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**Some Ethical Issues in Trade Policy:  
Management Ethics versus the Law**

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**Abstract**

There are a number of ethical issues in the area of international trade that affect managers. This article will address two ethical issues that have been almost totally neglected in the literature -- antidumping and sanctions. Antidumping laws are special interest legislation. Rather than protecting the general public, they are used by domestic producers to feather their own nests at the expense of the general public. Using the force of government to redistribute income in one's own direction is prima facie unethical conduct.

Economic sanctions, such as embargoes and blockades, often have a noble purpose, at least on the surface. Yet when one looks beneath the surface, one finds questionable practices and outcomes that may be viewed as unethical.

The author calls for the abolition of antidumping laws and an individualistic approach to sanctions.

### **Background of Antidumping Laws**

"Through the years, some men have discovered how to satisfy their wants at the expense of others without being accused of theft: they ask their government to do the stealing for them." (Curtiss, 1953, p. 19)

This quote by W. M. Curtiss could be considered a concise summary of rent-seeking, the practice of seeking special privileges from government or feathering your own nest at the expense of the general public (Buchanan et al 1980; Rowley et al 1988; Tullock 1989). It is the author's contention that the antidumping laws constitute rent-seeking, and that they foster unethical business practices.

Before discussing the ethics of antidumping, a few words must be said about the practice itself. The United States has been one of the most frequent users of antidumping laws. It has launched more antidumping investigations against foreign producers than nearly any other nation. With the adoption of antidumping provisions by the World Trade Organization (WTO), which was signed by more than 120 nations, the antidumping laws will take on increasing importance in the years to come. The rules the WTO adopted were similar to, but not identical to the rules used in the United States.

A foreign producer may be found guilty of dumping its products on a foreign market if it either sells in the domestic market for less than the cost of production, or if it sells in some domestic market for a price that is lower than the price it charges in its home market. In the case of a nonmarket country, the foreign producer's cost of

production is estimated using a surrogate country's costs. For example, the People's Republic of China is considered to be a nonmarket economy, so the cost of producing a Chinese product will be estimated using the costs of producing a similar product in another country. One of the more frequently used surrogate countries for this purpose has been India.

It is relatively easy for a domestic producer that feels threatened by the heat of foreign competition to file an antidumping action in the United States. Basically, all it has to do is ask the Commerce Department to launch an investigation. The Commerce Department will incur most of the cost from that point on. Once launched, the Commerce Department can demand vast amounts of information from the foreign producers. If it does not receive 100 percent of the information it requests, in the format it requests, it can totally disregard what information is offered and use what it calls the "best information available" (BIA), which is often not often "good" information at all. Quite frequently, the BIA the Commerce Department uses is information that is provided by the same domestic producers that asked the Commerce Department to launch the investigation in the first place.

In one particularly outrageous case, the Commerce Department demanded that Matsushita translate 3,000 pages of financial documents from Japanese into English. The demand was made on a Friday afternoon. The translation was due the following Monday morning. Rather than comply, the Japanese company withdrew its product from the U.S. market, thus abandoning about \$50 million in annual sales (Bovard: 136).

Another outrageous abuse involved SKF, a Swedish manufacturing company. In this case, the Commerce Department demanded that SKF supply information on more than 100 million sales. The submission weighed more than three tons, was more than

150,000 pages in length, and provided more than 4 billion pieces of information (Bovard: 137). The company assembled the information in about a week, so naturally there were a few mistakes in the data. About 1 percent of the sales data from its German subsidiary was in a form that was not acceptable to the Commerce Department. Because of that, the Commerce Department rejected all the information SKF supplied and used BIA instead. The result was a 180 percent dumping margin.

### **Ethical Issues in Antidumping**

There are a number of ethical issues involved in antidumping. Perhaps the main overlooked issue is whether it is ethical for the management of a domestic producer to ask some government agency to launch an antidumping investigation in the first place. Antidumping actions are basically no more than protectionist tools. They are clubs that domestic producers use to beat off foreign competition at the expense of the general public, which stands to benefit by lower prices and perhaps higher quality products if foreign producers were allowed to compete in the domestic market.

From a utilitarian perspective, antidumping laws are unethical because they are a negative-sum game. The losers exceed the winners (McGee 1993). From a rights perspective, they are unethical because rights are violated. If a foreign product is excluded from the domestic market, domestic consumers lose their right to buy the product. If the foreign producer is allowed to continue to sell the product in the domestic market, but is precluded from doing so because the antidumping margin makes the product uncompetitively high priced, the effect is the same as if the product is subject to a prohibitively high tariff. The foreign producer's right to sell to willing consumers is violated, as are the rights of the consumers to purchase the product (McGee and Block).

There is no way to reform the antidumping laws. They are inherently protectionist. They always transfer wealth from consumers to domestic producers through the force of government. There is no ethical justification for the continuation of such laws. If the purpose of government is to institute and enforce legal rules that benefit the majority, antidumping laws are seen as totally unjustified and an illegitimate use of governmental power. From the perspective of management ethics, the use of antidumping laws to further the business of the manager's employer is unethical from both the utilitarian and the rights perspective. It involves stealing. As William Curtiss said in his quote at the beginning of this article, people have learned over the years to let the government do the stealing for them. The practice is no less unethical if one lets the government do the stealing. Whether one does the stealing or one lets the government do the stealing, it is still stealing. That is why the antidumping laws must be abolished. The stealing and the unethical conduct that goes with it must be stopped. Until these laws can be repealed, managers have an ethical duty to refrain from using these laws to benefit their employers at the expense of the general public. Antidumping laws amount to nothing more than legalized theft, and managers must refrain from stealing on behalf of their employers, even if it is legal to do so.

### **Some Overlooked Ethical Issues in Economic Sanctions**

Another area of trade law and policy that has been overlooked in the ethical literature is economic sanctions. While many articles have addressed the more obvious questions of whether it is ethical to do business with countries that engage in certain practices that are considered unethical in the west, such as employing child labor, or prisoners, or whether it is ethical to do business with a country that has an oppressive government, like Cuba or North Korea, the literature has totally ignored the question of whether it is ethical to prevent individual consumers from making their own choices

regarding who to do business with. The next few paragraphs aim to at least partially remedy this glaring deficiency in the existing literature.

From a strictly utilitarian perspective, sanctions usually do not work (Hufbauer et al; Raimondo). They do not accomplish their intended objective, and even if they do, the cost of reaching the objective can outweigh the benefits to be derived. Sanctions are generally a negative-sum game, and thus are unethical under utilitarian ethical principles.

Governmentally imposed sanctions are also unethical from a rights perspective. Preventing individuals from entering into contracts with other consenting adults is a prima facie violation of their rights to property, contract and association. One might argue that their rights to contract, property and association must be weighed against other considerations, such as whether it is proper to do business with an evil regime such as Cuba, or whether it is right to do business with a country that abuses human rights on a regular basis. But the balancing of rights argument does not hold up under analysis.

Real rights, such as the rights to property, contract and association, never conflict. One person's right to property can never conflict with another person's right to property. If someone owns property and wants to sell it, that person cannot ever violate anyone else's rights by selling it, or by refraining from selling it. If two individuals want to enter into a contract to buy or sell property that one person owns and the other person wants, they do not violate anyone's rights by entering into the contract. If someone wants to buy something from North Korea, it is inconceivable that anyone's rights would be violated by doing so. So there are no rights to balance. Buyers and sellers have rights to contract and to trade the property they have for the property they want and bystanders do not have any right to prevent them from doing so.

Whether it is a good idea to trade with an evil regime is something that each individual must decide for himself. It is not something that some government must do for him. Preventing individuals from entering into non-rights-violating contracts is not a legitimate function of government. Individuals, and groups of individuals, should be able to boycott certain products and certain countries if they want to, but the government should not become involved in personal decisions such as these. Governments should not make boycotts illegal and they should not prohibit individuals from entering into contracts with whomever they choose.

From a management ethics perspective, managers should keep these arguments in mind when they must decide whether to do business with particular businesses or governments. While it is often not a good idea to break laws to do business, it is sometimes done, and there are sometimes ways to get around the laws of one country or another. Managers who try to run an ethical business must be able to decide for themselves whether they want to do business with particular individuals and governments. Their ethical choices should not be precluded by some government that takes away their option to act ethically.

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