CASE STUDY

Egyptian Anti-dumping Investigation on Imports of Wallpaper: An Analysis of the Arguments submitted by Supporters and Opponents of Import Dumping

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Part I

In 2001, the Modern Factory for Paper Converting "Amira Wall Paper", the sole producer of wall paper in Egypt made a petition to the Ministry of Economy and Foreign Trade to impose restrictions on imports of wall paper. Under Egyptian trade regulations, the government can introduce temporary import restrictions when a significant increase in imports threatens to cause serious injury to domestic production. In response, the government decided to open a formal investigation in June 2001 and imposed a provisional duty of 97% in August 2001. since Egypt joined the World Trade Organization in 1995, any measures Egypt takes has to be consistent with the requirements of Article VI of the GATT, the so-called Anti-dumping measures.

Anti-dumping measures: measures against high dumping margins:

This case examines the facts presented by advocates and disputants of the imposition of the anti-dumping measure on imports of wall paper. It addresses the conflict between pro-free trade and pro-domestic industry protection interest groups in Egypt, and reveals the challenge to the government decision to impose a 97% tariff on imported wall paper. The government objective was to protect local producers interests as well as the domestic industry. The government decision was in response to a dramatic increase in wall paper imports in 2000 to the extent that a high dumping margin was easily noticed., which negatively affected domestic production of the like product. Different stakeholders were involved, however, like importers of the product and China (the exporting country).

This case covers the period between May 2001 when the Amira Wall Paper company requested the Ministry of Economy and Foreign Trade to impose restrictions on imports of wall paper, and November 2001 when final investigative body recommendations and decisions were notified to various parties concerned.

Requirements of Egyptian Law and WTO rules for imposition of an Anti-dumping measure:

The agreement on anti-dumping, article VI of the GATT, established rules for the application of anti-dumping measures. Egypt's objectives are to strengthen its international trading system, reinforce disciplines of GATT 1994, and at the same time, enhance rather than limit competition in international markets. The following are the requirements of Egyptian law and WTO rules for the imposition of an anti-dumping measure.

a) Determination of Dumping:

For the purpose of Anti-dumping Agreement, a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable prices, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

b) Determination of Injury:

Determination of injury for the purpose of article VI of GATT 1994 involve an examination of both:

1) Volume of dumped imports:

With regards to the volume of dumped imports, the investigating authority shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing member.

2) Consequent impact of these imports on domestic producers of such products:

With regards the effect of the dumped imports on prices, the investigating authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

3) Impact of dumped imports on the domestic industry:

The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry. Including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments.

Wall Paper Market

The conflict among stakeholders:

The conflict among different stakeholders of the wall paper market in Egypt began in February 2001 when the Modern Factory for Paper Converting "Amira Wall Paper" filed a complaint to the Anti-dumping/subsidy and safeguards department in the Ministry of Foreign Trade whereby it charged the increase in the imports of wall paper from China for causing serious effects to the national production of the same product.

Though wall paper imports from China were nil in 1997 and 1998, there were 11364 rolls imported in 1999, and in 2000 imports increased by 357% as compared to 1999. The increased supply of imported wall paper rolls undercut their prices and depressed the local product sales prices by 4.3% in 1998, 5% in 1999 and by 3.5% in 2000.

"Amira Wall Paper" complaint was according to Regulation of Law 161/ 1998, article 14, concerning the protection of national economy from injurious effects of unfair practices in international trade (see appendix #1). The complaint was supported by a list of names of wall paper importers, and another list of exporters of the product.

The Product:

The product under investigation is wall paper and vinyl wallpaper. Wall paper can be painted. Alternatively, it can be covered with a plastic layer which can be blistered, painted, printed or decorated. Wall paper is imported in rolls where the surface area of each roll is 53cm x 10.5cm and its weight is 1.1 Kg. Worth to mention, import duty on wall paper is 30%.

Modern Factory for Paper Converting "Amira Wall Paper" was the sole producer of wall paper since it manufactured 100% of total local production. Hence, the company had fulfilled the conditions required for accepting its complaint to the investigating authority with regards to dumped imports (see appendix #2).

When investigation started, it was found out that both locally produced and imported products were alike in specifications, characteristics, measurements, uses and production methods. Hence, the investigation authority considered domestic wall paper a product similar to the imported one destined for consumption in the domestic market (see appendix # 3).

Competition:

The investigation authority decided that since both products served the same needs and were similar in many other aspects, therefore imported wall paper should be considered a competitive product to the locally produced one. Accordingly, and in the light of the WTO agreement and the Egyptian System on Anti-dumping, Subsidies, Compensational Measures and Protection, law number 161/1998 (concerning the protection of national economy from injurious effects of unfair practices in international trade was applied. In particular, the "Anti-dumping Agreement" with regards to regulating the imposition of anti-dumping duties against dumped imports causing material injury to the domestic industry or threat thereof was the most appropriate measure.

Determination of high dumping margins:

According to the Central Agency for Public Mobilization and Statistics (CAPMAS), 61% of Egypt's total imports of wall paper was brought in from China whereas the remaining 39% was provided by other countries. Hence, in light of article 38(a) of law 161/1998 (see appendix #4) and section 8 of article 5 of the Anti-dumping agreement (see appendix #5), it was evident that the volume of wall paper imports from China increased dramatically to the extent that a high dumping margin was easily observed.

A product is considered, according to the provisions of Anti-dumping Agreement, as being dumped if the export price of the product exported from one country to another was less than the relative price of the same product when consumed in the exporting country. Thus, to determine high dumping margins, the investigation authority performed the following:

- Calculated export price of imported wall paper in line with article 32 of law 161/1998 "Dumping Calculations" (see appendix #6)
- Adjusted export prices of the CIF amount of wall paper imports to the normal value of goods (factory price) of the same product after deducting costs of transporting the product from the maker's factory to the port of receipt, and insurance costs.

When the investigating authority calculated the margin of dumping which is the difference between the normal value and the export price, it was 210%. The investigating authority, therefore, can not ignore such a high percentage since it is much greater than minimum permitted percentage which is 2% (see appendix #4). Accordingly, the Head of Anti-dumping authority, Mr. Abdel Rahman Fawzi decided to impose an anti-dumping duty of 97% of the CIF amount of imported wall paper, which is less than the margin of dumping , and which could be adequate to remove the injury to the domestic industry.

Serious Injury:

"Amira Wall Paper", the sole producer of wall paper in Egypt confirmed serious injury to national production only as a result of the greater volume of dumped imports of the concerned product from China which had negative effects on prices and on the economy as a whole.

Determination and investigation of the effects of the increases in wall paper imports

As per the Egyptian safeguard measures, serious injury occurs when an unjustifiable increase in imports causes a negative impact on domestic production (see appendix # 7). Egypt imports wall paper from several countries other than China. However, China has the highest market share of 61% of total imports. Though in 1997 and 1998 imports were zero, in 2000 they increased by 357% as compared to 1999. On the other hand, while in 1999 imports from the rest of the world increased by 43%, whereas in 2000 they went down by 74%. At the same time, while total imports of wall paper rose by 55% in 1999, it decreased by 39% during 2000. Thus, it was apparent that not only was the absolute in imports from China thrilling, but it was also at the expense of imports of the rest of the world. Growing imports from China were also at the expense of domestic production of wall paper which started to decrease sharply starting 1999/2000 (see appendix # 8).

Effects of increasing imports on prices:

1) Price Undercutting:

   Price undercutting means the extent by which the price of imported wall paper is below the price of locally made product. In determining the material injury suffered by local production, the investigation authority verified that there had been a serious price undercutting of 33% by the dumped imports of wall paper in comparison to the prices of the domestic like product. (see appendix #8).

2) Price Depression:

   It is the extent to which prices of local production are downgraded as a result of dumped imports. The investigation authority also detected a significant price depression of the domestic like product as a result of increasing wall paper imports. Prices of locally produced wall paper were reduced by 4.3% in 1998, 5% in 1999, and 3.5% in 2000 (see appendix # 8).

3) Price Suppression:

   Increasing wall paper imports also prevented price increases of the domestic like products which otherwise would have occurred. When the investigating authority compared average costs of locally produced wall paper to average sales prices it was found out that figures increased to 81% in 1998, 84% in 1999, and 86% in 2000. Therefore, it was clear that the ability of "Amira Wall Paper" to cover its production costs was decreasing, and that local prices were prevented from increasing due to the rising volume of imports (see appendix #8).

Negative Effects on the Economy:

1) Reduced Production Levels:

   Production levels of locally produced wall paper fell down dramatically as a result of dumped imports. Wall paper production in Egypt was reduced by 4.3% in 1998, 81% in 1999, and 76% in 2000.

2) Reduced Sales:

Though in 1998 and 1999 the sales volume of domestically produced wall paper increased by 71% and 23 % respectively, in 2000 it fell sharply to reach (39%). In effect, sales value also increased by 64% in 1998, and by 17% in 1999. In 2000, however, sales value also fell promptly to be (41%) as a result of dumped imports from China.

3) Effects on Market Share:

Market share of domestically produced wall paper has also fallen down since 1999 as a result of increasing imports. Market share of local sales of wall paper was first increased by 152% in 1998 as compared to 1997 (the base year). Local sales market share, however, went down by 83% and 70% in 1999 and 2000 respectively as compared to 1997. At the same time, China's market share of wall paper increased by 100% and by 728% in 1999 and 2000 respectively. China's share also increased at the expense of imports from other countries the share of which decreased by 84% in 1998, increased by 96% in 1999, and decreased sharply by 43% in 2000 as compared to the base year.

4) Lower Inventories:

Though in 1998 inventory levels increased by 4.5%, they fell sharply by (39%) in 1999 and by (47%) in 2000. The investigation authority concluded that lower inventory levels during the investigation period were attributed to decreasing production levels throughout the same period.

5) Average Profitability Per Unit:

Average profitability per unit continued to decrease throughout the year 1998 and until 2000. More specifically, losses of 94%, 138% and 161% were incurred in the years 1998, 1999 and 2000 respectively.

6) Decreasing Capacity Utilization:

When the investigation authority examined trends in capacity utilization it concluded that due to the presence of large inventories in 1998, the company was unable to fully utilize its capacity and increase production. Also, in 1999 when inventories started falling sharply, it became uneconomical to utilize capacity since it was going to create more costs for the company and, thereby, further undermines its competitiveness.

Decision of Investigating Authority concerning serious injury to local production

The Anti-dumping/Subsidy and Safeguards department started an anti-dumping investigation in June 5, 2001 by advising stakeholders (the Chinese government, exporters and importers, as well as the local producer of wall-paper, and WTO) and by publishing the investigation in the Official Egyptian Gazette. The investigating authority executed a detailed report, available to all parties concerned, which included information and justifications with regards to all notifications. Moreover, in August 8, 2001, an anti-dumping fee of 97% of the CIF amount of imported wall-paper was imposed (Regulation 559, 2001) for a period of six months according to article 44 of Regulation of law number 161/1998 (see appendix # 10).

After considering all dimensions, the investigation authority reached the following concerning the issue of serious injury to the national production of wall paper:

- Presence of absolute as well as relative increases in imports of wall paper from China during the investigation period.
- Presence of differences between prices of locally produced wall paper and prices of imports from China.
- Prices of domestic production of wall paper remained somewhat constant throughout the investigation period as a result of dumped imports.
- "Amira Wall Paper" company was unable to raise its prices to cover increases in production costs owing to the increased volume of dumped wall paper imports.
- National production of wall paper faced several negative economic effects (reduced local production levels, sales, market share, inventories, average profitability per unit, and capacity utilization) as a result of increasing imports of the like product from China.

Therefore, it was clear that there was a negative impact of increased imports of wall paper on the domestic industry. Moreover, "Amira Wall Paper" company attributed serious injury to its production to only one threat which is increased imports from China. Hence, the investigation authority concluded that there was a serious injury caused to domestic production based on the facts presented and the investigations undergone, and that there was a causal relationship between increased imports of wall paper and serious injury which was difficult to repair. Accordingly, the investigation authority had the right to apply provisional anti-dumping measures of article 7 (see appendix # 9) concerning the protection of the national economy from injurious effects of unfair practices in international trade, and article 2 (see appendix # 3) concerning the determination of dumping.

After imposing the provisional measure against dumping practices exercised by China in accordance with article 86 of law 161/1998 (see appendix # 11), the investigative body pursued investigation according to article 11 of Regulation of law 161/1998 (see appendix # 12) whereby it verified the credibility of the data presented by “Amira Wall Paper” with other authorities like the Import/Export Control Authority and the Central Agency for Public Mobilization and Statistics (CAPMAS).

Effects on Stakeholders:

The government’s decision to impose an anti-dumping duty on imported wallpaper from China had different impact on various stakeholders. Stakeholders were divided into two groups: a pro-camp group which comprised the government and the “Amira Wall Paper” company, being the only producer of wallpaper in Egypt, and an against-camp group which included China, the exporting country, and importers of the product to Egypt.

Pro-Camp: The Government:

In order to promote trade liberalization, Egypt has been a member of the GATT since 1971 and has joined the World Trade Organization (WTO) in 1995 and pledged conforming to its trade commitments by 2005. However, the government decided to impose an anti-dumping duty of 97% on wall paper imports from China in response to a dramatic increase in the volume of these imports which caused serious injury to domestic industry that produces similar or directly competitive products.

When the government decided to impose a dumping fee for imported wall paper, the intention was to ensure protection of the domestic industry against unfair dumping practices in international trade. However, imposing such measures raised some people’s doubt about Egypt’s local industry’s capabilities to compete with foreign products in domestic and international markets. In its efforts to upgrade the Egyptian industry, the Industrial Modernization Program was established to enhance the efficiency and effectiveness of as many Egyptian companies as possible up to the standards of international champs of performance and productivity. The program was jointly funded by the Egyptian government (Euro 100 million), and the European Union (Euro 300 million) so that total funds available for industrial modernization amounts to Euro 450 million.

The government also supports the national campaign launched by the General Union of Chambers of Commerce the aim of which is to encourage the consumption of locally produced goods and services. The union believes that such campaign should be effective in diluting the negative effects caused by increasing imports.

Pro-Camp: The Modern Factory for Paper Converting “Amira Wall Paper”:

The Modern Factory for Paper Converting “Amira Wall Paper” is the only producer of wall paper in Egypt since it accounts for 100% of Egypt’s wall paper production. “Amira Wall Paper” company confirmed serious injury to the domestic industry as a result of increasing imports and has presented evidence that such dumping practices had both pricing and economic negative effects on the industry.

However, the company faced mixed reactions to the effects of dumping on local production. On one hand, proponents of trade liberalization asserted that Egyptian manufacturers have to learn to compete with foreign products by improving the quality of their products which will eventually improve their capabilities to export. On the other hand, opponents of trade liberalization, supported by quite a few Parliament executives, believe that dumped imports, in addition to economic and pricing adverse effects, have heavy social costs dire to unemployment. In addition, high costs by production in Egyptian industries have detrimental impact on competitiveness. "Production costs in Egypt were the highest in the world", declared prominent business man Mohamed Abul-Enein.

<u>Against-Camp:</u> <u>China:</u>

China was the only exporting country involved in the wallpaper case. The Egyptian government informed Chinese wall paper exporters of the complaints received from "Amira Wall Paper" before starting the investigations. The notice included the name of the country involved, a description of the product and practices under investigation, as well as a summary of reasons of serious injury. China was given a chance to respond within 37 days from the date of receiving the notification. The country was also permitted to present its point of view and arguments. However, only one of the three Chinese wall paper exporters responded to Egypt's notice of the initiation of an investigation and asked for an extension period to justify its position. Consequently, the investigation authority approved to extend the period one week. Yet the Chinese company did not respond by the end of the additional period which was granted. Nevertheless, the investigation body offered the Chinese company another week and awaited a suitable response. Eventually, when no action was taken o behalf of the exporter, the investigation authority decided upon the final anti dumping measure. Hence, it seems that China was eventually convinced with Egypt's right to impose anti-dumping fees to protect its local production against serious injury caused by the increased imports of the product concerned because of several reasons:

1) There are great prospects of technical, technological, commercial, and economical cooperation between Egypt and China.
2) Prospects of development and flow of foreign direct investment (FDI) to Egypt.
3) Anticipated cooperation between Egypt and China in other sectors like tourism and education.
4) Prospects of seeking access to the Egyptian market, the most populous market in the Middle East.

<u>Against-Camp:</u> <u>Importers:</u>

Importers of wallpaper to Egypt were accused of being responsible for the increasing volume of the product in the domestic market despite the presence of a similar locally produced one. Importers took advantage of the 1988 Asian Economic Crisis and the resulting lower products prices and, hence, increased imports from $ 13 billion to $ 17.8 billion, with an increase of $3.8 billion. In this way, importers were able to increase their inventories at reasonable costs. Importers motives were several among which were the lower quality standards of the local product and the tendency of some consumers to prefer imported products.

In a study conducted by the World Bank, it was noted that the problem, especially in developing countries, was not in the absolute increase in imports but was in the increasing imports that might exceed Egypt's national proceedings.

Part II:

Final Recommendations and Decisions of the Investigative Body in the Ministry Foreign Trade:

In November, 2001, Dr Youssef Botros Ghali, Minister of Foreign Trade decided to impose a final anti-dumping measure of 97% on the CIF amount of imported wallpaper from China. The new anti-dumping fee will be applicable for five years starting November 24,2001.

Appendix

(1) Article 14 of law 161/1998
Application and Procedures of Investigation

The application shall be accepted only if it is lodged by or on behalf of the domestic industry, chamber of the industries concerned, federation of industries, producers associations or the ministries supervising any of the production sectors. The application shall include evidence of the existence of dumping, subsidy or unjustifiable increase of imports, the injury caused by each and the causal link between each and the injury caused or threatened to the applicant.

(2) Article 19 of law 161/1998
Investigation Procedures

An investigation shall not be initiated unless the application is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 percent of total production of the like product produced by the domestic industry.

(3) Article 2 of Agreement on implementation of Article VI of the General Agreement on Tariffs and Trade 1994

Throughout this agreement the term "like product" (produit similaire) shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

(4) Article 38(a) of law 161/1998
Dumping Calculations

The investigating authority shall prepare a report to recommend the termination of the investigation in the following cases:

a) If the volume of dumped imports from a particular country is less than 3% of the volume of import of the subject goods unless countries which individually account for less than 3% of the total imports of the like product collectively account for more than 7% of the total imports.
b) If the margin of dumping is less than 2% of the export price.

(5) Section 8 of Article 5 of the Anti-dumping agreement

An application shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is de minimis, or that the volume of dumped imports, actual or potential, or the injury, is negligible. The margin of dumping shall be considered to be de minimis if this margin is less than 2 percent, expressed as a percentage of the export price. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 percent of imports of the like product in the importing member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing member of collectively account for more than 7 percent of imports of the like product in the importing member.

(6) Article 32 of law 161/1998
Dumping Calculations

Dumping is the introduction of a product into Egypt at an export price, which is less than its normal value in the ordinary course of trade. Export price shall be the price paid or payable by the importer other than any part of the price that represents

a) Costs, charges, and expenses incurred in preparing the goods for shipment to Egypt that are additional to those costs, charges, and expenses generally incurred on sales for home consumption; and
b) Any other costs, charges, and expenses resulting from the exportation of the goods or arising from their shipment from the country of export.

Normal value shall be the price paid for the like goods in the ordinary course of trade for home consumption in the country of origin/export or the cost of production plus the selling, general and administrative costs in addition to the amount of profit normally realized on sales of goods or the price at which the like product is exported to a third country.

The investigating authority may construct the normal value for goods originating in or exported from a state-economy country or on the basis of the data of a free-economy country with similar conditions or on any other basis it deems appropriate.

(7) Article 80 of law 161/1998
Determination of Serious Injury or Threat thereof

“Serious Injury” shall be understood to mean a significant overall impairment in the position of a domestic industry. “Threat of Serious Injury” shall be understood to mean serious injury that is clearly imminent and that would cause impairment in the position of the domestic industry.

Article 81 of law 161/1998
Determination of Serious Injury or Threat thereof

The investigating authority shall determine the serious injury caused to the domestic industry on the basis of facts and the existence of a causal link between the increased imports of the product concerned and serious injury or threat thereof. The investigating authority shall verify the following:

a) An increase in imports of the product under investigation either absolute or relative to production in Egypt.
b) The impact of increased imports on the situation of the domestic industry, including sales, production, productivity, utilization of capacity, profits and losses, employment and market share.

(8) Article 39 of law 161/1998
Determination of Injury

The investigating authority, having examined all positive evidence, shall determine the material injury suffered by the domestic industry and shall verify the following:

a) Existence of significant increase in dumped imports, either in absolute terms or relative to production or consumption in Egypt. With regards to the effect of the dumped imports on prices the authority shall consider:

   - whether there has been a significant price undercutting by the dumped imports as compared with the price of the domestic like product.
   - whether the effect of such imports is to depress prices of the like product to a significant degree.
   - whether the effect of such imports is to prevent price increases which otherwise would have occurred.

b) The economic effects of the dumped imports on the domestic industry reflected in the following:

   - actual and potential decline in sales, profits, production, market share, productivity, return on investment or utilization of capacity.
   - Factors affecting domestic prices.
   - Magnitude of the margin of dumping.
   - Actual and potential negative effects on cash flow, inventories, employment, wages, investment, growth and ability to raise capital.

c) Any other factors the investigating authority deem to be significant.

(9) Article 7
Provisional measures

Provisional measures may be applied only if:

a) an investigation has been initiated in accordance with the provisions of article 2 ,a public notice has been given to that effect and interested parties have been given adequate opportunities to submit information and make comments

b) a preliminary affirmative determination has been made of dumping and consequent injury to a domestic industry

c) the authorities concerned necessary to prevent injury being caused during the investigation

(10) Article 44 of law 161/1998
Anti-dumping Provisional Measures

Provisional measures may take the form of cash deposit, which is not grater than provisionally estimated margin of dumping. Such provisional measures shall not be applied sooner than 60 days from the date of initiation of investigating and a conclusion is made by the investigating authority that there exists dumping which caused injury to the domestic industry.

Provisional measures shall be applied for a period not exceeding four months, which may be extended to six months. If the provisional measures are less than the margin of dumping, they shall be applied for six-months which may be extended to nine months.

(11) Article 86 of law 161/1998
Definitive Measures

The minister of Trade and Supply may apply the provisions of this regulation against imports from countries that are not members in the WTO or apply protective measures against the injurious practices of these countries in international trade for the purpose of Egypt's interest.

(12) Article 11 of law 161/1998
General Provisions

The investigating authority shall be required to complete the investigation within 12 months from the date of initiation. The minister of Trade and Supply may extend this period, upon recommendation by the advisory committee referred to , for another period of no more than six months.

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