycine	CHN	C239, 24.08.99, p.4	L118, 19.05.2000, p.6	COM(2000) 654 final	39.7
Styrene-butadiene-styrene thermoplastic rubbers	TWN	C241, 26.08.99, p.5	L124, 25.05.2000, p.12	L238, 22.09.2000, p.4	11.5
Coke (over 80mm)	CHN	C262, 16.09.99, p.10	L141, 15.06.2000, p.9	L316, 15.12.2000, p.30	43.6
Electronic weighing scales	CHN, KOR, TWN	C262, 16.09.99, p.8	N.A.	L301,30.11.2000, p.42	8.7
Polyester staple fibres	KOR, IND	C285, 07.10.99, p.3	L166, 06.07.2000, p.1	L332, 28.12.2000, p.17	9.6
Ammonium nitrate	LTU*, POL, UKR	C311, 29.10.99, p.3	L187, 26.07.2000, p.12	L23, 25.01.2001, p.1	23.2
Polyethylene terephthalate (PET)	IND, IDN, MYS, KOR, TWN, THA	C319, 06.11.99, p.4	L199, 05.08.2000, p.48	L301, 30.11.2000, p.21	20.2
Aluminium Foil	CHN, RUS	C45, 18.02.2000, p.2	N.A.	L134, 17.05.2001, p.1	14.9

Table 1. Case sample – continued –

Case	Investigated countries	Official Journal / Commission Draft Proposal			Duty**
		Initiation	Provisional	Definitive	
Steel ropes and cables	CZE, MYS*, RUS, KOR*, THA, TUR	C127, 05.05.2000, p.12	L34, 03.02.2001, p.4	L211, 04.08.2001, p.1	18.7
Lamps (IECF)	CHN	C138, 17.05.2000, p.8	L38, 08.02.2001, p.8	L195, 19.07.2001, p.8	30.7
Polyethylene terephthalate film (PET film)	IND, KOR	C148, 27.05.2000, p.22	L55, 24.02.2001, p.16	L227, 23.08.2001, p.1	13.8
Gear hubs (internal) for bicycles	JPN	C214, 27.07.2000, p.4	N.A.	L282, 26.10.2001, p.1	11.3
Urea	BLR, BGR, HRV, EGY*, EST, LBY, LTU, POL*, ROU, UKR	C301, 21.10.2000, p.2	L197, 21.07.2001, p.4	L17, 19.01.2002, p.1	9.3
Ferro molybdenum	CHN	C320, 09.11.2000, p.3	L214, 08.08.2001, p.3	L35, 06.02.2002, p.1	22.5
Zinc Oxides	CHN	C366, 20.12.2000, p.7	L248, 18.09.2001, p.17	L62, 05.03.2002, p.7	18.3
CD-Rs (recordable compact disks)	TWN	C102, 31.3.2001, p.2	L334, 18.12.2001, p.8	L160, 18.06.2002, p.2	21.0
Ring binder mechanisms	IND*, IDN	C147, 18.05.2001, p.2	N.A.	L150, 08.06.2002, p.1	12.9
Tube and pipe fitting, of iron or steel	CZE, MYS, RUS, SVK, KOR	C159, 01.06.2001, p.4	L56, 27.02.2002, p.4	L228, 24.08.2002, p.1	32.9
Sulphanilic acid	CHN, IND	C190, 06.07.2001, p.2	L87, 04.04.2002, p.28	L196, 25.07.2002, p.11	19.3
Polyester textured filament yarn (PTY)	IND	C315, 09.11.2001, p.2	L205, 02.08.2002, p.50	L323, 28.11.2002, p.1	4.9
Para-cresol	CHN	C153, 27.06.2002, p.7	L75, 21.03.2003, p.12	L234, 20.09.2003, p.1	21.3
Furfuryl alcohol	CHN	C189, 9.8.2002, p.30	L114, 08.05.2003, p.16	L283, 31.10.2003, p.1	17.5
Sodium cyclamate	CHN, IDN	C318, 19.12.2002, p.7	L232, 18.09.2003, p.12	L72, 11.03.2004, p.1	8.0

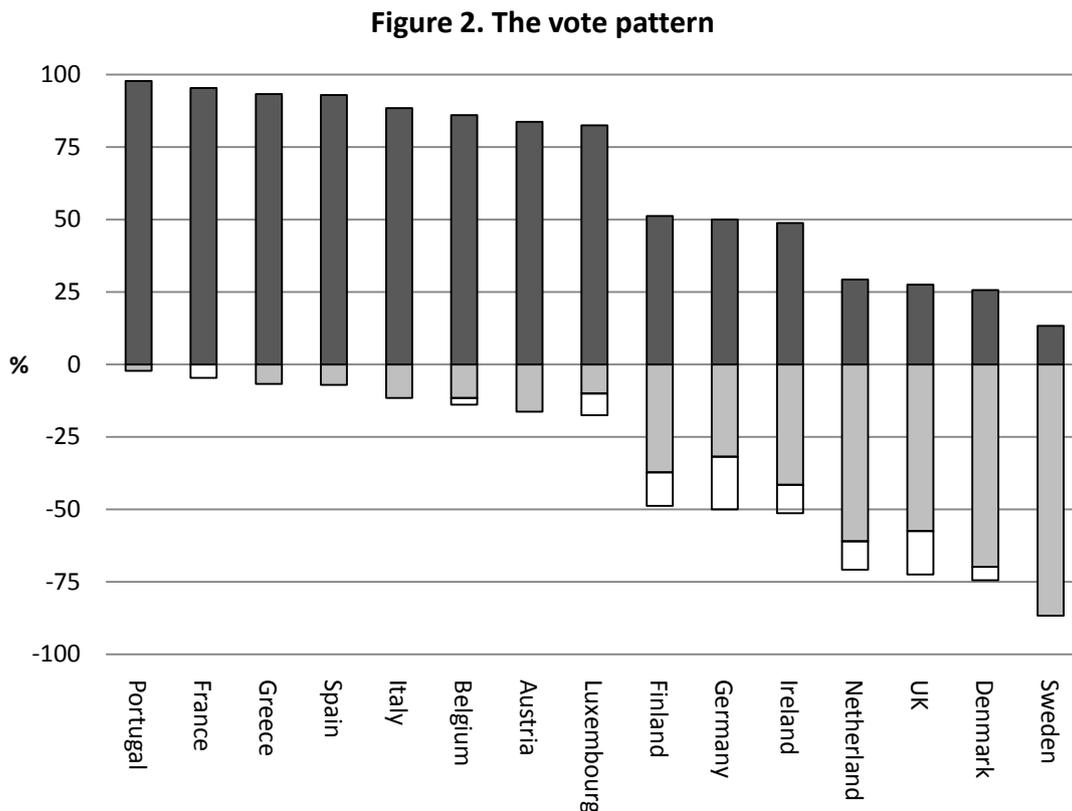
AUS (Australia), BGR (Bulgaria), BLR (Belarus), BRA (Brazil), CHN (China), CZE (Czech Rep.), DZA (Algeria), EGY (Egypt), EST (Estonia), HKG (Hong Kong), HRV (Croatia), HUN (Hungary), IDN (Indonesia), IND (India), JPN (Japan), KOR (South Korea), LBY (Libya), LTU (Lithuania), LVA (Latvia), MEX (Mexico), MYS (Malaysia), PAK (Pakistan), PHL (Philippines), POL (Poland), ROU (Romania), RUS (Russia), SAU (Saudi Arabia), SGP (Singapore), SVK (Slovakia), THA (Thailand), TUR (Turkey), TWN (Taiwan), UKR (Ukraine), USA (USA), VNM (Vietnam), YUG (Yugoslavia), ZAF (South Africa).

* Countries for which no duties were proposed because of *de minimis* (< 2%) or no dumping.

** Average definitive duty (proposed duty if rejected by the Council; *ad valorem* equivalent if price or quantity undertaking).

3.2 The vote pattern

Figure 2 shows how the member states have voted in the cases covered by this study. The share of assenting votes is represented by positive bars and the share of dissenting votes (grey) and abstentions (white) by negative bars.⁴³ The latter are cumulated since abstentions were effectively counted as dissenting votes up to the 2004 vote reform. The summary statistics corroborates the observation by Evenett and Vermulst (2005) of two or perhaps three voting blocks in the EU. The “south” is significantly more supportive of antidumping measures than the “north”, with a middle group comprised of Finland, Germany and Ireland in between.



3.3 Hypotheses (what determines the votes?)

3.3.1 Ideological differences (protectionist preferences)

Those familiar with the internal affairs of the EU recognizes the ideological pattern in the votes. The member states in the south (“Club Med”) tends to be more sceptical to globalization and free trade than the “northern liberals”, although this divide may not be evident for outsiders since the ranks are closed once a decision is taken. We will use two datasets to infer the ideological positions of the member states. The first dataset is a 2003 *Eurobarometer* on the attitudes towards the EU trade policy and globalization

⁴³ The shares are adjusted for the missing observations.

more generally.⁴⁴ The poll includes three questions that shed light on the protectionist preferences of the population at large (the electorate):

- (a) Of the following two propositions, which is the one which is closest to your opinion with regard to globalisation? Globalisation represents a good *opportunity* for companies thanks to the opening-up of markets / Globalisation represents a *threat* to employment and companies in our country.
- (b) And generally speaking, would you say that the European Union is *too protectionist* or on the contrary *too liberal* or, neither too protectionist nor too liberal?
- (c) Would you say that *more regulation* or *less regulation* is needed, or that the current regulation is sufficient in order to monitor the development of globalisation?

Table 2. Protectionist preferences (share of respondents)

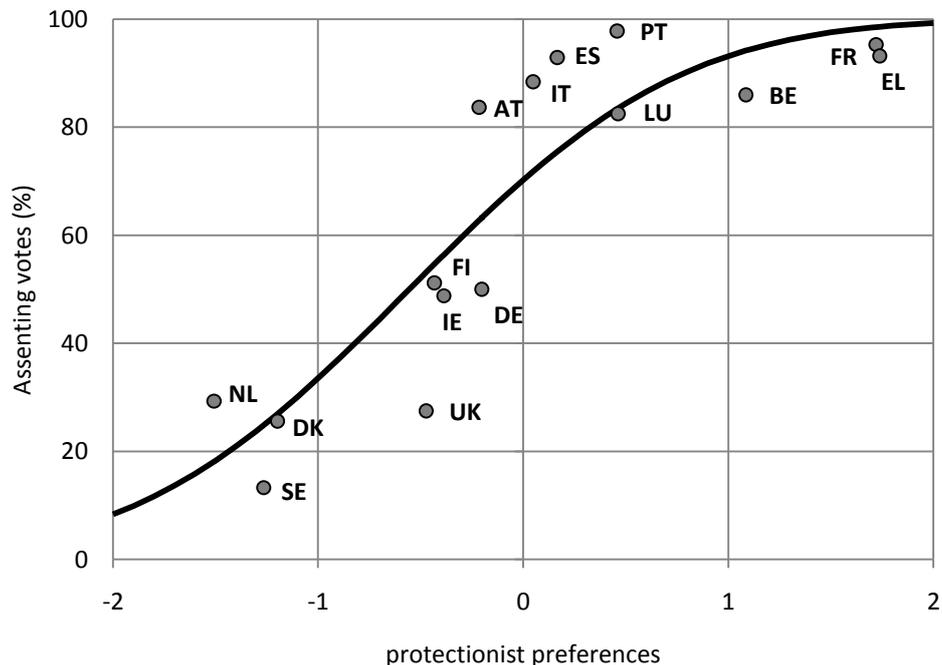
	Protectionist preferences	Globalization (%)		Trade policy (%)		Regulation (%)	
		Threat	opp.	too lib.	too prot.	More	Less
Greece (EL)	1.74	58	40	28	12	67	10
France (FR)	1.72	58	40	34	15	66	11
Belgium (BE)	1.09	53	45	28	17	55	14
Luxembourg (LU)	0.46	43	53	26	20	53	11
Portugal (PT)	0.46	39	55	20	20	67	6
Spain (ES)	0.17	35	56	19	20	59	6
Italy (IT)	0.05	32	63	20	20	72	9
Germany (DE)	-0.20	35	61	34	19	47	27
Austria (AT)	-0.22	41	50	20	23	37	28
Ireland (IE)	-0.39	33	63	18	24	56	16
Finland (FI)	-0.43	34	60	16	26	44	10
United Kingdom (UK)	-0.47	35	61	25	31	53	21
Denmark (DK)	-1.20	30	64	14	27	31	28
Sweden (SE)	-1.27	24	65	12	25	31	19
Netherland (NL)	-1.51	35	63	16	44	35	37
Factor loadings		0.882	-0.887	0.729	-0.813	0.764	-0.639

The responses to question (a) to (c) are reported in Table 2. If we contrast Greece at the top and the Netherlands at the bottom, we find on question (a) that 58 percent of the Greek respondents viewed globalization as a *threat* to employment and companies in their country, whilst 40 percent was of the opposite view (*opportunity*). 2 percent had no view or declined to answer (not reported in the table). By way of contrast, almost two-thirds of the Dutch respondents had a favourable outlook on globalization. The Greek and the Dutch differed also on question (b) whether EU is too liberal or too protectionist on trade and on question (c) whether more regulation or less regulation is needed to monitor the development of globalization.

⁴⁴ Flash Eurobarometer 151b Globalization (October 2003), question 4-6, available at: http://ec.europa.eu/public_opinion/flash/FL151bGlobalisationREPORT.pdf

The responses to questions (a) to (c) are highly correlated, which suggest that they are driven by a common factor that may be interpreted as the protectionist preferences of the electorate. The factor loadings reported at the bottom of the table shows that the common factor⁴⁵ is *positively* related to the share responding that (a) globalization is a *threat* to employment and companies in our country, (b) EU is *too liberal* on trade and that (c) *more regulation* is needed to monitor globalization; and negative related to the shares responding the other way round (opportunity, too protectionist, less regulation). The most protectionist views were, on balance, expressed by the Greek (EL), French (FR) and Belgian (BE) respondents and the most liberal views by the Dutch (NL), Swedish (SE) and Danish (DK) respondents.

Figure 3. Correlation between antidumping votes and the protectionist preferences of the electorate



If we plot the protectionist preferences against the votes on antidumping measures we find a strong positive association (Figure 3), where the solid line is the estimated non-linear relationship.⁴⁶ Member states that are sceptical to free trade and globalization are more likely to vote for antidumping measures than member states with a positive view. However, we cannot rule out that the correlation is spurious until we have controlled for other factors influencing the votes. For example, it could be that the member states in the upper-right corner were the ones that were worst affected by the dumping and therefore had the strongest reason to support measures against the dumping. Another reason for caution is that we have only poll data for a single year for the period covered by this study, which it is unfortunate since preferences may vary over the business cycle or follow some secular trend. However, a recent *Eurobarometer*

⁴⁵ http://en.wikipedia.org/wiki/Factor_analysis

⁴⁶ The relationship is estimated using the GMM estimator in STATA.

Proportion yes votes = $\Phi(0.531 + 0.957 * \text{preferences})$, where Φ denotes the cumulative standard normal distribution. The coefficients are significant at the 1 percent level.

from November 2010 suggests that the ranking has not changed much since 2003, although the support for free trade has fallen somewhat over the line because of the economic turmoil in recent years.⁴⁷

3.3.2 Protectionist preferences of the government

While democratically elected governments can be expected to act in accordance with popular preferences, trade policy decisions in the EU are somewhat special in that they are decided behind closed doors in Brussels. This means that the public may be held in the dark on how government votes on antidumping and other trade policy issues, and *even if* the votes are leaked to the public, trade issues may not be important enough to decide national elections. We should therefore try to account also for the preferences of the incumbent governments in the vote analysis.

The positions of political parties on various policy issues, including protectionism and free trade, are measured by political scientists using election manifestos as a source. We use data from the *Manifesto Project*, which includes data both on national and European Parliament elections for all EU15 member states. The national election data is collected by the *Wissenschaftszentrum Berlin für Sozialforschung* (WZB)⁴⁸ and the EP election data by the *Mannheimer Zentrum für Europäische Sozialforschung* (MZES).⁴⁹ The data is collected by counting the number of sentences devoted to a policy area, in our case, to the issue of protectionism versus free trade:

406 Protectionism, Positive: Favorable mentions of extension or maintenance of tariffs to protect internal markets; other domestic economic protectionism such as quota restrictions.

407 Protectionism, Negative: Support for the concept of free trade; otherwise as 406, but negative.

Following Lowe and Benoit (2011), we use the *logarithmic* balance between positive and negative sentences in the election manifestos as the protectionist index (adding 1 to each side since the logarithm of zero is undefined). A positive balance means that a party is running on a protectionist platform and a negative balance that the party is running on a free trade platform.

⁴⁷ Special Eurobarometer 357, International Trade, November 2010:

http://ec.europa.eu/public_opinion/archives/ebs/ebs_357_en.pdf

⁴⁸ <http://www.wzb.eu/zkd/dsl/Projekte/projekte-manifesto.en.htm>

⁴⁹ <http://www.mzes.uni-mannheim.de/projekte/manifestos/>

Table 3. Protectionist preferences of the government (incumbent party(s))

Country	Election (date)	Office (date)	Incumbent government (party codes)	Protectionist preferences
Austria	1995-12-17	1996-03-12	SPÖ, ÖVP	0.18
	1999-10-03	2000-02-04	ÖVP, FPÖ	0.39
	2002-11-24	2002-12-20	ÖVP, FPÖ	0.25
Belgium	1995-05-21	1995-06-23	CVP, PSC (CDH), PS, SP.A	-0.07
	1999-06-13	1999-07-17	VLD, Ecolo, Agalev, PRL-FDP, PS, SP.A	-0.17
	2003-05-18	2003-07-09	VLD, MR, PS, SP.A	-0.07
Denmark	1994-09-21	1994-09-26	SD, CD, RV	-0.34
	1998-03-11	1998-03-23	SD, RV	-0.36
	2001-11-20	2001-11-27	V, KF	-0.91
Finland	1995-03-19	1995-03-19	SDP, KOK, Vihr, Vas, SFP	-0.23
	1999-03-21	1999-04-13	SDP, KOK, Vihr, Vas, SFP	-0.28
	2003-03-16	2003-04-15	Kesk, SFP, SDP	0.03
France	1997-06-01	1997-06-04	PS, Verts, PCF, PRG	0.35
	2002-06-16	2002-06-25	UMP	0.00
Germany	1994-10-16	1994-11-15	CDU/CSU, FDP	-0.63
	1998-09-27	1998-10-27	SPD, B90/GRÜNE	-0.67
	2002-09-22	2002-10-22	SPD, B90/GRÜNE	-0.64
Greece	1996-09-22	1996-09-24	PASOK	1.37
	2000-04-09	2000-04-10	PASOK	1.37
Ireland	1997-06-06	1997-06-29	FF, PD	-0.14
	2002-05-17	2002-06-06	FF, PD	-0.15
Italy	1996-04-21	1996-05-09	PDS, PPI, RI, SI, FV, UDC	0.00
	2001-05-13	2001-05-30	FI, AN, LN, UDC, NPSI	-0.39
Luxembourg	1994-06-12	1994-06-17	CSV, LSAP	0.00
	1999-06-13	1999-08-07	CSV, DP	0.03
Netherlands	1994-05-03	1994-08-22	PvdA, VVD, D66	-1.53
	1998-05-06	1998-08-03	PvdA, VVD, D66	-1.50
	2002-05-15	2002-07-04	CDA, VVD, LPF	-1.05
	2003-01-22	2003-02-04	CDA, VVD, D66	-1.32
Portugal	1995-10-01	1995-10-29	PS	0.74
	1999-10-10	1999-10-25	PS	0.74
	2002-03-17	2002-05-06	PSD, CDS-PP	0.66
Spain	1996-03-03	1996-05-05	PP	-0.12
	2000-03-12	2000-04-05	PP	-0.12
Sweden	1994-09-18	1994-10-07	SAP	-0.23
	1998-09-20	1998-10-06	SAP	-0.23
	2002-09-15	2002-09-30	SAP	-0.23
UK	1997-05-01	1997-05-07	Lab	-0.63
	2001-06-07	2001-06-13	Lab	-0.63

Source: Own calculations based on (i) the Manifesto Project, Wissenschaftszentrum Berlin für Sozialforschung (WZB) (party manifestos for national elections), (ii) the Euromanifestos Project, Mannheimer Zentrum für Europäische Sozialforschung (party manifestos for EP elections) and (iii) the *Comparative Political Data Set III 1990-2008*, Institute of Political Science, University of Berne (seats in parliament).

A first glance at the data suggests that the manifestos for a single election may not be entirely representative. For example, quite a few election manifestos do not deal with trade issues at all, resulting in a protectionist index equal to 0. The index may also jump back and forth between positive and negative. For these reasons, we calculate the protectionist preferences on basis of the average score recorded over all national and European Parliament elections between 1994 and 2004. The preferences of the incumbent governments are then calculated by averaging the scores of the parties forming the government, using the seats in the Parliament as weights (the lower house in bicameral systems).

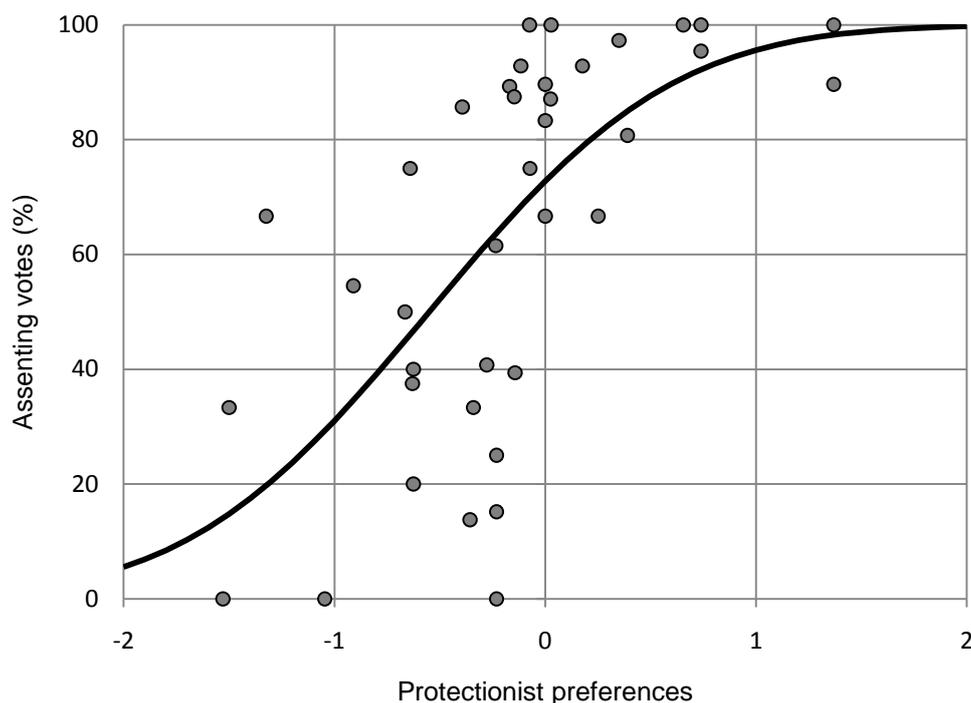
The calculated indices are presented in Table 3. Let's take Austria as an example. Between 1996 and 2004, Austria had three governments. The first government was comprised of the Sozialdemokratische Partei Österreichs (SPÖ) and the Österreichische Volkspartei (ÖVP), with a weighted protectionist index of 0.18. The SPÖ/ÖVP coalition governed Austria between 1996-03-12 and 2000-02-03 and was thus responsible for the antidumping decisions at that time. Following the elections in October 1999, a new government was formed between ÖVP and the Freiheitliche Partei Österreichs (FPÖ), with a slightly higher protectionist index of 0.38. The coalition between ÖVP and FPÖ was renewed on 2002-12-20 but with fewer seats for FPÖ, reducing the index to 0.25. Overall, there is fairly high consistency between the preferences of the electorate and the incumbent governments (the correlation is 0.74). The main exception is Belgium and France, where the governments are less protectionist than the people (in words if not deeds).

If we plot the share of assenting votes during the tenure of each government against the protectionist preferences expressed in election manifestos, we find as expected a positive association (Figure 4), where the solid line is the estimated relationship.⁵⁰ However, the link is weaker than the association with popular preferences, which suggest that governments cannot deviate too much from the popular preferences in spite that antidumping votes are confidential (although often leaked to the business press and hence the public). However, as will be seen in Section 4, both margins have a significant impact on the votes.

⁵⁰ The relationship is estimated using the GMM estimator in STATA.

Proportion yes votes = $\Phi(0.606 + 1.100 * \text{preferences})$, where Φ denotes the cumulative standard normal distribution. The coefficients are significant at the 1 percent level.

Figure 4. Correlation between antidumping votes and the protectionist preferences of the government



3.3.3 National interests

No member state votes consistently for or against the Commission's proposals. Member states with a sceptical view on globalization and free trade vote every now and then against antidumping measures, while member states with a positive view vote occasionally for. Our hypothesis is that the member states, other things equal, are more inclined to support antidumping petitions where they have a strong producer interest and less inclined to support proposals where they have a strong consumer interest.

To measure the national interests turns out to be a tall order. Dumping investigations usually concerns narrowly defined product categories, such as bed linen, personal fax machines or aluminium foil. When the Commission investigates dumping complaints it uses *confidential business information* from the Community industry, responding firms, user industries and other interested parties. The case files are confidential and there is no public data on production, consumption, employment, profit, capacity utilization and other relevant indicators at the 8-digit product level for all member states.⁵¹ The only data that is publically available is how much the member states import and export of the products concerned, which can be downloaded from the *COMEXT* database

⁵¹ The members of the Advisory Committee may consult the case files maintained by DG Trade in Brussels. However, they are not allowed to make any copies of the confidential material for analysis at home. Moreover, once a case is decided, the case files are confidential also for the member states and can only be accessed through a court decision. We are therefore not in a position to assess the national interests with the same data used by the Commission.

maintained by EUROSTAT. We shall use this data to construct some simple proxies for the national interests.

3.3.3.1 Trade effects

As a background for these calculations, it may be useful to review the shifts in the market that triggered the dumping complaints and the impact of the AD measures on the trade flows. We track the import to the EU15 and the trade between the EU15 members three years before (-3) and after (+3) the launch of the investigations (0), normalizing prices and volumes to 100 for year 0. Cases launched before 1998 are not included in this exercise since we have no data for Austria, Finland and Sweden before they acceded to the EU in 1995. Moreover, we only include cases that resulted in both provisional and definitive measures. The retained sample for this exercise is 25 out of the 45 cases in our database. Provisional measures were imposed after 8.9 months on average and definitive measures after 14.4 months. Year “1” is thus the first year with antidumping measures, the average duty being 20.6 percent.

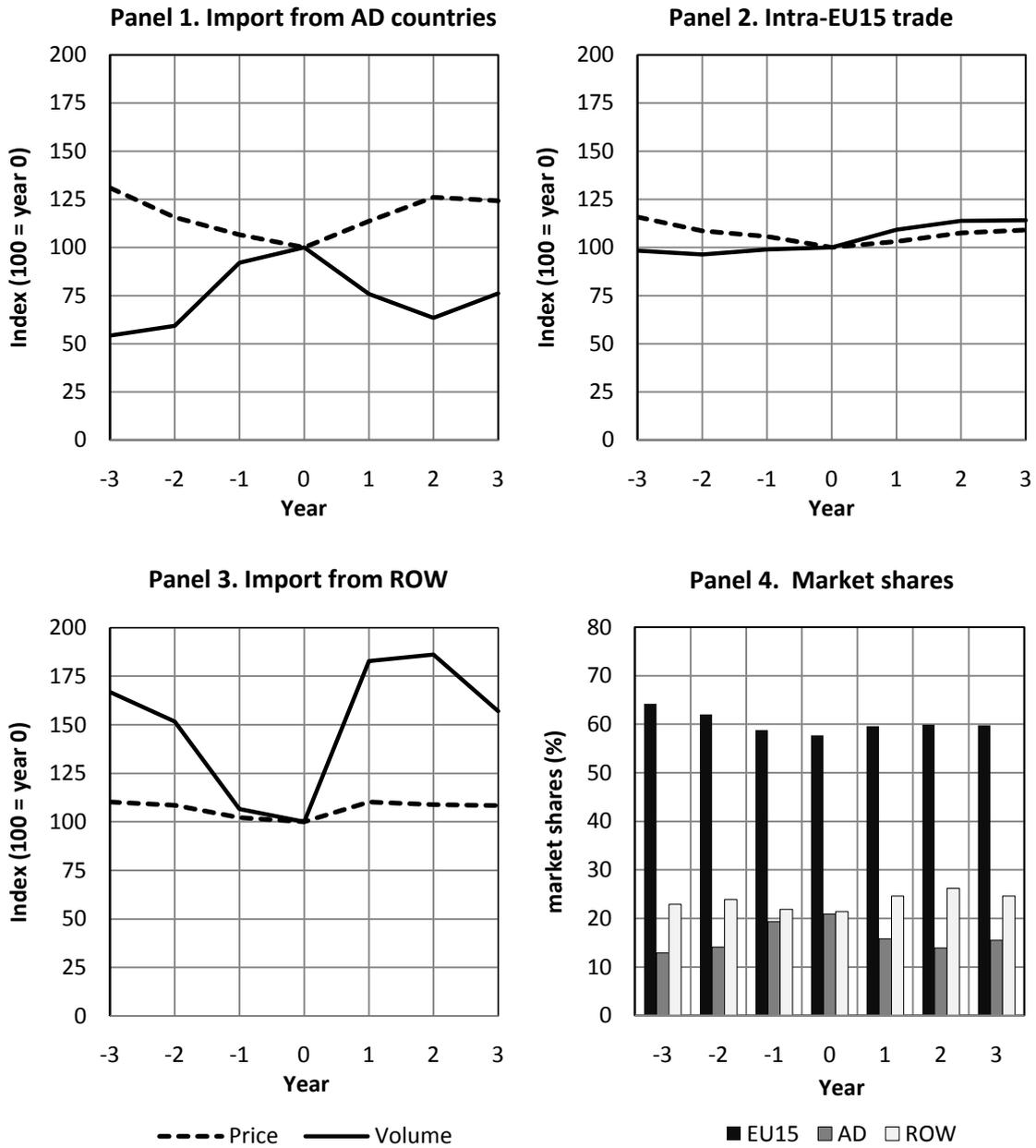
The first panel in Figure 5 plots the EU15 imports from the *investigated* countries (AD), decomposed into import volumes and unit import prices.⁵² The panel suggests that the complaints were triggered by falling import prices and increasing volumes, a trend that was reversed after the imposition of the antidumping measures in year “one”. The measures thus had the intended effect of moderating the import competition, allowing the Community industry to raise prices and volumes (Panel 2) and recapture some of the lost market share (Panel 4).⁵³ However, as seen in Panel 3, the Community industry was not able to reap the full benefits of the antidumping measures since some of the slack was picked up by unrestrained third country suppliers (ROW). Indeed, the supply of the latter almost doubled on average in the first two years before falling back somewhat in year three, possibly to avoid being caught in the net themselves. These findings corroborate earlier research by Brenton (2001) on the trade effects of the antidumping measures imposed by the EU.⁵⁴ By and large, antidumping measures are rather ineffective unless all potential sources of import are covered.

⁵² The COMEXT database reports both trade values and quantities (usually tones). The unit import price is calculated by dividing the value with the reported quantity. Prices and quantities are normalized to 100 for year “zero” (the initiation of the antidumping proceedings).

⁵³ The market shares are calculated on basis of the trade values and do not include consumption of domestically produced goods in lack of data.

⁵⁴ See also the studies by Falvey, Greenway and Wittayarungruang Sri (2006) and Khatibi (2009), which only partly support these findings.

Figure 5. Prices, volumes and market shares before and after the initiation of antidumping proceedings



3.3.3.2 Estimating national interests

The story in a nutshell is thus the following. The imposition of AD measures makes the imports from the targeted countries more expensive, which shift the demand towards the Community industry and unconstrained third country suppliers. In the new market equilibrium, prices are higher across the board and the aggregate volumes lower. AD measures are therefore welfare-reducing for the Community *as a whole*, although not necessarily for each and every member state since the production and consumption patterns are not the same.

To fix ideas why some member states may gain on balance, consider the antidumping case against Chinese and Vietnamese shoes that was initiated by the shoe industry in southern Europe, amongst them the Portuguese industry. Portugal is a major producer of shoes in the EU and most of the output is exported to the other member states. The windfall profit earned on the EU market is a pure welfare gain for the Portuguese economy since it is paid by the consumers in the other member states. The net result may therefore be positive for member states with a strong export interest to the other member states.

What should be taken home from this example is that antidumping measures have *first-order* welfare effects for the individual member states (the price increase at given volumes); positive for members with a net export interest *to the EU* and negative for members with a net import interest overall. The fortunes may of course vary from case to case, which opens the door for profitable vote-trading (see section 3.3.7). In the next paragraphs we will derive the first-order effects divided into producer benefits and consumer costs, or rather the *anticipated* effects given the information available to the member states when the vote is taken. *Second-order* effects (price change times volume change) are ignored since they are more difficult to estimate and in any case likely to be dominated by the first-order effects on the market price.

Starting with the *first-order* benefits of the producers in member state $i = \{1, 2, \dots, 15\}$, antidumping duties will improve the profit margin both on the domestic sale and the export to the EU. The *ex ante* export to the other member states (taken to be the year before the initiation of the dumping investigation) can be read out from the COMEXT database. What is missing in the official statistics is data on the domestic sale. If we ignore this component we may get biased measurements of the welfare effects since the home market may be more important for some member states than for others. To fill the data gap we use a simple relationship derived from the gravity model of trade. This model postulates in analogue with the physical gravity force that the trade between two locations (countries/provinces/cities) is proportional to the product of their economic “masses” ($GDP_i * GDP_j$) and inversely proportional to the bilateral distance between i and j (D_{ij}). Taking the gravity model at face value with *unity* coefficients (which is close to what many empirical studies find), we can derive a proportional relationship between the *observed* export to the EU (X_{iEU}) and the *unobserved* domestic sale (X_{ii}),

$$(1) \quad X_{ii} = \varphi_i X_{iEU}; \quad \varphi_i = \left(\frac{GDP_i}{GDP_{EU}} \right) / \left(\frac{D_{ii}}{D_{iEU}} \right); \quad D_{iEU} = \left[\sum_{j \neq i} \left(\frac{GDP_j}{GDP_{EU}} \right) \left(\frac{1}{D_{ij}} \right) \right]^{-1},$$

where φ_i depends on the relative size (GDP_i/GDP_{EU}) and the relative proximity (D_{ii}/D_{iEU}) of the domestic market. Relation (1) has a simple interpretation. It says that the domestic market is relatively more important for large member states and member states at the fringe of the EU. Or conversely, the EU market is relatively more important for small member states and member states located centrally in the EU.⁵⁵

Using equation (1) in want for the actual data on domestic sales we can calculate the *first-order* benefits for the domestic producers,

$$(2) \quad \text{Producer benefits}_i = \varphi_i X_{iEU} \left(\frac{dP_{ii}}{P_{ii}} \right) + X_{iE} \left(\frac{dP_{iEU}}{P_{iEU}} \right),$$

which is given by the *ex ante* level of sales at home and on the EU market multiplied with the anticipated price increase (i.e., the change in the producer surplus at given volumes). The *first-order* consumer costs are estimated in an analogue way,

$$(3) \quad \text{Consumer costs}_i = \varphi_i X_{iEU} \left(\frac{dP_{ii}}{P_{ii}} \right) + \sum_j X_{ji} \left(\frac{dP_{ji}}{P_{ji}} \right); \quad j = \{AD, EU, ROW\}.$$

Equation (3) tell us how much more the *original* consumption bundle will cost when the antidumping measures are imposed, divided between domestic goods (first term), imports from the named countries (AD), imports from other member states (EU) and imports from unrestricted third country suppliers (ROW).

Finally, ignoring the revenue side for reasons given in the attached footnote,⁵⁶ the national welfare impact is given by the difference between (2) and (3):

⁵⁵ The internal (D_{ii}) and bilateral (D_{ij}) distances are taken from the CEPII gravity database, available at <http://www.cepii.fr/anglaisgraph/bdd/distances.htm>. The bilateral distance is calculated with the great circle formula, which uses latitudes and longitudes of the most important cities/agglomerations (in terms of population) in country i and j respectively. The “internal distance” is measured in a standardized way using the following formula: $D_{ii} = 0.67 \sqrt{\text{area in km}^2 / \pi}$. (See the CEPII explanatory note). The estimated values of φ_i at 2000 GDPs are 0.05 for Luxembourg, 0.10 for Ireland, 0.11 for Finland, 0.14 for Belgium, 0.17 for Sweden, 0.19 for Portugal, 0.22 for Austria and Greece, 0.23 for Denmark and the Netherlands, 0.37 for France, 0.39 for Spain, 0.68 for UK, 0.71 for Germany, and 0.95 for Italy. The reason why Italy tops the list and not Germany with a higher GDP is that Italy is not as centrally located as Germany in the EU and therefore is more dependent on the home market.

⁵⁶ Trade taxes are shared between the member states and the EU in proportion 25/75. The 25 percent share retained by the member states should in principle be added to the benefit side of the national welfare index. However, we must not forget that the member states also incur some considerable costs of collecting the duties. The administrative burden is much higher than for ordinary customs duties since the measures differ from firm to firm. Another factor that adds to the administrative burden is that the duties should, at least in principle, be levied only on shipments that are imported at *continued* dumped prices. Importers are entitled to reimbursement in full or in part if they can verify that the dumping has discontinued or been reduced (Article 11(1) of the regulation) – claims that can be difficult to evaluate. As for the 75 percent accruing to the EU, it is also unclear if any surplus is generated that will benefit the

$$(4) \text{ National welfare}_i = X_{iEU} \left(\frac{dP_{iEU}}{P_{iEU}} \right) - \sum_j X_{ji} \left(\frac{dP_{ji}}{P_{ji}} \right).$$

Note that the domestic parts of (2) and (3) cancel in the national welfare assessment if governments attach equal weights to domestic producers and consumers.⁵⁷ The only thing that matters then is the balance between export and import interests. Member states with a dominant export interest will gain on balance because of the additional profit earned on the EU market (rent-shifting), whilst member states with a dominant import interest will lose on balance because of the higher import bill. The Community *as a whole* will always be worse off because of the negative terms-of-trade effect.⁵⁸

To put numbers on (2), (3) and (4) for the statistical analysis, we must also estimate the price effects of the antidumping measures. As researchers we enjoy the benefit of hindsight and could in principle compare prices before and after the imposition of the measures. However, this information is not available to the member states when they vote on the issue. Assuming “perfect foresight” is too strong of an assumption in our view. The member states have about ten working days to evaluate a proposal before the preliminary vote is due in the Advisory Committee (and another month before the final vote is due in the Council). This is not sufficient for any serious modelling efforts, especially in the light of the paucity of data. Nor does the Commission offer any estimates to help the member states along. The factual part of the draft proposal deals mainly with the evidence of dumping and injury and less on the consequences of the proposed measures. Moreover, the *ex post* method would not work for measures that were rejected by the Council (5 of 45 cases in our sample).

Another option is to look backward. As suggested by the market plots in Figure 5, antidumping measures tend, *on average*, to restore the import price that prevailed about two-three years before the dumping investigation commenced. The backward looking approach can be used both for adopted and rejected measures. However, a reality check reveals that the estimated price effects are sensitive to the reference year and sometimes even negative because of fluctuations and trends in the data.

A third option used here is to infer the likely price effects from the duties proposed by the Commission. This approach may seem inadequate at first but can be justified both on economic and legal grounds (Annex I). The story in a nutshell is that the duties indicate how much the export prices will have to be raised in order to have the measures revoked, which arguably is in the long-term interests of the named firms. As

member states directly or indirectly (through services and transfers from the EU). Antidumping investigations usually take a good year to complete and the measures will have to be reviewed at different intervals and monitored to avoid circumvention. The trade defence unit of DG Trade employs some 200 professionals for this purpose and the staff travel extensively to gather and verify information. Our guess is that the antidumping machinery is at best self-financing. Indeed, we have no indications from the discussions in the Advisory Committee that antidumping measures are taken for revenue purposes or that this aspect is even a marginal consideration.

⁵⁷ In the statistical analysis we will generally distinguish between producer and consumer interests to allow for different welfare weights.

⁵⁸ This may be seen by summing (4) over all member states.

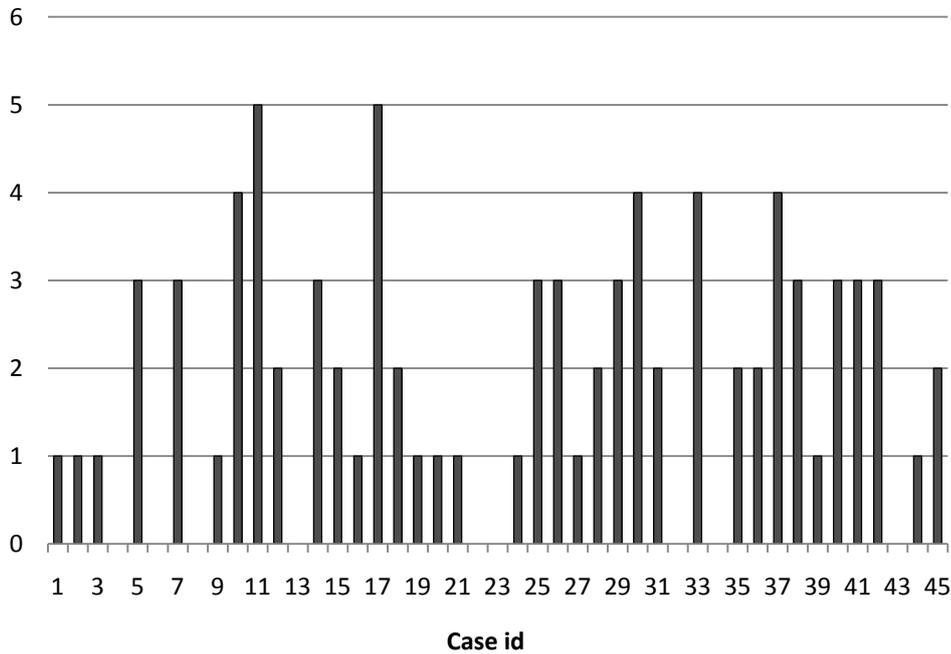
for the Community industry and unconstrained third country suppliers, we assume on the basis of Figure 5 that they match, on average, *one-third* of the price increase of the targeted products. Accordingly, we make the following assumptions in order to put numbers on (2), (3) and (4),

$$(5) \quad \frac{dP_{ADi}}{P_{ADi}} = \tau, \quad \frac{dP_{ii}}{P_{ii}} = \frac{dP_{iEU}}{P_{iEU}} = \frac{dP_{EUi}}{P_{EUi}} = \frac{dP_{ROWi}}{P_{ROWi}} = \frac{\tau}{3} \quad \forall i = \{1, 2, \dots, 15\},$$

where τ is the average duty (*ad valorem equivalent* of price/quantity undertakings).⁵⁹ As a final step, we normalize the welfare indices with the national income (GDP) of the member states in order to put them on a comparable scale.

Taking the welfare estimates at face value, Germany, Portugal and Spain have a (net) national interest in 9 of the 45 cases in the sample; Austria and Belgium 8; Luxembourg 7; Italy 6; Ireland and the Netherlands 5; Denmark and Finland 4; France and Greece 3; and Sweden and the United Kingdom 2 cases each. The cases considered in this study benefit only two member states on average and in no case more than *five* member states (Figure 6).⁶⁰ Yet, 40 of the 45 cases were adopted by the Council, which suggests that welfare considerations play a relatively minor role for how the member states vote, which is indeed what we find in the statistical analysis in Section 4.

Figure 6. Two member states benefit on average



⁵⁹ See Annex I for the calculation of the average duty given the information provided in the Council regulation (draft proposal for cases that were rejected by the Council).

⁶⁰ The blank entries in the figure indicate that there are no winners (9 of the 45 cases, 4 of which were rejected by the Council).

3.3.4 Lobbying for and against

The political-economy literature on trade policy put lobbying at the centre stage. The workhorse model by Grossman and Helpman (1994) – protection for sale – is based on the US political context where contestants to political offices depend on campaign contributions to get elected. The funds are provided by industries, trade unions and other special-interest groups under the anticipation that the policies will be favourable to their interests. However, the government must also serve the public interest to win elections. The actual trade policy will therefore be some middle-way between vested and general interests, a conclusion that has been verified in many empirical studies.⁶¹

While the “protection for sale” model may not be directly transferable to the political context of the EU with publically funded political parties, the conclusion that organized interests have a stronger influence on government policies than unorganized interests may still carry over because of various institutional biases. A case in point is the bias in favour of the petitioners in the public interest test in antidumping investigations. As noted in section 2.1.3, antidumping measures are *presumed* to be in the Community interests unless otherwise proven. The *burden of proof* thus rests on the parties that object to the proposed measures. A silence on their behalf is taken as evidence that the costs are tolerable, although it may simply reflect that the costs are spread thinly over many users and consumers in the EU – none of which may be willing to shoulder the administrative burden of participating actively in the investigation (filling in long questionnaires etc.). This bias is reinforced by the fact that the Commission may not fill in the gaps on its own initiative since the regulation provides that the Community interest assessment should be made on basis of the *submitted* information.⁶² Unarticulated interests may therefore be overlooked in the public interest assessment, resulting in policies that favour the petitioners.

As we have no data on the lobbying at the member state level, we shall assume that it mirrors the line-up at the Community level. The parties that have co-operated with the Commission in the investigation are listed by name, domicile and category in the draft proposal (Council regulation imposing definitive measures). Using this information we define a dummy variable for the pro- and con-lobby as follows:

Pro-lobby = 1 if at least one firm from member state i are named among the petitioners or co-operating Community producers; else 0.

Con-lobby = 1 if at least one firm from member state i are named among the co-operating users, importers or retailers; else 0.⁶³

In petitions brought by European business federations/associations, we only include firms that have testified in the investigation and therefore are explicitly named in the

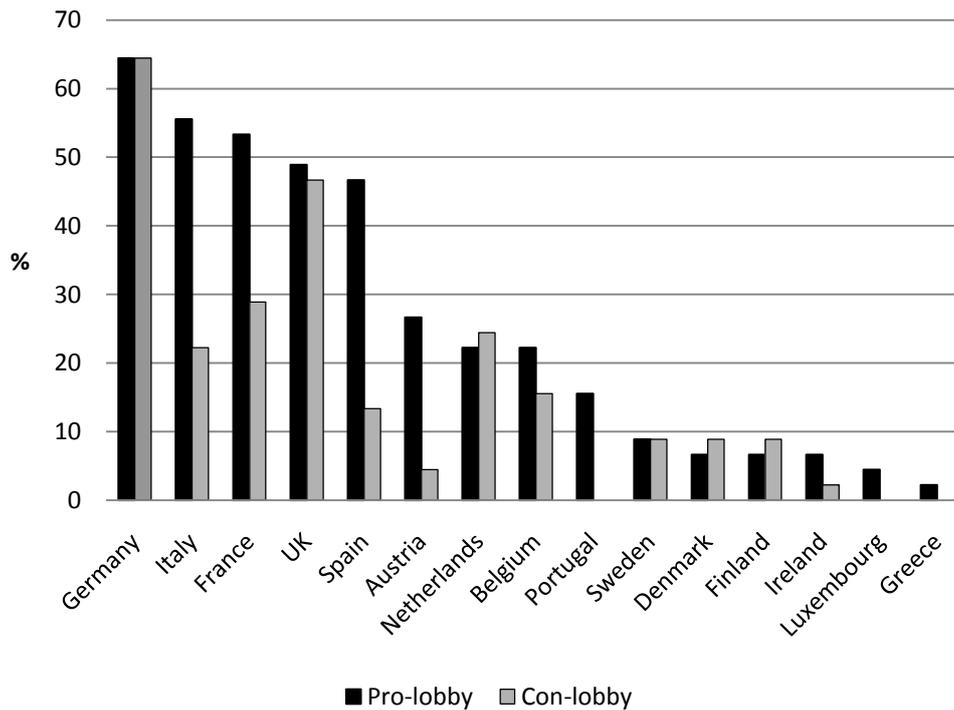
⁶¹ See e.g. Goldberg and Maggi (1999), Gawande and Bandyopadhyay (2000), Evans and Sherlund (2006) and Ludema, Mayda and Mishra (2010).

⁶² Article 21(1), last sentence.

⁶³ Note that no consumer organisations have testified in the cases covered by this study. However, consumer interests are *indirectly* represented by the lobbying activities of importers and retailers.

draft proposal (Council regulation). The alternative of ticking of all members of an association would generate very little variation in the data since European business associations usually have members across the entire EU. Another argument for ticking off only the named firms is that a complaint may be filed on request from some particularly distressed members of an association, and this “hard core” are presumably the ones that *self-elect* to testify in the investigation. Less affected member firms may go along for reasons of solidarity but may not care much about the outcome of the proceedings.

Figure 7. Lobbying activities



The lobbying data divided over the member states is plotted in Figure 7. Overall, the pro-lobby is active in 26 percent of the observations in our dataset (case × member state) compared to 17 percent for the con-lobby. Most activities are recorded in large member states, which presumably reflect that they have commercial stakes in a wider range of cases (industrial sectors) and larger stakes per case as a general rule. Indeed, a Probit regression shows that both the producers and the consumers are more likely to lobby when the commercial stakes are large in *absolute* terms (Table 4), and also that lobbying on one side makes lobbying on the other side more likely.⁶⁴ The “Count R2” statistics at the bottom of the table suggest that the Probit model is quite successful in predicting the lobbying activities, especially the con-lobby where 83.4 percent of the observations are correctly classified.⁶⁵

⁶⁴ Note that the benefits and costs used in these regressions are the absolute stakes and not the stakes normalized with the GDP of the country in which the firm/organisation resides.

⁶⁵ An observation is deemed to be correctly classified if the model predicts the actual status (lobbying/ no lobbying) with at least 50 percents probability. The “Count R2” is defined as the correctly classified observations divided by the total number of observations.

Table 4. The endogenous nature of lobbying

	Pro-Lobby		Con-lobby
Benefit	0.00013*** (0.000019)	Cost	0.00004*** (0.000007)
Con-lobby	0.526*** (0.140)	Pro-lobby	0.501*** (0.131)
Obs	675		675
Count R2	0.763		0.834

Standard errors in parenthesis. Three stars indicate that the coefficient is significant at the 1 percent level.

As will be seen in Section 4, lobbying activities have a significant effect on how the member states votes on antidumping measures.

3.3.5 The macroeconomic situation (unemployment)

Another factor that may influence the votes is the general economic situation in the country, especially the unemployment rate. Other studies have established such a link both for the filings of complaints and adoptions of antidumping measures.⁶⁶ This link is confirmed also by our data. Other things equal, the member states are more likely to support antidumping petitions when the unemployment rate is rising (measured as the change from the previous year using EUROSTAT data). However, the estimate becomes insignificant in a panel specification of the model, presumably because of the common movements of the business cycle within the EU.

3.3.6 Retaliation risk

Yet another factor that may influence antidumping votes is the risk that the targeted countries will respond in kind, as hypothesized by Blonigen and Bown (2003) and confirmed on US data. Indeed, there may be good reasons for such concerns. The EU is nowadays as often on the receiving end of antidumping as the giving end, if not more so. China and India have surpassed both the EU and the US as the leading users of antidumping measures in the world, and other growing markets for the EU industry are not trailing far behind.⁶⁷ We test this hypothesis using the share of export going to the targeted countries as a proxy for the exposure to retaliatory actions, finding strong evidence for a chilling effect. Other things equal, the member states are less likely to support antidumping petitions against key export destinations for the own industry.

3.3.7 Vote-trading (logrolling)

While each antidumping case is voted on separately, they may be linked in a *strategic* sense. A government may be confronted with ten or more antidumping petitions each year with different national interests in each case. This opens the field for explicit or

⁶⁶ Aggarwal (2004).

⁶⁷ See the Global Antidumping Database maintained by Bown (2009): http://people.brandeis.edu/~cbown/global_ad

implicit vote-trading among the member states. For example, if the national interest is +100 in one case and -10 in another case, it may be rational to support the -10 case in exchange for reciprocal support for the +100 case (if the vote is likely to be tight).

There is a huge political-science literature on vote-trading (logrolling) in the Council, but apparently no studies dealing with antidumping decisions *per se* because of the vote secrecy. However, scholars have suggested that vote-trading is prevalent also in the antidumping area and that the high adoption rate is partly attributed to this fact.⁶⁸ The Commission may also facilitate vote-trading intentionally or incidentally by putting two or more cases up for a vote at the same time, thereby encouraging “package deals”. However, the evidence produced *thus far* is only of an anecdotal nature. For example, *Financial Times* (28-07-1998) reports that “it is suspected that Italy changed sides in a recent vote on duties on personal fax machines – of which Austria is the main EU producer – in attempt to win Austrian support on grey cotton”.⁶⁹

Vote-trading complicates the statistical analysis quite a bit since the votes are not independent of each other. However, identifying the problem is easier than to fix the problem. Any two cases can be linked and the vote-trading can also take the form of long-term strategic alliances, making the correlation pattern untraceable. We leave this subject as an extension of the basic model with the ambition to produce only some tentative results for further exploration in the future.

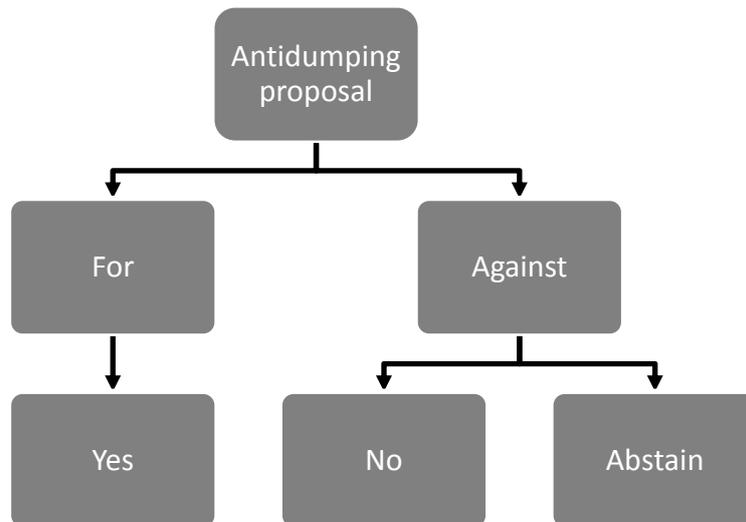
⁶⁸ See Bjørnskov *et al* (2009).

⁶⁹ Quoted in <http://www.kc3.co.uk/~dt/protectionism.htm>

4. The statistical model and results

The member states have three choices when they vote on antidumping measures: they can vote yes, no or abstain. In principle, therefore, we should estimate a model with three choices. However, since abstentions were counted as votes against, the model may be reduced to a binary choice under certain assumptions. To fix ideas, think of the vote decision as a two-stage process. The government must first decide whether to support or oppose the proposal; and if the decision is the latter whether to oppose the proposal *actively* by voting no or *passively* by abstaining to vote (Figure 8).⁷⁰

Figure 8. Two-stage decision



The second-stage decision makes no difference for the outcome of the poll since an abstention is counted as a vote against. However, the government may still prefer one over the other for some political reason. For example, if the consultations leading up to the vote suggest that the other member states are squarely behind, the government may find it easier to abstain than to vote actively against the interests of the other member states. The government may also try to hide behind an abstention when it votes against the interest of the domestic industry. (We didn't say no but refrained from taking side). The choice may also signal the intensity of the opposition. If the government is mildly against, an abstention may be viewed as a more measured response. Conversely, if the government is strongly against, perhaps because of the high cost for the own economy, it may be compelled to express the opposition in the most forceful way possible by voting actively against.

The assumption we need to reduce the model to a binary choice is that the decision between voting no or abstaining to vote is random (decided outside the model). While

⁷⁰ Note that we are discussing the situation as it was up to the reversal of the meaning of an abstention on 8 March 2004. In the current regime, there is only one way of saying no by voting actively against and two ways of saying yes, either actively by voting for the proposal or passively by abstaining to vote.

the examples given above may suggest otherwise, we shall adopt this assumption as a first approximation since the binary choice model is simpler. Moreover, the number of abstentions in the dataset is small (35 abstentions compared to 192 explicit no-votes) and it is therefore difficult to isolate the reasons why governments abstain rather than voting actively against.

4.1 The model

The vote model is estimated in Probit using the STATA software. Let \mathbf{x} be a vector of explanatory variables (identified in Section 3) and y the discrete vote decision, coded as 1 if the vote is yes and 0 if the vote is no or abstention. The relationship between \mathbf{x} and y is probabilistic,

$$\Pr(y_{ij} = 1) = \Phi(\mathbf{x}_{ij}\boldsymbol{\beta} + \varepsilon_{ij}),$$

where $i = \{1, 2, \dots, 45\}$ index the 45 antidumping cases and $j = \{1, 2, \dots, 15\}$ the EU15 member states voting on the issue. The Greek letter Φ is the cumulative standard normal distribution (ranging from 0 to 1), $\boldsymbol{\beta}$ a vector of unknown coefficients (to be estimated) and ε_{ij} the error term of the model. Since yes votes are coded as 1 and no votes and abstentions as 0, $\boldsymbol{\beta}$ measures the impact of \mathbf{x} on the probability to vote *for* a proposal.⁷¹ Factors that make a yes-vote *more* likely will come out with a positive sign in the regressions and factors that makes a yes-vote *less* likely with a negative sign.

In the first set of regressions we will abstract from the panel structure of the data. This can be justified by the fact that *all* antidumping cases in the dataset satisfy the formal requisites for antidumping measures. We have therefore no *a priori* reason to believe that the error terms are not independent and identically distributed (iid) across all observations in the dataset, $\varepsilon_{ij} \sim N(0, \sigma^2)$. Of course, the evidence presented by the Commission may not be equally strong in all cases, and these unobserved case-specific factors (unobserved to us as statisticians but presumably not the member states) may lead to a clustering of the votes and consequently the error terms, suggesting that a panel specification is appropriate. However, there are some diagnostic advantages of running the regressions in both modes (pooled and panelled).

The result of the pooled regression is presented in Table 5, introducing the explanatory variables in blocks to give a sense of their relative importance and interrelation. The table reports the estimated $\boldsymbol{\beta}$ coefficients and associated standard deviations adjusted for clusters in the error terms within each panel (the 45 antidumping cases). Three stars indicate that a coefficient is significant at the 1 percent level (“high”), two stars at the 5 percent level (“middle”) and one star at the 10 percent level (“low”).

⁷¹ The votes could equally well have been coded the other way round since the probabilities sum to 1. The choice between coding yes votes as 0 or 1 will only affect the interpretation of the $\boldsymbol{\beta}$ coefficients.

Table 5. Results (pooled Probit model)

	(1)	(2)	(3)	(4)	(5)	(6)
Preferences_pop	0.80*** (0.10)	0.78*** (0.10)	0.76*** (0.11)	0.77*** (0.11)	0.72*** (0.11)	0.67*** (0.11)
Preferences_gov	0.24 (0.17)	0.25 (0.17)	0.28 (0.19)	0.27 (0.19)	0.31 (0.19)	0.34* (0.20)
Producer benefits		23.24** (9.27)	14.08 (9.02)	10.78 (10.26)	11.35 (10.11)	9.60 (8.85)
Consumer costs		-10.09 (10.83)	-7.90 (9.68)	-9.11 (10.51)	-8.53 (9.97)	-7.55 (9.66)
Pro-lobby			0.64*** (0.13)	0.61*** (0.16)	0.62*** (0.16)	0.63*** (0.15)
Con-lobby			-0.44*** (0.14)	-0.47*** (0.17)	-0.49*** (0.17)	-0.40** (0.18)
Producer benefits × Pro-lobby				8.24 (25.59)	5.99 (24.00)	7.46 (23.26)
Consumer costs × Con-lobby				4.09 (11.39)	5.80 (11.19)	8.47 (10.71)
Unemployment level					0.02 (0.02)	0.03* (0.02)
Unemployment growth					0.21** (0.08)	0.19** (0.08)
Retaliation exposure						-0.10*** (0.03)
Observations	640	640	640	640	640	640
Log likelihood	-316.4	-313.9	-302.6	-302.5	-298.8	-293.5
Count R2	0.756	0.784	0.789	0.791	0.802	0.814

Cluster-adjusted standard errors in parenthesis and significance levels indicated by stars (***) $p < 0.01$, ** $p < 0.05$, * $p < 0.1$). Count R2 = correctly classified votes/total number of votes.

4.1.1 National trade policy preferences

The first and most important insight from these regressions is that the votes are mainly driven by trade policy preferences as expressed in opinion polls (*preferences_pop*) and election manifestos of the governing parties (*preferences_gov*).⁷² The most important margin is seemingly the preferences of the people, which is a bit unexpected as the electorate cannot hold the government accountable unless the votes are made public. *Preferences_pop* is significant at the 1 percent level in all specifications of the model whilst *preferences_gov* is significant only at the 10 percent level in the full specification of the model. However, because of the high correlation between the preferences of the government and the electorate (0.74), we cannot say with full certainty that one margin is more important than the other. Indeed, a *Wald* test on the full model cannot reject the hypothesis that the coefficients are equal.⁷³ The point is rather that they are highly significant *together*⁷⁴ and very powerful in explaining the basic vote pattern. The

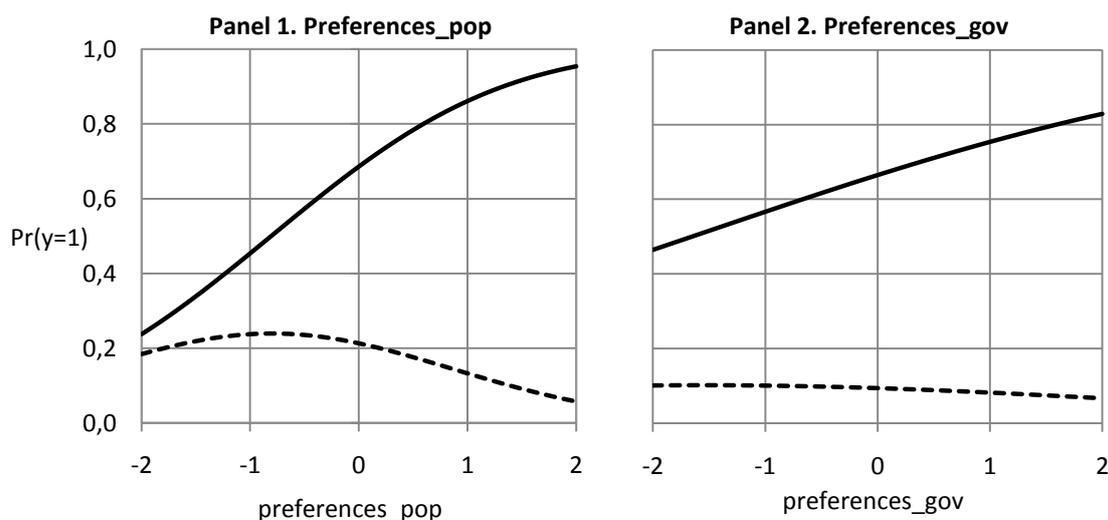
⁷² See Section 3.1 for how the preferences are measured and data sources.

⁷³ Test of equal coefficients: $\chi^2(1) = 1.50$; Prob > $\chi^2 = 0.2213$

⁷⁴ Test of joint significance: $\chi^2(2) = 69.44$, Prob > $\chi^2 = 0.0000$

first specification of the model that includes no other variables classifies 75.6 percent of the votes correctly. (A vote is deemed to be correctly classified if the model predicts the actual vote with more than 50 percents probability). Adding the other explanatory variables increases the “Count R2” with only 5.8 percentage points. The conclusion is thus that antidumping votes are primarily driven by national trade policy preferences. Member states that leans towards protectionism are more likely to support antidumping petitions than member states that lean towards free trade, other things being equal.

Figure 9. The probability to vote for antidumping measures at different protectionist preferences



The estimated relationship is plotted in Figure 9 for given values of the other factors effecting the vote decision [specification (6)]. The solid line plots the probability of a yes vote at different preferences and the dotted line the marginal effect of a small change in the preferences (the local slope of the probability function). *Preferences_pop* ranges from a low of -1.51 for the Netherlands to a high of 1.74 for Greece, and *preferences_gov* from a low of -1.54 for the PvdA, VVD, D66 coalition governing the Netherlands in the mid 1990s to a high of 1.37 for the PASOK government of Greece. If all member states shared the preferences of the Dutch, the probability of a yes vote would only be 19 percent, and if all member states shared the preferences of the Greek, the probability of a yes vote would be 98 percent. The internal battle over antidumping measures in the EU is thus more of an ideological battle than a technical one, although the ideology may be hidden behind technical arguments.⁷⁵ The data suggests very clearly that the member states at each end of the ideological spectrum are hard pressed to vote against their ideological beliefs, whilst the member states in the middle range vote more freely.

⁷⁵ The member states may take issue both with the calculation of dumping and injury margins as well as the Commission’s assessment of the “Community interest”. In particular the latter is open for interpretation with ample room to read in own values and national interests.

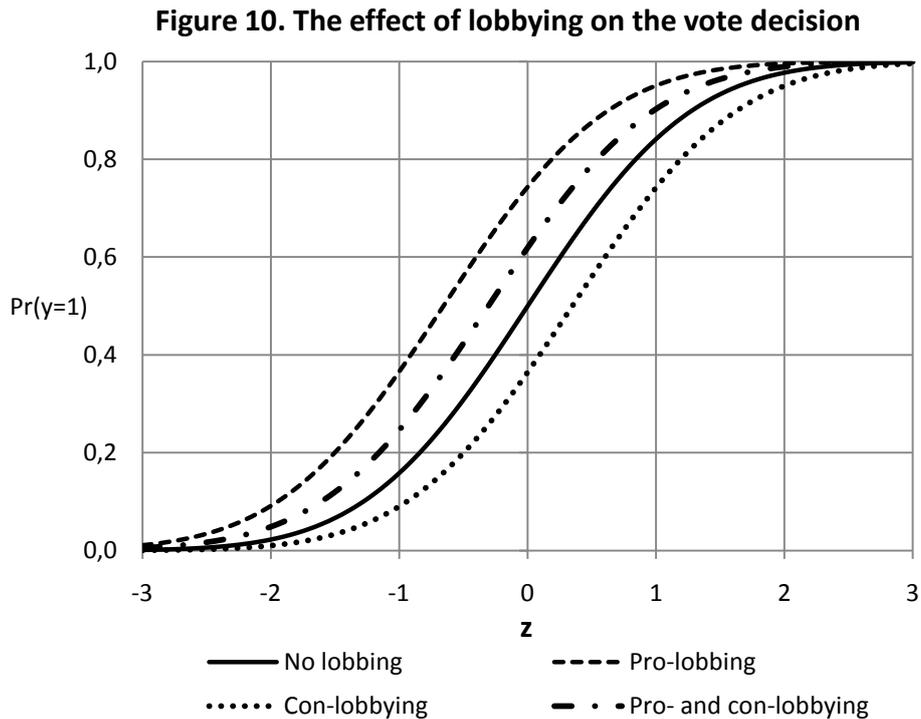
4.1.2 National interests and lobbying

In the second specification we add national interests to the regression, divided into producer benefits and consumer costs (normalized with GDP to make the estimates comparable across the member states). The signs of the estimated coefficients suggest that the support for antidumping measures increases with the gains for the domestic producers and decreases with the costs for the domestic consumers. However, the estimates are not statistically significant but for the producer benefits in specification (2). By contrast, the lobbying coefficients are statistically significant in *all* specifications of the model with the correct signs. The interaction terms between benefits and pro-lobby and costs and con-lobby are in significant albeit with the anticipated signs. Thus, what matter is that the producers and consumers are *actively* defending their commercial interests, however small or large. Having said that, the “irrelevance” of the commercial stakes may be an artefact of the *endogenous* nature of the lobbying (both producers and consumers are more likely to lobby when the stakes are large),⁷⁶ a factor that we are unable to model since there is no routine in STATA for estimating Probit regressions with endogenous discrete variables.

Thus, whereas the commercial stakes have at most an *indirect* effect on the votes through the incentives to get organized, lobbying would seem to matter the more. Just *how* much depends on the strength of the other factors affecting the vote decision – a result that is not immediately obvious from the estimated coefficients. To make this point as clearly as possible we compile all variables but for the lobbying indicators into a linear index \mathbf{z} using the estimated coefficients of the full model. The mean value of \mathbf{z} is 0.42 in the dataset with a minimum value of -1.81 and a maximum value of 2.98. We then fit the model on \mathbf{z} and the lobbying variables (including the interaction terms with the producer benefits and the consumer costs), which yields the very same result as the original regression. (The coefficient on \mathbf{z} is exactly one). Finally, using the margin command in STATA, we calculate the effect of the lobbying on the probability to vote for antidumping measures at different values of \mathbf{z} .

The result is plotted in Figure 10. The *solid line* plots the probability function under the counterfactual scenario that neither the producers nor the consumers are trying to affect the decision by lobbying. The *dashed* line plots the probability function when only the producer side is active, the *dotted* line when only the consumer side is active, and the *dashed-and-dotted* line when both sides are active. (The non-linear shape of the probability function is given by the cumulative normal distribution assumed by Probit). The marginal impact of the lobbying on the probability to vote yes is measured by the *vertical* distance between the solid line and the lobbying scenario we are looking at. Note that lobbying is most efficient at intermediate values of \mathbf{z} , i.e., when the other factors are such that the vote could go either way. A small push in either direction may then tilt the balance in favour of the organized interest. Note also that probability function shifts more when the producers are active than when the consumers are active, resulting in an intermediate shift upward when both sides are active.

⁷⁶ See the estimates in Table 4, which suggests very clearly that lobbying is an endogenous variable.



Thus, the conclusion is that that lobbying *can* have a significant effect on the decision, especially if the other factors are such that the government is balancing between voting yes or no. Evaluated at the observed lobbying activities in the dataset, the probability that a government will support an antidumping petition increases with 16.7 percent if domestic producers are lobbying for the measures (in Brussels) and decreases with 9.5 percent if domestic consumers (read, user industries, importers, retailers) are lobbying against the measures.⁷⁷ If both sides are active, the probability increases with $16.7 - 9.5 = 7.2$ percent. The estimates thus suggest that the member states give higher weight to the commercial interests of the producers, which is consistent with the spirit if not the letter of the antidumping regulation.

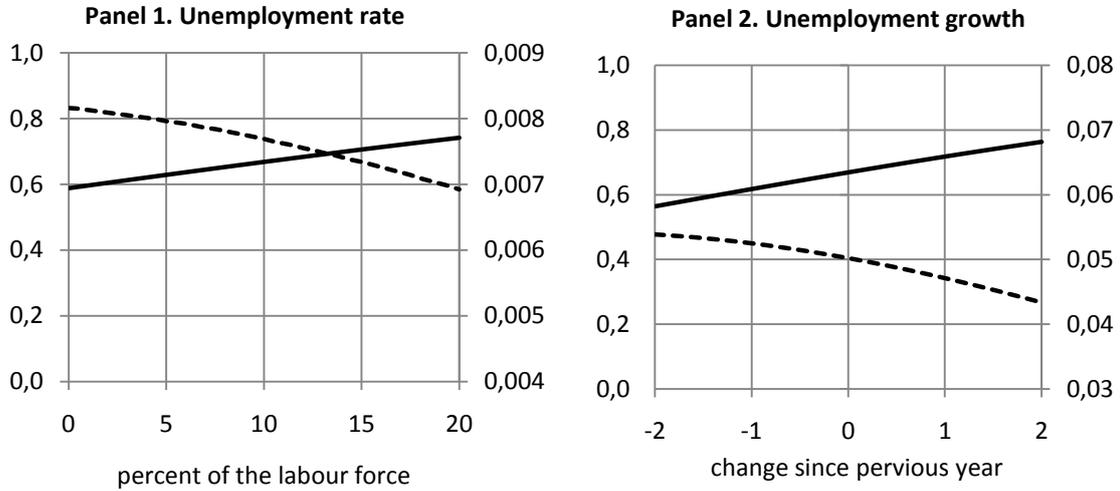
4.1.3 Unemployment and exposure to retaliation

In specification (5) we add the level and growth of the unemployment (percentage change from the previous year) as a proxy for the general state of the economy. The estimates suggest that the member states are more inclined to support antidumping petitions when the domestic unemployment is high (significant at the 10 percent level) and rising (significant at the 5 percent level). The result is plotted in Figure 10, where the solid line plots the probability (measured on the vertical axis on the left) and the dashed line the marginal effect (measured on the vertical axis on the right). One percent higher unemployment rate is associated with 0.7-0.8 percent higher probability of a yes vote and one percent higher unemployment growth with 4.5-5.5 percent higher probability. The more important margin for the vote decision is thus the *growth rate* of the domestic unemployment. This result is consistent with other studies that find that antidumping measures are counter-cyclical. The probability of a

⁷⁷ The marginal effects are calculated using the STATA command: margins, dydx(*).

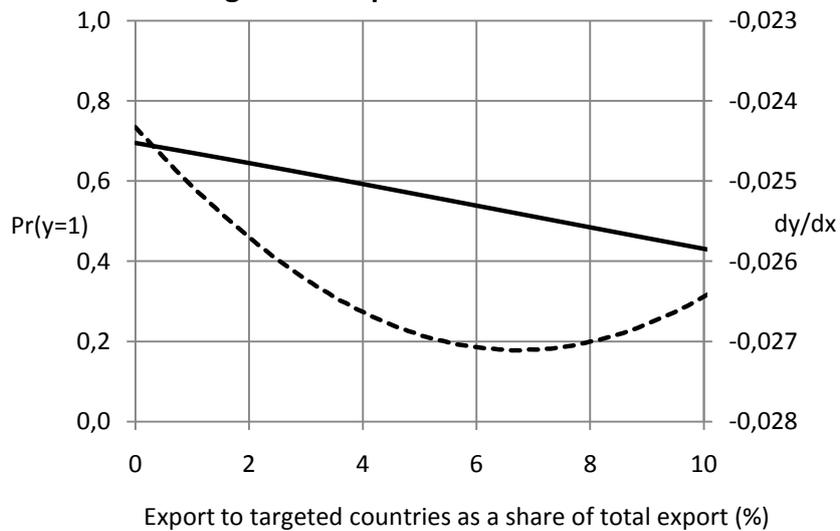
yes vote may differ as much as 20 percent between two comparable antidumping cases, where one case is decided during a sharp downturn of the economy and the other case during a sharp upturn of the economy.

Figure 11. The impact of unemployment



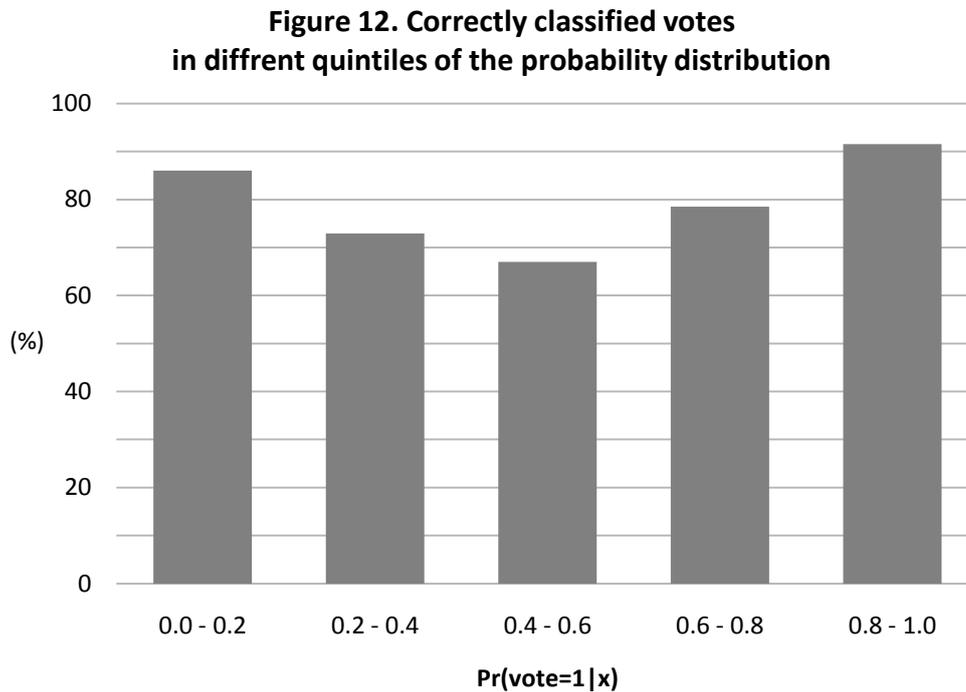
The final variable added to the regression is the exposure to retaliatory actions, approximated by the export to the targeted countries as a share of the total export. The estimate is negative and highly significant. Thus, other things equal, governments are less likely to vote for antidumping measures against countries that are important destinations for the own export industry, presumably because of the retaliation risk as hypothesised by Bloningen and Bown (2003). One percent higher export share to the targeted countries reduces the likelihood of a yes vote with 2.5 percentage points. A ten percent difference in the export dependence can thus reduce the probability with as much as a quarter. Small trading partners to the EU thus face a larger risk of being exposed to antidumping measures than large trading partners, other things equal.

Figure 12. Exposure to retaliation



4.1.5 The overall performance of the model (predictive power)

Overall, the model performs reasonably well. The full model classifies 81.4 percents of the votes correctly. The classification is most accurate when the predicted probability is close to 0 or 1, as shown in Figure 12. The votes that are easiest to predict are the votes of the member states that are very liberal or very protectionist (as measured by opinion polls and election manifestos of the governing parties). These member states are hard pressed to vote against their ideological beliefs, whilst the member states in the middle vote more freely and less predictable. The correctly classified votes range from a low of 53.5 percent for Finland (only marginally better than a random draw) to a high of 97.8 percent for Portugal.⁷⁸ In the remaining of this paper, we shall try to improve on these estimates in various ways.



4.1.6 Panel specification

As a first test of the robustness of the results we shall rerun the regressions in a panel specification. A panel specification is appropriate if the error terms do not satisfy the *iid* assumption, for instance, because of case-specific factors observed by the member states but not us as statisticians, resulting in an unexplained clustering of the votes and consequently the error terms. The random effects model is formulated as follows,

$$\Pr(y_{ij} = 1) = \Phi(\mathbf{x}_{ij}\boldsymbol{\beta} + v_i + \varepsilon_{ij}).$$

⁷⁸ The accuracy in descending order is Portugal (97.3%), France (95.3%), Greece (93.2%), Spain (92.9%), Italy (90.7%), Belgium (86.0%), Luxembourg (82.5%), Austria (81.4%), Ireland (80.5%), Sweden (80.0%), UK (75.0%), Denmark (72.1%), Netherlands (70.7%), Germany (68.2%) and Finland (53.5%).

Note that the panel model has two error terms as opposed to one for the pooled model. The first error term $v_i \sim N(0, \sigma_v^2)$ is a case-specific random effect with a variance determined by the data and the second term the residual *iid* distributed error term. The random effects may, e.g., be associated with the unobserved “strength” of the antidumping cases, where stronger than average cases are associated with a positive draw of the v_i and weaker than average cases with a negative draw. It should be stressed that the random effects do not explain anything *by and of themselves* since they are just a statistical way of accounting for the fact that some antidumping cases are supported by more member states than expected by the pooled model, whilst other cases are supported by fewer member states than expected. To understand what really goes on, we would have to find data on the variables that give rise to the random effects, but unfortunately this is not doable since the case files are confidential.

Table 6. Results (panel Probit model)

	(1)	(2)	(3)	(4)	(5)	(6)
Preferences_pop	0.90*** (0.11)	0.88*** (0.11)	0.85*** (0.12)	0.85*** (0.12)	0.82*** (0.12)	0.77*** (0.12)
Preferences_gov	0.31** (0.16)	0.35** (0.16)	0.41** (0.18)	0.40** (0.18)	0.40** (0.18)	0.42** (0.18)
Producer benefits		20.95 (13.74)	10.14 (14.81)	6.41 (15.99)	6.47 (15.72)	5.88 (14.72)
Consumer costs		-3.04 (8.85)	-0.73 (9.08)	-2.44 (9.51)	-2.90 (9.40)	-2.71 (9.43)
Pro-lobby			0.73*** (0.17)	0.71*** (0.19)	0.69*** (0.19)	0.69*** (0.19)
Con-lobby			-0.42** (0.18)	-0.49** (0.23)	-0.52** (0.23)	-0.44* (0.23)
Producer benefits × Pro-lobby				7.32 (21.81)	7.62 (21.44)	9.83 (21.21)
Consumer costs × Con-lobby				9.88 (18.74)	10.89 (18.38)	13.66 (18.46)
Unemployment level					0.01 (0.02)	0.02 (0.02)
Unemployment growth					0.12 (0.10)	0.13 (0.10)
Retaliation exposure						-0.11*** (0.04)
Observations	640	640	640	640	640	640
Log likelihood	-299.6	-297.8	-286.7	-286.6	-285.7	-281.6
Rho	0.250	0.250	0.259	0.260	0.239	0.220

Standard errors in parenthesis and significance levels indicated by stars (***) $p < 0.01$, (**) $p < 0.05$, (*) $p < 0.1$. Count R2 = correctly classified votes/total number of votes. Rho = intra-case correlation.

The results are presented in Table 6. Let us first note that a test of the *iid* assumption ($\rho=0$) is rejected by the data. In other words, the error terms in the pooled model is correlated within each panel (ρ), which is accounted for in the panel specification.

However, in terms of *qualitative* results, the estimates of the panel and the pooled model are similar with the exception of the unemployment variables that are not significant in the panel regressions.

The question is if this means that the votes are not influenced by the general state of the economy, as approximated by the level and growth of the unemployment? Well, not necessarily. The dissipation of the significance in the panel regression may simply reflect that the business cycles are correlated within the EU because of the integrated economy. The member states have therefore collectively more reasons to support antidumping petitions in some years (when the unemployment is rising throughout the EU) than in others (when the unemployment rate is falling), resulting in a clustering of the votes taken in any given year (read, state of the business cycle). In other words, the random effects may pick up a common *time*-effect rather than a common *case*-effect. Indeed, if we define the panels over years instead of cases, we get very similar results.⁷⁹ We can therefore not rule out that the member states votes are affected by the domestic unemployment situation, as shown by many other empirical studies.

The overall performance of the panel model is somewhat better than the pooled model, as shown by the Log likelihood statistics.⁸⁰

4.2 Strategic voting

While each antidumping case is voted on separately, they may be linked in a *strategic* sense. A government may be confronted with ten or more antidumping petitions each year with different national interests in each case. This opens the field for explicit or implicit vote-trading among the member states. The Commission may also facilitate the exchange of votes by putting two or more cases up for a vote at the same time.⁸¹ If one group of member states feels strongly about case X and the other group about case Y, chances are that both are adopted as a package-deal even if none of the cases would pass on its own merits. Vote-trading may therefore explain both the high success rate and the seemingly “irrational” votes we observe in the data.

The largest scope for vote-trading is arguable in the Council where several legislative acts are negotiated at the same time. If a member state changes position at this stage for no apparent reason, it may be a sign of vote-trading. Unfortunately, we do not have access to the votes in the Council and can therefore not study how often the votes are reversed, let alone the reason for the reversals. However, we have data on the votes taken in the Advisory Committee at different stages of the investigation, and the tendency here is quite clear. Comparing the votes on provisional and definitive

⁷⁹ The interested reader can request the result table from the authors.

⁸⁰ We do not report the Count R2 for the panel model since the STATA output log do not save the random effects. The predicted probabilities can therefore be calculated only under the assumption that the random effects are zero, which only make sense if the model is used to predict out-of-sample probabilities (i.e., antidumping cases that are not included in the database).

⁸¹ We have no specific evidence from the antidumping area that the Commission acts strategically. However, other studies have established that the Commission uses its agenda-setting power strategically by timing the introduction of legislative proposals so as to fit the preferences of the member states that hold the rotating council Presidency, thereby maximizing the chances that the proposals will be adopted by the Council after active lobbying and mediations of the Presidency (Schröder, 2010).

measures, we find that the balance in favour increases with one vote on average between the provisional and definitive stage.⁸² Of course, strategic considerations are *but* one reason for the apparent growing support for antidumping measures from the preliminary to the definite stage of the investigation. Votes may be reversed because of new facts, lobbying by the domestic industry, or simply that the Commission has made some strategic concession that allows a member state to drop its reservation, e.g., a reduction of the proposed duties. It would therefore be premature to associate all reversals with vote-trading among the member states. However, our understanding is that the member states vote strategically in some cases, as indicated also by some press reports mentioned before.

The problem is how to account for strategic votes in the model. Any two cases can in principle be linked and any two member states may be engaged in the vote-trading. The correlation pattern may therefore be untraceable. What we can offer here is only a first attempt to account for strategic considerations, leaving a fuller exploration of this subject for another day.

The perhaps simplest, although somewhat opportunistic way of earning goodwill or returning services rendered in the past is to vote with the majority when the own vote is immaterial for the outcome. Of course, if the majority situation is misjudged, the own vote may accidentally tip the balance. The opportunistic vote strategy is therefore associated with some risks, although the majority situation is often clear beforehand from the debate in the Advisory Committee and private consultations on the side.

The “opportunistic strategy” is captured by two dummy variables in the regressions:

Strategic_for = 1 if at least 8 member states are “likely” to vote for the proposal, not counting the own vote; else 0.

Strategic_against = 1 if at least 8 member states are “likely” to vote against the proposal, not counting the own vote; else 0.

The *ex ante* assessment of the majority situation should in principle be based on the probabilities generated by the model, but we take a short-cut here and assume that the member states are able to correctly judge the majority situation (perfect foresight). This assumption allows us to substitute “likely” for the *actual* votes in the definition of the strategic indicators.

4.2.1 Results

The result of the model with strategic variables is presented in Table 7. Note first that the coefficients of the other variables in the model are not significantly changed by the addition of the strategic indicators with one exception. In the pooled specification of the model the unemployment variables is pushed just below the critical 10 percent

⁸² 13.5 percent of the votes were reversed, but more than twice as often from no to yes (9.3 percent) than from yes to no (4.2 percent).

level, whilst the opposite is the case in the panel specification where the estimate on the unemployment growth is pushed just above the 10 percent level.

Table 7. Results with strategic voting

	Pooled probit		Panel probit	
	(1)	(2)	(1)	(2)
Preferences_pop	0.67*** (0.11)	0.75*** (0.12)	0.77*** (0.12)	0.76*** (0.12)
Preferences_gov	0.34* (0.20)	0.43** (0.19)	0.42** (0.18)	0.43** (0.17)
Producer benefits	9.60 (8.85)	8.08 (11.17)	5.88 (14.72)	8.01 (14.58)
Consumer costs	-7.55 (9.66)	-4.31 (8.65)	-2.71 (9.43)	-4.18 (8.69)
Pro-lobby	0.63*** (0.15)	0.62*** (0.15)	0.69*** (0.19)	0.62*** (0.18)
Con-lobby	-0.40** (0.18)	-0.39** (0.19)	-0.44* (0.23)	-0.39* (0.22)
Producer benefits × Pro-lobby	7.46 (23.26)	8.47 (21.44)	9.83 (21.21)	8.52 (20.40)
Consumer costs × Con-lobby	8.47 (10.71)	15.69 (11.83)	13.66 (18.46)	15.73 (17.60)
Unemployment level	0.03* (0.02)	0.03 (0.02)	0.02 (0.02)	0.03 (0.02)
Unemployment growth	0.19** (0.08)	0.14 (0.08)	0.13 (0.10)	0.14* (0.08)
Retaliation exposure	-0.10*** (0.03)	-0.09*** (0.02)	-0.11*** (0.04)	-0.09*** (0.03)
Strategic_for		0.66** (0.26)		0.65*** (0.18)
Strategic_against		-0.36 (0.39)		-0.35 (0.23)
Observations	640	640	640	640
Log likelihood	-293.5	-275.8	-281.6	-275.8
Rho			0.220	0.007

Standard errors in parenthesis and significance levels indicated by stars
 (***) $p < 0.01$, (**) $p < 0.05$, (*) $p < 0.1$. Rho = intra-case correlation.

A second observation is that the pooled specification yields almost identical results to the panel specification when the strategic variables are added to the model. The technical reason is that the two models are statistically identical when the intra-case correlation (ρ) is zero. Indeed, a likelihood-ratio test of $\rho = 0$ is not rejected in the panel specification with strategic variables. The introduction of the strategic variables thus eliminates virtually all of the intra-case correlation of the error terms, which opens the door for an alternative interpretation of the “random effects”. The hypothesis offered before was that the random effects were explained by unobserved

differences in the “strength” of the antidumping cases, which lead to a clustering of the votes. The alternative hypothesis is that the clustering is explained by strategic votes. Specifically, member states that would prefer that a proposal falls may support the proposal for tacit reasons if the own vote is not pivotal. The benefit of doing so is that it may generate some goodwill, or at the very minimum prevent some critique from the member states that are harmed by the dumping.

Note also that *Strategic_for* is statistically significant but not *strategic_against*. This finding is consistent with the observation that more votes are changed from *no* to *yes* between the provisional and definitive stage of the investigation than the other way round. The marginal impact of the *strategic_for* variable on the votes is also quite large. The probability that a government will support an antidumping measure increases with about 16 percentage points if the proposal is supported by a majority of the other member states, other things equal.

Having said that, the reader may wonder – rightly – if the tendency we have uncovered in the data is really a token of “vote-trading”. After all, the proxies we use do not fit with the definition used by e.g. Mueller (1989), which defines vote-trading (logrolling) as “the exchange of loss in some issues for benefits in others resulting in mutual overall gain between actors with different interests”. Voting with the majority when the own vote is immaterial for the outcome does not involve any real sacrifices.

Again, the above analysis is only explorative and we cannot say with certainty that the results arise because of “vote-trading” between the member states. To establish such a fact we would have to show also *who* trade votes with *whom* and under *what* circumstances, which we are unable to in this paper. We hope to return to this subject in the future when we have a better idea how to model the incentives to trade votes across anti-dumping cases. Notwithstanding, we do believe that member states votes strategically on some occasions since it carries a “political costs” to vote against the interests of the other member states. If the own vote does not matter for the outcome, a government may well decide that tacit support is the least bad policy option. This route may also be chosen to maintain good working relations with the Commission. Voting against the proposals of the Commission is never popular, and even less so if the vote reflect national self-interests.

5. Conclusion

To conclude, there is clearly more to the EU antidumping policy than meets the eye. In the official view, antidumping is as a “technical decision”. This *may* be true as far as the Commission is concerned. However, when the proposal reaches the member states, politics takes the front seat. Our estimates suggest that the votes are primarily driven by national trade policy preferences as expressed in opinion polls and election manifestos. Member states that leans towards protectionism are significantly more likely to support antidumping proposals than member states that lean towards free trade, other things equal.

Somewhat to our surprise, the votes would not seem to be driven by national interests to any significant degree (defined in the conventional way as the net of producer benefits and consumer costs). The signs are correct but the estimates are not statistically significant. What matters critically, however, is the lobbying of producers and consumers, in particular the former. If the domestic industry is actively supporting the petition, the government is some 17 percent more likely to support the petition, other things equal. And if the domestic consumers (read, user industries, importers, retailers) are actively lobbying against the measures, the probability of a yes vote is reduced by some 9-10 percent. The estimates thus suggest that governments give higher weights to the commercial interests of the producers, which is consistent with the spirit if not the letter of the antidumping regulation.

The estimates also suggest that the votes are influenced by the general state of the economy, as approximated by the level and growth of the domestic unemployment. The probability of a supportive vote may differ as much as 20 percent between two comparable antidumping cases, where one case is decided during a sharp downturn of the economy and the other case during a sharp upturn of the economy.

Another finding is that the member states treat different trading partners differently. The member states are less likely to support antidumping measures against countries that are important destination for their own export industry, presumably because of the retaliation risk. The likelihood of a supportive vote can differ as much as 25 percent between a marginal and a major trading partner accused of dumping.

We also find some tentative evidence of strategic voting, although we are not able to pin down whether this is a token of “vote-trading” or not. Specifically, the likelihood that a member state will support an antidumping petition increases with some 16 percent if the majority of the other member states supports the petition, other things equal.

Other findings of the paper is that antidumping measures benefit only two member states on average, which calls into question the current “Community interest” test. We also find that the benefits for the Community industry are quite small, since new suppliers quickly take the place of the displaced suppliers.

References

Adamski, Dariusz (2009), "How Wide is 'the Widest Possible'? Judicial Interpretation of the Exceptions to the Right of Access to Official Documents Revisited", *Common Market Law Review*, Vol. 46, pp. 521-549.

Aggarwal, A. 2004. "Macro Economic Determinants of Antidumping: A Comparative Analysis of Developed and Developing Countries", *World Development*, Vol. 32, pp. 1043-1057.

Bjørnskov, C., Meinen, P., Jørgen Ulff-Møller Nielsen, J., and P. Schröder (2009), "Lobbying for Anti-Dumping Measures: Evidence from the European Union", manuscript: <http://peio.vweb10-test.gwdg.de/papers2010/Bjornskov,%20Meinen,%20Nielsen,%20Schroeder%2030.09.09.pdf>

Blonigen, B. A. and Chad P. Bown (2003), "Antidumping and retaliation threats", *Journal of International Economics*, Vol. 60(2), pp. 249-273.

Brenton, P. (2001), "Anti-dumping Policies in the EU and Trade Diversion", *European Journal of Political Economy*, volume 17(3), pp. 593-607.

De Bièvre, Dirk and Jappe Eckhardt (forthcoming 2011), "Interest Groups and the Failure of EU Anti-Dumping Reform", *Journal of European Public Policy*, Vol. 18(3), special issue on the EU's foreign economies policies: a principal - agent perspective, edited by Andreas Dür and Manfred Elsig.

Evans, Carolyn L. and Sherlund, Shane M. (2006), "Are Antidumping Duties for Sale? Case-Level Evidence on the Grossman-Helpman Protection for Sale Model", International Finance Discussion Paper Number 888.

Evenett, Simon and Edwin Vermulst (2005), "The Politicisation of EC Anti-dumping Policy: Member States, Their Votes, and the European Commission", *The World Economy*, 28(5), pp. 701-718.

Eymann, A., L. Schuknecht (1996), "Antidumping Policy in the European Community: Political Discretion or Technical Determination", *Economics & Politics*, 8(2), pp. 111-131.

Falvey R., Greenaway D. and S. Wittayarungruang (2006), "Trade Effects of EU Antidumping Measures", mimeograph: (<http://www.fm-kp.si/Files/File/Konference/EIIE%202006/Wittayarungruang.pdf>)

Gawande, Kishore and Usree Bandyopadhyay (2000), "Is Protection for Sale? Evidence on the Grossman-Helpman Theory of Endogenous Protection," *Review of Economics and Statistics*, Vol. 82(1), pp. 139-152.

- Goldberg, Pinelopi Koujianou and Giovanni Maggi (1999), "Protection for Sale: An Empirical Investigation," *American Economic Review*, Vol. 89(5), pp. 1135-1155.
- Grossman, Gene and Elhanan Helpman (1994), "Protection for Sale", *The American Economic Review*, Vol. 84(4), September, pp. 833-850.
- Khatibi, Arastou (2009), "The trade effects of European antidumping policy", ECIPE Working Paper No. 07/2009.
- Knetter, Michael M. and Thomas J. Prusa (2003), "Macroeconomic Factors and Antidumping Filings: Evidence from Four Countries," *Journal of International Economics*, pp. 1-17, 2003.
- Ludema, Rodney D., Mayda, Anna Maria and Prachi Mishra (2010), "Protection for Free? The Political Economy of U.S. Tariff Suspensions", IMF WP/10/211.
- Maclean, Robert and Richard Eccles (2001), "A Change of Style not Substance: The Community's New Approach Towards the Community Interest Test in Anti-dumping and Anti-subsidy law", *Common Market Law Review* Vol. 36, pp. 123-148.
- Mayer, Brown, Rowe & Maw LLP (2005, "Evaluation of EC Trade Defence Instruments", http://trade.ec.europa.eu/doclib/docs/2006/february/tradoc_127382.pdf
- Moore Michael O. and Alan K. Fox (2010), "Why don't foreign firms cooperate in US antidumping investigations? An empirical analysis", *Review of World Economics*, Vol. 145(4), pp. 597-613.
- Mueller, D. (1989) *Public Choice II*, Cambridge University Press, Cambridge.
- National Board of Trade (2005), "Treatment of the 'Community Interest' in EU antidumping investigations", mimeograph, 2005-06-14.
- Nelson, Douglas (2006), "The political economy of antidumping: A survey", *European Journal of Political Economy*, vol. 22(3), pp. 554-590.
- Nizovtsev, Dmitri and Alexandre Skiba (2010), "Import Demand Elasticity and Exporter Responses to Anti-Dumping Duties", working paper, May 2010.
- Olson, Mancur (1965), *The Logic of Collective Action*, Harvard University press.
- Rutkowski, Aleksander (2007), "Withdrawals of Anti-dumping Complaints in the EU: A Sign of Collusion", *The World Economy*, Vol. 30(3), pp. 470-503.
- Schröder, Valentin (2010), "Just in Time? European Commission Legislative Initiatives and the EU Council Presidency", Paper presented at the 3rd ECPR Graduate Conference, Dublin, September 2010.

Shu, Min (2008). Domestic Struggles over International Imbalance: The Political Economy of Anti- Dumping Governance in the EU. *Fudan Journal of the Humanities and Social Sciences* Vol. 1(2), pp. 72-94.

Weifeng Zhou, Ludo Cuyvers, (2009) "Determinants of EU antidumping actions against East Asian countries", *Journal of International Trade Law and Policy*, Vol. 8(3), pp. 291 – 305.

Wellhausen, Marc (2001), "The community interest test in antidumping proceedings of the European Union", *American University International Law*, Vol. 16(4), pp. 1027-1082.

Woolcock, Stephen (2005), "Trade Policy – From Uruguay to Doha and Beyond", in Wallace, Helen; Wallace, William; and Pollack A. Mark (eds): *Policy-Making in the European Union*, fifth edition (Oxford University Press), pp. 377-399.

Annex I. The price effects of antidumping duties

The antidumping regulation of the EU provides both positive and negative incentives for the named firms to raise the export price to the EU to the “normal level”. The duties can therefore be used as an indicator of the likely price effects, as explained in this annex.

Article 11(1) of the basic regulation provides that “an anti-dumping measure shall remain in force only as long as, and to the extent that, it is necessary to counteract the dumping which is causing injury.” AD measures are imposed for an initial period of *five* years unless otherwise decided by the Council. However, the measures can be revoked already after one year if the *interim review* finds that the dumping has discontinued. The measures can also be extended beyond the five year initial term if the *expiry review* finds that the expiry would likely lead to a continuation or recurrence of dumping and injury. What is more, the duties can be adjusted upward or downward within the regular term, depending on the pricing behaviour of the named firms.

Thus, both the duration and the level of the duties are *endogenous* variables for the named firms, which in turn affect the pricing behaviour in a fundamental way. Specifically, if the named firms try to minimize the impact on sales by reducing the *pre-duty* export price to the EU, the Community may increase the duty correspondingly. The absorption strategy is therefore self-defeating. A *reinvestigation* of the dumping margin can be requested by the Community industry or initiated by the Commission if the duties are not passed on in full.⁸³ Moreover, a continuation of the dumping, let alone increased dumping (the absorption strategy), would in all likelihood mean that the measures will be extended beyond the initial five year term.⁸⁴ The system cannot be beaten by changing the pricing behaviour right before a review since the review takes into account the pricing behaviour over the *whole* duration of the measures. The regulation also provides *positive* incentives for the named firms to raise prices to the “normal level” from the very beginning. Firms that cease dumping may request an *interim review* already after one year, arguing that the measures are no longer warranted since the dumping has discontinued.⁸⁵ The exporters will have to convince the Commission and the member states that the price increase is permanent and that the dumping will not recur if the duties are revoked or reduced.⁸⁶ Of course, meanwhile, the exporters may be double jeopardized if the full duty is imposed on the non-dumped import. To avoid double jeopardy, the regulation has a window that allows importers to seek reimbursement of the collected duties if the dumping margin, on the basis of which duties were paid, has been eliminated or reduced.⁸⁷

While we haven’t studied the optimal price response in a formal model, our intuition is that the joint profit maximizing behaviour of *related* exporters and importers (whether

⁸³ *Ibid*, Article 12. For an example from the real world, see attached link:

<http://www.europeanvoice.com/article/imported/steel-giants-lobby-for-anti-dumping-duties/33392.aspx>

⁸⁴ *Ibid*, Article 11(2).

⁸⁵ *Ibid*, Article 11(3).

⁸⁶ For some historical statistics on the success rate, see the consultation report prepared by Mayer, Brown, Rowe & Maw LLP (1995), Evaluation of EC Trade Defence Instruments, Annex 7, pp. 12-13.

⁸⁷ *Ibid*, Article 11(8).

through ownership or long-term contractual arrangements) is to raise the export price to the “normal level” in order to have the duty revoked as quickly as possible and absorb the duty on the import side meanwhile if the claim for reimbursement is not successful. The consumer price would then increase with the full amount of the duty; no more and no less. The same analysis applies to *unrelated* exporters and importers, *provided* that the reimbursement process is working smoothly.⁸⁸

As for the long run effects, prices will presumably be maintained at the “normal level” also after the expiry of the measures. This is indeed a condition in the expiry review.⁸⁹ The Commission (and the Community industry) will continue to monitor the volumes and prices of the former dumpers to ensure that they stick to their side of the bargain, i.e., to permanently refrain from dumping. Should the dumping recur in spite of the commitments made in the expiry review, the measures can be reintroduced already after 60 days on basis of the data collected during the monitoring period. Such a short period without measures will probably not tempt any firms to break the vow.

For the above reasons, we believe that the duty can be used as a reasonable indicator of the price effects of antidumping measures on the targeted import both in the short and long run. It is also *doable* indicator for time-pressed member states that lack sophisticated modelling tools.

Calculating the average duty

As a general rule it is not possible to calculate the trade-weighted average duty since the market shares of the named firms are not reported in the Council regulation (draft proposal of the Commission). If we were willing to assume that the trade-weighted average duty is proportional to the maximum rate, one could use the latter as a substitute for the former in the statistical analysis. This approach was used by Falvey, Greenway and Wittayarungruang Sri (2006) in a study estimating the trade effects of EU antidumping measures. However, the weak results suggest that the maximum rate is a poor indicator of the aggregate market impact, which is not surprising given that the majority of the named firms pay much less.⁹⁰

⁸⁸ A recent paper by Nizovtsev and Skiba (2010) arrives at a somewhat different conclusion. They show that firms facing a very elastic demand may better off paying the duty than raising the export price to the “normal level”. This result was derived in a theoretical model based on the US antidumping laws and also supported by US data. The EU antidumping regulation (outlined above) is somewhat different and we are doubtful that their result would pass muster in a model that account for the fine-prints of the EU antidumping regulation. However, this remains to be seen.

⁸⁹ The purpose of the expiry review is to determine whether the expiry would be likely to lead to a continuation or recurrence of dumping and injury. If the answer is yes, the measures will be extended for another period, followed by a new expiry review, possibly in an indefinite circle. The named firms will thus have to make some kind of commitment to the Community that the dumping will not recur if the measures are revoked.

⁹⁰ A paper by Moore and Fox (2010) shows that 37 percent of all firms involved in US antidumping investigations face “facts available” margins because of a failure to cooperate. At the same time, the theory developed by Moore and Fox suggests that the market share of this group may be considerable smaller than 37 percent because of the fix costs to participate in the investigation (filling in long questionnaires and hiring legal counsel). Our inference of their model is that the firm population will divide naturally into large co-operating firms and small non-cooperating firms, which in turn suggest that the aggregate market share of the non-cooperating firms may be considerable smaller than their share of the

Our preferred option is instead to use the simple average duty as proxy for the likely market impact, calculated in two steps if more than one country is covered by the measures. Specifically, we first calculate the simple average duty for each of the investigated countries and then the overall average by weighing the simple averages with the *ex ante* exports shares to the EU. Note that we include also firms that were attributed zero rates in the average duty, including the zeros for countries that were exempted all together. The inclusion of zeros is justified by the fact that the member states vote on the whole package of measures and not on the individual parts.⁹¹ Specific duties (e.g., 5 euro per tonne) are converted into *ad valorem* equivalents before averaging, using price data available in the regulation or unit import prices from COMEXT. Likewise, price and quantity undertakings are converted into *ad valorem* equivalents before averaging, using the duties that would have been imposed had the undertakings not been accepted. The calculated average duties are reported in the last column of Table 1 in the main text.

firm population. However, Moore and Fox do not provide any data on the market share of the non-cooperating firms, so our inference may be wrong.

⁹¹ The fact that some firms and countries were exempted may have persuaded some member states to support a proposal they otherwise would have objected. It is therefore reasonable to include also the zero duties in the calculation of the average duty.

Annex II – Are the votes of the member states confidential?⁹²

Antidumping proceedings are held behind closed doors. Neither the preliminary votes in the Advisory Committee, nor the final votes in the Council are published as a rule. However, any natural or legal person can make a request to the General Secretariat of the Council under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.⁹³ Such requests are assessed on a case by case basis and rejections may be appealed to the Court of First Instance.

The legal ground for keeping the votes confidential is unclear. The confidentiality provision in the Antidumping Regulation (Article 19) relates to *confidential business information* and exchanges of information between the Commission and Member States pursuant to the investigation.⁹⁴ It is unclear whether the “exchanges of information” also include the member states position on the proposals. The basic regulation is silent on this point and we must therefore seek guidance from other legal instruments.

Article 9(1) of the *Council’s Rules of Procedures*⁹⁵ provides that “where the Council acts in its legislative capacity within the meaning of Article 7, the *results of votes* and explanations of votes by Council members, as well as the statements in the Council minutes and the items in those minutes relating to the adoption of legislative acts, *shall be made public.*” [Italics added]. Article 7 clarifies that the Council act in a legislative capacity “when it adopts rules which are legally binding in or for the Member States, by means of regulations, directives, framework decisions or decisions, on the basis of the relevant provisions of the Treaties, *with the exception of discussions leading to the adoption of ... acts concerning ... international relations.*” [Italics added].⁹⁶ It should be noted here that definitive antidumping measures are imposed by a *Council regulation* and that the measures are legally binding in or for the Member States.

The justification of the vote secrecy thus hinges on the “international relations” exception. Indeed, this was the legal ground referred to by the General Secretariat in an email inquiry, on file with the authors. However, the applicability of this exception can be questioned on several grounds. First, the *Common Commercial Policy* (including adoption of antidumping measures) belongs to the first pillar of the EU Treaty whereas the *Common Foreign and Security Policy* belongs to the second pillar, or rather

⁹² The legal analysis is that of the National Board of Trade (an independent governmental agency) and should not be attributed to the Swedish government.

⁹³ http://www.europarl.europa.eu/RegData/PDF/r1049_en.pdf

⁹⁴ The relevant provision is Article 19(5), second paragraph, which reads: “Exchanges of information between the Commission and Member States, or any information relating to consultations made pursuant to Article 15, or any internal documents prepared by the authorities of the Community or its Member States, shall not be divulged except as specifically provided for in this Regulation.”

⁹⁵ COUNCIL DECISION of 15 September 2006 adopting the Council's Rules of Procedure (OJ L 285/47) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:285:0047:0071:EN:PDF>

⁹⁶ The international relation exception is also inscribed in Article 4 of Regulation (EC) NO 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145/43, 31.5.2001), unless there is an overriding public interest in disclosure. http://www.europarl.europa.eu/RegData/PDF/r1049_en.pdf

belonged before the entry of the Lisbon Treaty in December 2009. This suggests that trade policy is a separate policy area and should not be construed as decisions *concerning international relations*, although antidumping decisions may *incidentally* affect international relations if the measures are viewed as unjustified by the affected countries (leading to complaints at the WTO tribunal in Geneva). Secondly, the ruling of the Court of Justice in the Eurocoton case clarifies that rejections of antidumping measures (and by implication, adoptions) can only be predicated *on the requisites defined in the antidumping regulation* (dumping, material injury caused thereby and a Community interest). As clarified by the Commission in a note to the member states in the Advisory Committee, the Community interest test is not open-ended but an assessment of the *economic effects* on the operators concerned. Broader considerations, e.g. *foreign policy considerations*, would conflict with the technical nature of the instrument:⁹⁷

“In this respect the question might be raised whether the test should also cover certain broader considerations (e.g. foreign policy, environmental policy, labour standards, regional policy, macroeconomic effects of measures) that are sometimes invoked as relevant in the context of the imposition or non-imposition of measures, although the alleged link might be rather indirect. As a general rule, taking this type of considerations into account would conflict with the precision and technical nature of the investigation and the instrument. Moreover, the above mentioned broader topics are already covered by specific legislation, which includes public interest considerations. Concerns relating to such broader aspects should consequently be addressed by other means than anti-dumping measures, in the appropriate respective context.”

Finally, *even if* antidumping decisions are construed as an act concerning international relations in a *broad* sense, the subordinate clause in Article 7 of the Council’s Rules of Procedure makes it clear that it is the *discussions* leading to the adoption of acts concerning international relations that are confidential and not the votes on the issue.

Thus, neither the Antidumping Regulation, nor the EU legal order (the separated pillars of trade and foreign policy before the entry into force of the Lisbon treaty), nor the Council’s Rules of Procedure support the current practice. The confidentiality is, as far as we can tell, limited to the *discussions* leading up to the votes, which are held behind closed doors in order to “protect” the decision-making process.⁹⁸ We can see no *legal* ground for keeping the vote records secret. This practice is at odds also with fundamental democratic principles endorsed by the EU. Specifically, if votes are secret, the electorate cannot hold governments accountable for their decisions. Therefore, our conclusion is that the votes *shall be made public* as provided for in Article 9(1) in the Council’s Rules of Procedures. Notwithstanding, we will not publish the votes in individual antidumping proceedings since that is not necessary for the purpose of this paper.

⁹⁷ See section 2.3 of the Interpretative note.

⁹⁸ On this point, see section 4 of Adamski (2009).