

經營學碩士 學位論文

**The Anti-dumping against Chinese Export
Enterprises and Corresponding
Countermeasures**

The Case Study on the US Anti - Dumping
Lawsuits against Chinese Exporting CTV



2011 年 8 月

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Abstract

The Anti-dumping against Chinese Export Enterprises and Corresponding Countermeasures

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against Chinese Exporting CTV

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Since China reforms to open, especially after China entered WTO, Chinese government supports export business strongly, and the business enterprises are positive to participate in the export, and have achieved sustainable growth in its foreign trade. However, at the same time, Chinese export enterprises have to face the investigation of antidumping initiated by the business enterprises abroad again and again, cases of anti - dumping against China are increasing year after year, which bring great offenses and loss to Chinese export enterprises. Therefore, in this aspect, China has become the most severe victim. The recent cases of US anti-dumping against Chinese export enterprises once again arouse our great concern and stimulate our reflection. Those cases again remind the industry of household appliances and other industries of their drawing lessons from the cases and positively adjusting their strategies.

국문초록

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중국에서 개방정책이 실행되고, 중국이 WTO 에 가입한 후 중국정부는 수출 진흥 정책을 통해 수출산업을 적극지원하였다. 그것을 통해서 중국은 대외무역 부문에서 꾸준히 성장세를 이어 나갔다. 그러나 동시에 중국 수출기업들이 끊임없이 미국과 EU 기업에게서 덤핑방지조사를 받게 되었다. 중국 상품에 대한 덤핑방지 조사 사례가 점차 늘고 있기 때문에 중국 수출기업들이 심한 피해를 받게 되었다. 따라서 중국은 이 분야에서 제일 큰 피해자가 되었다. 먼저 Case Study 를 통해 왜 미국등 선진국들이 중국상품에 반덤핑 조치를 취하는가를 살펴 보았다. 특히 미국은 경기불황에 따른 보호주의 대두 미중간 경상수지 불균형, 자국노동자 보호, 중국의 반시장적 정책 등의 이유로 덤핑방지조사를 강화하고 있다. 이에 대응하며 중국의 수출기업들은 세계시장에 적응하는 경영전략을 통해서 극복해야 할것이다. 이 논문에서는 미국등 선진국의 반덤핑 조치에 대응하여 시장다변화전략, 해외 직접 투자를 통한 다국적기업 구축과 국제 법률단 조직 등을 제시하고있다.

Chapter 1

Introduction

1.1 Background

Recently, with the rapid development of Chinese economy soaring, especially export business is so much activated, which has brought much more trade dissension between China and other country, such as USA, EU, Japan, Korea and some of the third-world countries. The measures of protectionism like anti-dumping investigations are being implemented more and more frequently than before, it has been the substantial interference in Chinese export business.

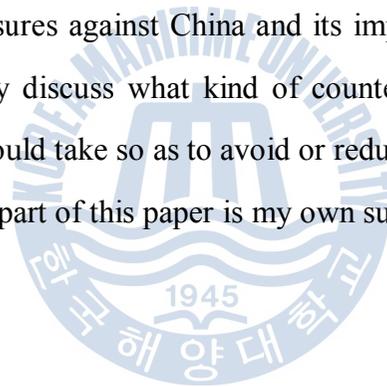
1.2 Purpose and methods

Based on the dumping and anti-dumping, this paper will analyze the causes and influence that why Chinese export commodities are so frequently accused of dumping by foreign countries. Some feasible countermeasures are introduced to reduce or avoid the foreign frequent anti-dumping against China, and to expedite Chinese economic development steps in the long run. For this purpose, the case study will be done on TCL Group and KONKA Group.

1.3 Structure

This thesis will be simply divided into seven major parts:

Chapter1 will introduce the background, purpose and structure of this paper. Chapter2 will introduce the concepts of dumping and antidumping and a selection of theory concerning possible effects of its usage. In chapter3, I will state the main philosophical position when doing my research. And I will talk about the research design in my thesis. Chapter4 will focus on the situation of anti-dumping activities from US, and my case study about the TCL Group and KONKA Group in the world contingency measures. Chapter5 will mainly analyze the reasons for the USA's anti-dumping measures against China and its impacts on China's economy. In chapter6, I will mainly discuss what kind of countermeasures Chinese export enterprises themselves should take so as to avoid or reduce the quantity and amount of anti-dumping. The last part of this paper is my own suggestion and summary.



Chapter 2

Literature Overview

In this section, I will provide a general overview of the literature dumping and anti-dumping about their definition and process.

2.1 The definition of dumping

According to the World Trade Organization (WTO), the definition of dumping refers the behavior of the firm exports a product at less than its “normal value”, i.e. at a lower price on the export market than on the home market. Selling goods produced below the cost of production is also considered dumping. The definition of dumping contains characteristics of price discrimination, below-cost production and predatory pricing.

2.1.1 Traditional dumping theory

Viner¹ was the first to present a comprehensive theoretical treatise on dumping. At that time, dumping had already become a common theme in international trade but little economic theory existed. The term of dumping is used

¹ Jacob Viner, (born May 3, 1892, Montreal—died Sept. 12, 1970, Princeton, N.J., U.S.), Canadian-born American economist who made major contributions to the theory of cost and production, international economics, and the history of economics.

for anything ranging from selling in different countries at different prices, and is that some commodities are exported at prices that less efficient foreign competitor could not cope with. Viner classified into three types of dumping:²

- sporadic dumping—including unintentional dumping and disposal of casual overstock
- short-run or intermittent dumping, lasting for months or years at a time including such diverse actions as dumping to develop trade connections and buyers' goodwill in new markets, as well as predatory dumping to monopolize the importing market.
- long-run or continuous dumping—to maintain full production from existing plants or to obtain the economies of larger-scale production without cutting domestic prices. He then applied an economic norm: “From the point of view of the importing country as a whole, there is a sound economic case against dumping only when it is reasonable to suppose that it will result in injury to domestic industry great than the gain to customers”.³ This led Viner to object to intermittent dumping because it last long enough to injure domestic producers without providing consumers with a constant, long-run supply to cheap goods.

2.1.2 Modern dumping theory

With the emergence of dumping as a substantial issue in the domestic and international politics of international trade, new literatures of dumping stated to develop which are distinctive from the traditional theories of dumping. Brander⁴ and Krugman's⁵ reciprocal dumping paper is one of the most widely cited papers

² Xu Kuihua and Li Jing, “Economic Theory and Dumping”, *International Trade*, the first volume, Xi'an Jiaotong University Press, 2, 2002, pp85-88.

³ Viner, “Dumping”, *international economics*, 1923, pp138

⁴ James A. Brander, Asia-Pacific Professor of International Trade Faculty of Commerce, University of British Columbia

⁵ Paul R. Krugman, Born in 1953, American Economist, Professor of Princeton University

in modern dumping theory, and in modern trade theory of that matter. Brander and Krugman develop a model of oligopolist⁶ competition between national monopolists in each of their segmented national markets, with iceberg trade costs of serving the market which is foreign to a given national monopolist. The model is strongly symmetric, in that the firms produce identical products under identical production and transport costs, and face identical national demand functions in the two markets. Thus, even though the usual basis for price discrimination (i.e. differences in demands) is not present, Brander and Krugman are able to show that there will be two-way trade in the common product, and that each firm will sell at a higher price in its domestic market than in its export market – that is, there will be ‘reciprocal dumping’. The key assumption here is market segmentation, which supports an equilibrium in which each firm faces higher marginal costs (due to transportation costs) and higher marginal revenues (due to smaller market share) in its export market. On the one hand, this trade is wasteful, in that identical products are paying positive transportation costs to reach foreign market, but on the other hand, competition lowers prices to consumers. As Brander and Krugman show, the welfare effects of reciprocal dumping involve the interaction of these two effects. The last substantive contribution is to show that welfare must improve with reciprocal dumping if both national markets are characterized by free entry. This model has been the basis of fairly extensive theoretical and empirical work⁷. Brander and Krugman’s model has been extensively used in analyzing the economic effects of anti-dumping, as well as the incentives for political economic interaction in the context of anti-dumping. While Brander and Krugman developed a model which is concerning about oligopolistic market, there are other literatures

⁶ the monopolists of market supply

⁷ (1983) James A. Brander and Paul Krugman, "A 'Reciprocal Dumping' Model of International Trade", *Journal of International Economics*, NO,15 ,pp313-321.

which focus on dumping in a context of competitive market. Dumping which occurs in a competitive market is cost dumping instead of price discrimination. Since cost dumping is not the only form of dumping, or even the most important form, these analyses must be seen as complementary to the monopoly price discrimination and oligopoly models of dumping. As a result of wage stickiness, firms adjust to shocks by layoffs rather than wage adjustment, but that makes worker consider both wage and security of employment in making their decision about where to work. This model generates (one-way) dumping as firms sell traded good below cost in the bad state and above cost in the good state. Firms in a country with more inflexible labor market institutions will engage in dumping to smooth out production. The other side of this is that the country with more flexible labor market institutions has an incentive to adopt anti-dumping protection as a response to the dumping. Interestingly, one implication of the model is that trade adjustment assistance will tend to increase dumping from abroad and, thus, support greater labor market uncertainty at home. James Anderson developed an alternative account of dumping in a competitive environment based on a essentially political economic argument: in a two-period model, if exporting firms face the risk of a voluntary export restraint in the importing market, and the share in the VER is a function of the period-one market share, competitive firms will dump in the first period to secure larger share in the first period market and, thus, large shares in the quota-restricted market. Unlike this model, where the periods are linked by the presence of a labor market distortion, in Anderson's model the intertemporal linkage is induced by the risk of a VER (voluntary export restraint). Thus firms will increase exports such that sales below current marginal costs occur. Anderson also considers the implications of VER risk-induced dumping policy in the exporting country under both exogenous and endogenous VER risk. If the government is

solely concerned about export profits, it may be induced to offer an export subsidy because firms will fail to consider the positive, intertemporal externality for other national firms from its own exports. Not surprisingly, the case of a national income maximizing government is more complicated. Finally, Anderson introduces anti-dumping enforcement into the analysis considering three possible outcomes: termination with no duty; imposition of an anti-dumping duty; and VER. The key result here is that, with a sufficiently high probability of a VER, increased anti-dumping enforcement can result in increased dumping. In his second paper on the domino dumping model, Anderson develops a political economy model in the context of which he studies anti-dumping policy in the importing country. The information gleaned by production in the first period has value for both low-productivity firms (who should not produce in the second period) and high-productivity firms (who should). This leads to excess entry and sales below average cost (i.e. cost dumping) in the first period. The model provides a competitive rationalization of dumping from new producers (i.e. newly industrialized countries) in times of high demand for the product, matters of fact: a dumping margin, and the presence of injury. The first of these is straightforward enough, though often involving a wide variety of potential biases. The second issue is considerably more complex, both in its legal implementation and in more general economic interpretation. With respect to the law, in many countries (including the USA), injury refers to the domestic industry competing with imports and does not include consumers, while in others (including the EU and Canada) there is a public ('community') interest clause, but domestic industry remains of the economic effects of dumping, it is obviously important to consider issues of market structure, terms of competition and possibly even more general macroeconomic condition.

2.2 The definition of Anti-dumping

Anti-dumping (AD) is a counteractive measure against dumped imports and can consist of a tariff equivalent to the dumping margin or the injury margin. AD-measures are effective because they can be applied more or less immediately when dumping and injury have been determined by the EC. The provisional AD-tariff will be definite when the investigation is closed and facts have finally established that dumping and an injury on domestic industry have occurred. Definite duties will thereafter be in force for a limited time period in accordance with the “sunset clause”. The sunset clause implies that duties are imposed for a maximum of five years unless new evidence support prolonged AD-measures⁸. WTO supervises the use of AD-measures and the AD-agreement is regulated in the General Agreement of Tariffs and Trade (GATT) article VI. Antidumping was initially discussed during the late 1960s but the increasing use of antidumping policies has urged a more serious approach and better defined agreements.

2.2.1 Evaluation of anti-dumping

“Anti-dumping constitutes straightforward protectionism that is packaged to make it look like something different. By calling dumping unfair, the presumption is that antidumping is fair and thus a good thing. This is good marketing, but bad economics.

From an economic perspective there is nothing wrong with most types of dumping. Anti-dumping is not about fair play. Its goal is to tilt the rules of the game in favor of import-competing industries.” It is difficult to assess the injury on the domestic market; a common loophole used by domestic firms. The

⁸ EU, <http://www.europa.eu.int/scadplus/leg/en/lvb/r11005.htm> 2006-05-03

methodologies used for calculating the dumping margins can be used in such way so the normal value rises and the export price decreases, giving a larger dumping margin than there actually is.

Another means of manipulating the data is removing the higher cost imports from datasets. This is a common practice which investigators justify by claiming that dumping should not be hidden by higher cost imports, even if they represent a legitimate portion of imports. Domestic firms can also manipulate the injury criteria or try to meet the criteria by lowering productivity. Firms can blame declining trends on dumping when in fact these trends are a result of normal business cycles, thereby claiming the need for duties on grounds of false evidence. The reduction in productivity that firms might purposely undertake to meet the dumping criteria causes more damage to the domestic market than the actual dumping. Anti-dumping can also have a cascading effect, if an upstream industry is protected by a duty the downstream industry buying this input may get injured by high pricing and low competition and will therefore have incentive to apply for more protective action. This can encourage cartelization along the production stream or hurt other industries needing to buy a protected input, resulting in higher price faced by the consumers.

Anti-dumping duties give domestic firms the incentive to deliberately lower productivity and use trends not caused by dumping, as evidence to meet the criteria for injury by dumping. Firms in the exporting country can often change the pricing strategies and thereby avoid being subjected to the duty. They also point out that exporting firms can relocate the production to a third country or to the domestic market and hence, bypass the duty. The sometimes limited effect of import duties are argued on these grounds, as the result can be that no physical return from the duties is ever collected by the imposing country. All that is achieved is a magnitude

of administrative costs, and the damaging increased level of competition remains.

Another problem is the misuse of the counter actions. Anti-dumping action can be justified to fight unfair import competition, but studies have shown that lately many anti-dumping cases are initiated based on strategic motives rather than fighting unfair trade. The strategic motives can be based on a will to cease the import from a specific country, or can be based out of concern from domestic producers. Many motives can resemble discrimination, yet bypass WTO non-discriminatory rules. In an economic sense, as portrayed in the above analysis, anti-dumping measures appear to be increasingly counterproductive. The duties give incentive to domestic firms to lower productivity and manipulate injury. This reduction in productivity can be more damaging to the domestic market than any actual dumping, and there is clearly significant incentive for domestic firms to falsely exaggerate injury. Antidumping is caused by a fear of competition and not by a fear of dumping. The protective duties lower the competition on a market and raise the producer's surplus. Firms subjected to anti-dumping duties can avoid the duties by relocating production or increasing the price, therein reducing the imposed dumping margin. This action will also increase the price on the domestic market. Anti-dumping is more and more likely to be used for retaliation and as a strategy to reduce competition. This is clearly a misuse to fight competition, based on false evidence, and paid for by the domestic consumer.

2.3 The U.S. Antidumping Process

The U.S. AD process is handled by two authorities. The Department of Commerce (DOC) handles the dumping investigation, while the International

Trade Commission (ITC) handles the injury investigation. These investigations are run in a parallel fashion. Petitions are submitted to the DOC and the ITC simultaneously and they are only valid if “the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) More than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition”. A petition usually leads to an initiation of a case and then later to preliminary and final decisions. Both the ITC and the DOC have to reach affirmative decisions in order for the case to reach the next level. If all decisions are affirmative, then AD duties can be imposed at the final stage of the investigations. Finally it is important to mention that the U.S. process follows the regulation outlined by the WTO in the ADA.

2.3.1 Dumping and Injury Investigations

To establish the presence of dumping the DOC has to find the “normal value” of the regarded product. Normal value here corresponds to a fair value of the like product on a market free of dumping and other disturbances. However, finding the true normal value can be a very strenuous exercise as factors like transport costs, differences in market structures and economic policy cloud the “true” normal value. The most straight forward way of determining the existence of dumping is to simply compare the net price on the U.S. market, excluding transport costs etc., to the net price on the home market of the exporting country. For this method to be accurate the sales on the domestic market in the exporting country have to be at least five percent of its total sales on the U.S. market, otherwise the market is

considered illegitimate. If this is the case the DOC lets price data from a suitable third party country work as a template for the absent price data of the exporting country. In the event of below cost production or missing third country price data, the DOC is allowed to construct a normal value on the basis of estimated total costs of production plus reasonable profits. The constructed value is then compared to the export price on the U.S. market. Another special case, which is relevant for China and the former Soviet republics, is the non-market economy (NME) methodology. The rationale behind this is that firms operating in NME are, at least to some extent, influenced by their respective governments. Thus, prices under these circumstances are believed not to be determined by supply and demand, but rather by political factors. The effect of the NME methodology is that the DOC can skip the other methods of calculating prices and jump straight to method of third party surrogate country comparisons. This means that input costs (wages, capital rents, etc), costs of production (electricity bills, cost of material, etc), economies of scale, size of purchases, mix of purchases and a number of other costs have to be translated and estimated from a surrogate country. The practice of using a surrogate as a proxy when determining the existence of dumping is very important because it tends to increase the dumping margins, reducing NME-firms' abilities to "win".

Yet another important methodology is the facts available (FA) method, which is used whenever targeted firms in subject countries supply incorrect information about their domestic prices and costs. If this is the case the DOC can, according to Article VI of the ADA, obtain the information from a secondary source, usually the petition supplied by the U.S. firms. Once the DOC reaches an affirmative decision, i.e. concludes that dumping is occurring the next step is to calculate the dumping margin. This margin is in the simplest of cases equal to the difference between the price in the exporting country and the U.S. price divided by the U.S. price. If for

example the price in China is 10 and the Chinese firms charge 8 on the U.S. market, the dumping margin is: $(10-8)/8 = 25\%$. According to the Tariff Act of 1930, the investigation is to be put to an end if the margin is found to be minimus, which in this case is less than two percent. Once the DOC has reached an affirmative decision the ITC has 45 days to reach a final injury decision. The ITC has to prove that the U.S. industry in question is suffering material injury or threat of material injury and that this injury is a causal effect of the documented dumping. This is usually done by analyzing how increases in subject import shares affect the domestic production, employment, prices, etc. Once the DOC and the ITC have finished their investigations they can impose AD duties. These duties are usually set in accordance to the calculated dumping margins. In many cases, however, the exporting country agrees to either raise its price (price undertaking) or restrict its exports (voluntary export restraint) and the duty is therefore avoided. According to the so called sunset requirement of Article 11.3 (ADA), AD duties or price undertakings are to expire no later than five years after the imposition. That is, if the authorities cannot prove that dumping continues to exist.

Chapter 3

Literature Survey

3.1 Introduction

This thesis is based on a broad base of literature and juristic writing. The literature consists of textbooks and articles, especially on anti-dumping and general economics. In this section, I'll present out the methodology which is used for writing the master thesis. In the social science, most of the issues and research topics are categorized and referred to as paradigm. The usefulness of the term paradigm is that it offers a way of categorizing a body of complex beliefs and worldviews. Methodology has a more philosophical meaning, and usually refers to the approach or paradigm that underpins the research. There are many ways of thinking, and categorizing, the wide variety of methods available for designing, carrying out and analyzing the result of research. Different kinds of research approaches produce different kinds of knowledge about the phenomena under study. The most common paradigms that new researchers are those termed quantitative and qualitative. These terms are often presented as competing alternatives, and this should alert you to the political and contested nature of knowledge construction. As Oakley comments, paradigms: are ways of breaking down the complexity of the real world that tell their adherents what to do. Paradigms are essentially intellectual cultures, and as such they are fundamentally embedded in the socialization of their adherents: a way of life rather than simply a set of technical and procedural differences.

3.2 Philosophy Position

Mark Easterby-Smith, Richard Thorpe, and Paul R. Jackson provides the key idea of positivism is that the social world exists externally, and that its properties should be measured through objective methods, rather than being inferred subjectively through sensation, reflection or intuition. According to Collis and Hussey, the term paradigm refers to the progress of scientific practice based on assumptions of people about the world and the nature of knowledge, which in context of the research stands for a way to conduct it. The two traditional philosophy positions are positivism and social constructionism which are also two contrasting views of how social science research should be conducted.

3.2.1 Discussion of Positivism

Positivism is an approach that seeks to apply the natural science model of research to investigations of social phenomena and explanations of the social world. Here also has the definition of positivism concluded by Loraine Blaxter, Christina Hughes and Malcolm Tight: this is the view that social science procedures should mirror, as near as possible, those of the natural sciences. The researcher should be objective and detached from the objects of research. It is possible to capture 'reality' through the use of research instruments such as experiments and questionnaires. The aims of positivist research are to offer explanations leading to control and predictability. Positivism has been a very predominant way of knowing the social world; what Guba and Lincoln refer to as the 'received view'. This can be seen by the ways in which many still perceive positivist. While there are many varieties of positivism, quantitative approaches that use statistics and experiments

are seen as classic examples.

3.2.2 Discussion of Social Constructionism

The new paradigm which has been developed by philosophers during the last half century, largely in reaction to the application of positivism to the social sciences, stems from the view that 'reality' is not objective and exterior, but is socially constructed and given meaning by people. The idea of social constructionism, as developed by authors such as Berger and Luckman, Watzlawick and Shotter, focuses on the ways that people make sense of the world especially through sharing their experiences with others via the medium of language. Alan Bryman and Emma Bell define social constructionism: constructionism is an ontological position (often also refer to as constructivism) which asserts that social phenomena and their meanings are continually being accomplished by social actors. It implies that social phenomena and categories are not only produced through social interaction but that they are in a constant state of revision. So with respect to the research question, I post out my philosophy position as positivism. Positivism methods usually incorporate the assumption that there are true answers, and the job of the researcher is either to start with a hypothesis about the nature of the world, and then seek data to confirm or disconfirm it, or the researcher poses several hypotheses and seeks data that will allow selection of the correct one.

3.3 Research strategy and research design

3.3.1 Research question development

The research question, as Yin possessed, had to be concrete to be able to be examined, and to be conducted from a theoretic level to an operative level. This phase, designing a concrete question, is one of the most important and difficult ones in the research process. Jacobsen continues with the point of view that almost everyone knows what or whom s/he wants to examine, and have the big picture of the theme, but to design a clear question can be harder. And it is the question that is most important since the question will clarify the upcoming research and what and how things are going to be examined. According to Trochim there are three basic types of questions that research projects can address. Descriptive study is designed primarily to describe what is going on or what exists. Public opinion polls that seek only to describe the proportion of people who hold various opinions are primarily descriptive in nature. Relational study is determine whether one or more variable (e.g., a program or treatment variable) causes or affects one or more outcome variables. In my thesis, I'll mainly discuss the economic effect of anti-dumping policy. Starting with the hypothesis that the effect of anti dumping policies is harmful to exporting countries, then in the deduction process, I'll try to find out the truth which is based on observation to demonstrate the hypothesis. My main research questions are about the effects of anti-dumping measures and how to deal anti-dumping activities for exporting firms and government.

3.3.2 Research designing

Research designs are about organizing research activity, including the

collection of data, in ways that are most likely to achieve the research aims. They also layout the difference the three different epistemological positions: positivism, relativism and social constructionism. Mark Easterby-Smith, Richard Thorpe, and Paul R. Jackson argues that in both the positivist and relativist positions it is assumed that there is a reality which exists independently of the observer, and hence the job of to scientist is merely to identify, albeit with increasing difficulty, this pre-existing reality. From the positivist perspective this is most readily achieved through the design of experiments that eliminate alternative explanations and allow key factors to be measured precisely in order to test predetermined hypotheses. From the relativist position, the assume difficulty of gaining direct access to ‘reality’ means that multiple perspectives will normally be adopted, through both triangulation of methods and the surveying of views and experiences of large samples of individuals. Even so, it is only a matter of probability that the views collected will provide an accurate indication of the underlying situation. The story from the constructionist perspective is different again. The researcher starting from a viewpoint that does not assume any pre-existing reality aims to understand how people invent structures to help them make sense of what is going on around them. Consequently, much attention is given to the use of language and conversations between people as they create their own meaning. Furthermore, the recognition that the observer can never be separated from the sense-making process means that researchers are starting to recognize that theories which apply to the subjects of their work must also be relevant to themselves. Such reflexive approaches to methodology are recognized as being particularly relevant when studies are considering power and cultural differences. Following provide the research designs which will be used in my thesis:

Positivist

Positivist methods usually incorporate the assumption that there are true answers, and the job of the researcher is either to start with a hypothesis about the nature of the world, and then seek data to confirm or disconfirm it, or the researcher poses several hypotheses and seeks data that will allow selection of the correct one.

Case study

Case study, which will be used in my dissertation and grounded theory are two broad-based methods. In general, case studies are the preferred strategy when “how” or “why” questions are being posed, when the investigator has little control over other events, and when the focus is on a contemporary phenomenon within a real life context. The labels of them depend on what kind of ontological stance they are placed upon. Advocates of single cases generally come from a constructionist epistemology; those who advocate multiple cases usually fit with either a relativist or positivist epistemology.

Quantitative design

A common distinction is made between two different strategies in research, the one using quantitative methodology and the other using qualitative methodology. Apart from the simple distinction of the use of measurement or description as the main approach to collecting and analyzing data, there is seen to be an underlying epistemological difference in the two approaches. Bryman lists three characteristics in each that make the point:

Quantitative research

- Orientation – uses a deductive approach to test theories
- Epistemology – is based on a positivist approach inherent in the natural sciences.
- Ontology – objectivist in that social reality is regarded as objective fact.

Qualitative research

- Orientation – uses an inductive approach to generate theories.
- Epistemology –it rejects positivism by relying on individual interpretation of social reality.
- Ontology – constructionist, in that social reality is seen as a constantly shifting product of perception.

Quantitative techniques rely on collecting data which is numerically based and amenable to such analytical methods as statistical correlations, often in relation to hypothesis testing. In order to analysis the economic effect of anti dumping policy, the quantitative analysis can be better applied in my thesis. So I would like to analysis the objective data mostly using quantitative methods. However, Bryman warns against a too dogmatic distinction between the two types of methodology. He concludes that research methods are not determined by epistemology or ontology and that the contrast between natural and artificial settings for qualitative and quantitative research is frequently exaggerated. Furthermore, quantitative research can be carried out from an inter perspective, as can qualitative research from one of natural science. In my thesis, there will be not pure quantitative methods, but other methods.

3.4 Data collection methods

3.4.1 Using quantitative data

Mark Easterby-Smith, Richard Thorpe, and Paul R. Jackson says that in thinking about where to get data that could be analyzed using quantitative methods, there ate broadly two ways of going about it: researchers can collect their own primary data or they can use secondary data already collected and stored with in

archival databases.

3.4.2 Primary data and secondary data

Primary data is information gathered for the specific research question at hand; secondary data refer to data that have already been collected but are still related to the research questions. In the thesis, I want to provide picture of the economic effects of anti dumping theory and the secondary data will mainly be used. The data that I will collect is from libraries, bookstores, online database and official websites, etc.

3.4.3 The advantages and disadvantages of secondary data

The advantages of secondary data

By using the secondary data, the researchers are able to save lot of time to doing the research understanding and literature review. For those research topics that the primary data is not required or less required, secondary data provides the best way for researchers to get access to the relative topics and helps them to better formulate and understand the research problem.

Secondary sources also facilitate cross-culture/international research, as it is easier to compare similar data from two or more countries. For example the reports or surveys that provide by international organizations usually provide international research that enable researcher to compare data between countries. Another advantage of consulting secondary data is that they can suggest suitable methods or data to handle a particular research problem.

The disadvantages of secondary data

The disadvantages of secondary data can be concluded:

- One of the main problems is that these data are collected for another study with different objectives and they may not completely fit 'our' problem.
- It is sometimes difficult to classify these data in ways that are consistent with the study at hand.
- Even if two studies use the same measurement unit, the terms of definition were often different.
- In some case using secondary data can be expensive.
- It is the responsibility of the researcher that data are accurate; inaccuracies cannot be blamed on the secondary source.

After the discussion of the advantages and disadvantages of secondary, regarding that in my thesis the secondary will be mainly used, it is important to consider the disadvantages and make good use of the advantages. In the state stage of the thesis,

I've considered plenty literatures to help designing the research question. When analyzing the economic effect of anti dumping policy, data which is about trade flow and trade policy (for example, tariff) is preferred. When the secondary are not available or are not satisfy the research questions, the primary data are required. For example, if I want to do a case study about one industry or one company which involves the anti-dumping policy, then it is necessary to collect the information that I get directly from the people.

3.5 Data analysis

Brewerton argues that without understanding how to analyze data, a researcher will not be able to interpret that data, nor draw any conclusions or recommendations from it. S/he will not be able to assess the effectiveness of his/her Quantitative data in a raw form, that is, before these data have been processed and analyzed, convey very little meaning to most people. These data, therefore, need to be processed to make them useful, that is to turn them into information. Quantitative analysis techniques such as graphs, charts and statistic allow us to do this; helping us to explore, present, describe and examine relationships and trends within our data. Simply in the thesis, using of quantitative analysis to create charts or tables (for example, the yearly changes of export volume) is the basic method. With the emerging of modern computers, researchers are much easier to analysis quantitative data.

3.6 Data Evaluation

3.6.1 Validity

Validity is question of how far we can be sure that a test or instrument measures the attribute that it is supposed to measure provides the following explanation: validity determines whether the research truly measures that which it was intended to measure or how truthful the research results are. According to Proctor, validity is “the extent to which instruments measure that which they are intended to measure or research findings reflect as we might know”. Proctor emphasized that “validity reflects whether you are ascertaining through a question what you think you are ascertaining”. Data which is from databases and official

websites is relatively validity and reliability. In order to analysis case studies, I'll choose the typical firms which involve in the anti dumping cases. Having the changes to have face to face interviews and telephone interviews, the validity of data will be confirmed.

3.6.2 Reliability

Joppe defines reliability as: the extent to which results are consistent over time and an accurate representation of the total population under study is referred to as reliability and if the results of a study can be reproduced under a similar methodology, then the research instrument is considered to be reliable. The goal of reliability is to minimize the errors and biases in a study. The objective of reliability in research work is to be sure that if a later investigator followed the same procedures as described by an earlier investigator and conducted the same case study all over again, the later investigator should arrive at the same findings and conclusions. In order to make sure the reliability of data that will be used in my paper, I'll gather the data carefully and conscientiously.

3.7 Summary

This part is mainly about the research methods that I am going to use in my thesis. I post out my philosophy position as positivism. The research design is based on quantitative methods. Later, I stated the data collection methods and the ways that used to measure the reliability and variability of data.

Chapter 4

The Case Study

In the first decade of the new century, the word “China” has always been put on the headline of news. That was not surprising to anyone, because China has achieved annual increase of nearly 10% in these ten years. China is regarded as one of the major “engines” of the world economy.

4.1 A general overview of dumping and AD behaviors against China

The first anti-dumping investigation against China was launched by European Community in 1979, soon after China had changed his economic policy toward foreign firm through the Opening-up policy. Since then, the filing of contingent protection measures targeted at China have proliferated at a rapid pace, with anti-dumping actions far more prevalent than other measures such as safeguards. In the 1980s, anti-dumping cases against China averaged 6.3 per year. The number increased to 30.3 per year in the 1990s. China was the most frequent subject of the new investigations, with 34 new initiations directed at its exports. This was a 17 percent decrease from 40 new investigations opened in respect of exports from China during July — December 2007. The cost of anti-dumping activities against Chinese exports is enormous. From 1979 up to October 2002, 33 countries initiated 544 anti-dumping and safeguard cases and measure against Chinese export, affecting more than 4,000 products with a value of around

US\$16 billion.⁹ With the increase of Sino-US trade, China has already become the largest country being anti-dumping investigated by US. At the same time the large types of products and amount of money have already affects the exportation of Chinese products. And these punitive tariffs after anti-dumping actions always force Chinese products to exit the US' market. When Chinese products face barriers in the US market, exports have found new or substitute market to sustain their annual turnovers. The continuous anti-dumping actions will affect the bilateral trade between China and US, and especially will affect the export orientated industries. What's worse, these intensive, long-term and high tariff levying actions will block Chinese products out of the US' market in a long term. By losing the large US' market, most firms will face marketing crisis, or bankruptcy. In a macroeconomic point of view, the job market, domestic industries, and the continual domestic economy growth will be affected in certain level.

4.2 The close trade relation between the United States and China

By looking the table below, Obviously, China and United states are important trade partners to each other. China is US' largest import trading partner and third largest export market; while US is China's second largest export destination and sixth largest import trading partner (EU and ASEAN are considered as unities here). Undoubtedly, Sino-US trade will be the most important trade relation in the future. Even a word called "Chi-merica" was created recently. It pointed out the significance of Sino-US relation to the international trade at least.

⁹ Yuefen Li, "Why is China the world's number one anti-dumping target", *World Economy Study* , 05, 2007 World Economy Study 2007,05 serial No.159

Table 4-1 the top trade partners of China (in billions of US dollar).

China's top export trading partners			China's top import trading partners		
Rank	Countries or regions	2009	Rank	Countries or regions	2009
1	EU	236.28	1	Japan	130.94
2	United States	220.82	2	EU	127.76
3	Hong Kong, China	166.23	3	ASEAN	106.71
4	ASEAN	106.30	4	Korean	102.55
5	Japan	97.91	5	Taiwan, China	85.72
6	Korean	53.68	6	United States	77.44
7	India	29.67	7	Australia	39.44
8	Australia	20.65	8	Brazil	28.28
9	Taiwan, China	20.51	9	Saudi Arabia	23.62
10	Russia	17.51	10	Russia	21.28

Source: Comprehensive Department, Ministry of Commerce of the People's Republic of China.

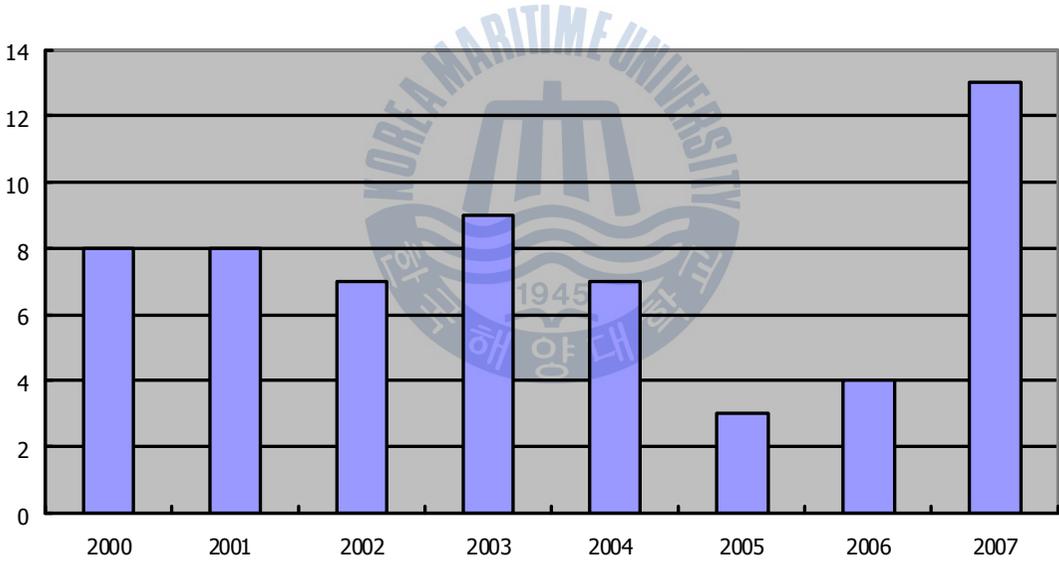
4.3 A general overview of US anti-dumping measures against China

4.3.1 Increasing in the numbers of anti-dumping cases launched by USA against China

China is the largest country that United States uses anti-dumping measures

and at the same time the most anti-dumping investigations and activities which China has received are from United States. By looking at the Chart below, from 2000 to 2007, United States arranged 59 anti-dumping measures against Chinese products. In the first half year of 2008, the United States of American has already stated 8 anti-dumping investigations. These high intensive anti-dumping measures had furiously impacted on the development of Chinese industries.

Figure4-1 Numbers of anti-dumping measures launched by United States between 2000 and 2007



Source: Ministry of Commerce of the People’s Republic of China.

4.3.2 Anti-dumping measures have been intensified

Along with the increasing Sino-US trade, not only the numbers of the

anti-dumping activities have been raised, but also the degree of punitive duties has been increased dramatically. Most of the anti-dumping measures that United States did against Chinese products ended up with extremely high extra tariff. Take the example of Saccharin in 2003, the duty was 329.94%, and the hand wagons case in 2004 tariff was 386.5%. As is shown in the Table 2, the number of anti-dumping cases initiated by US is second largest in the world, just after India.

Table4-2 Anti-dumping measures launched by other countries against China From 1995 to 2009

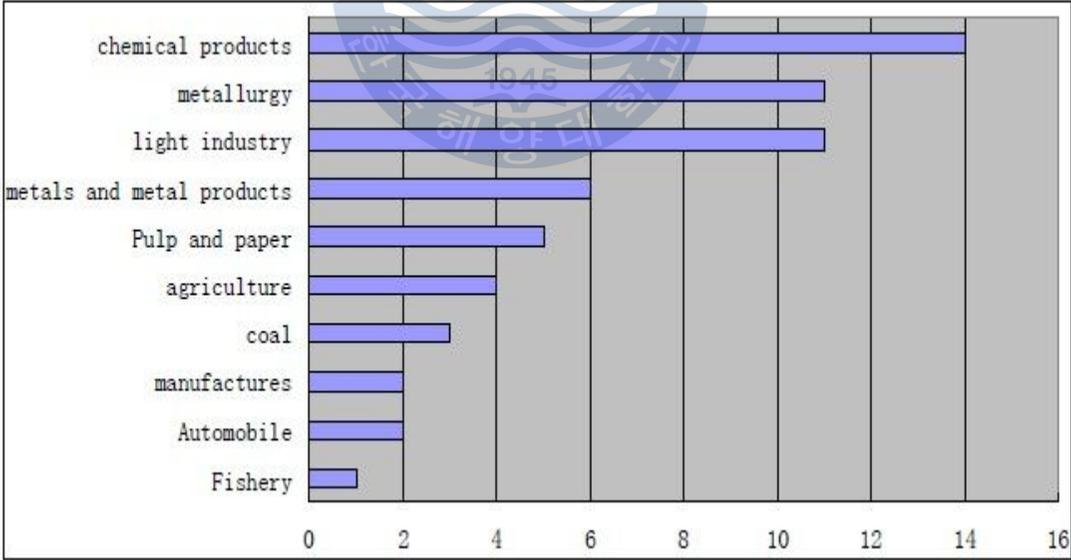
Countries	Numbers of measures	Percentage
India	90	18.79%
United States	66	13.78%
European Community	60	12.53%
Turkey	48	10.02%
Argentina	40	8.35%
others	175	36.53%
Totals:	479	1

4.3.3 The Concentration of industries that are under AD investigation

According to a Chinese Government source, more than 70% of the total anti-dumping investigations against China are concentrated on textiles, chemicals,

steel and mineral sectors, all of which are labor intensive and characterized with low value added. Most of these industries are the sunset industries in developed countries that are at the same time the mainstay industries for countries reaching the first stages of industrialization, such as China. In recent decade, chemicals and metals still ranked foremost for anti-dumping investigations. These labor intensive industries are highly depending on processing trade and their main markets are western countries, especially, US. There is a possibility that such anti-dumping measures will lead to reduction of product or even, bankruptcy of export companies. The following Chart shows that from 2000 to 2008, chemical products are the top target to be investigated by US.

Figure4-2 the distribution of industries that were anti-dumping investigated by US from 2000 to 2008



Source: China Trade Remedy Information.

4.3.4 China is still regarded as Non-Market Economy

The term of “non-market economy state” originally appeared in the 1930 Tariff Act of the United States, as opposed to “state-controlled economy”. For the US, socialist countries totally monopolized the national economy and controlled prices of all merchandises. Hence, the prices of exported goods were untrue, and importing countries needed to seek a third country’s data to be a reference to calculate the market price for anti-dumping investigations and for determining anti-dumping duties on goods from the socialist countries. This act and its amendments determined six criteria to judge “market economy status”: degree of currency convertibility; degree of salary determination by negotiation between employers and employees; degree of freedom for foreign companies’ investment; degree of ownership or production methods of enterprises controlled by government; degree of government control over distribution, prices and quantities; and other adequate factors that us investigation authorities should consider. In accordance with these criteria, all socialist countries were listed as “non-market economy states”. Under the terms of China’s 2001 accession to the World Trade Organization, members of the trade body can treat China as a “non-market economy” until 2016. So far, 69 nations have recognized China as a full market economy, but the country’s major partners including the United States, the European Union and Japan have yet to do so. China has opened up its door to foreign firms for more than 30 years now, and has given out many premium conditions to foreign firms. Up to now, the central government is striving to promote China’s market economy system. Refer to the “Report of 2005 China’s market economy development”, till 2003, China’s market economy development level is 73.8%, more than the minimum level 60% where a country can be

recognized as “market economy”.

At the same time, as known to all, Russia is a country has less market development level. But Russia has been recognized as a market economy country in 2002. So the definition of “market economy” is not merely a problem of market development, but more factors should be concerned, such as political negotiations, the conflicts on other economic problems. Ironically, although China has been treated as a non-market economy by some of its trading partners, the diminishing role of government in production planning and the foreign trade has also led to duplicate investments and overcapacity. The government is no longer directly involved in foreign trade although it continues to monitor its operations at an arms’ length. For most export products, the government’s present function is to maintain a registry system. Manufacturers’ associations have not acquired the capacity to influence production activities.

4.3.5 The United States have demonstration effects in doing anti-dumping activities

Echoing anti-dumping investigation happens very often to China. When a complaint was filed in one country, producers in other countries quickly followed the suit. Because of the special status of the United States in the international economic development and international trade, they often play the role of leader to start anti-dumping investigations against Chinese exports. The absence of an immediate response from China after an anti-dumping petition has been filed and the ease with which a positive ruling could be obtained encourages competitors to free ride. This is not only because of fear of trade diversion; it is also a strategic

response in order to reduce future competition by eliminating a rival.

4.4 The case study based on TCL (the Creative Life) and KONKA Group

4.4.1 An overview of contingency measure against Chinese CTV industry

The US' CTV (color TV) safeguard case was a hot topic in Sino-US trade disputes last year. From 2003, the USA levied punitive duties on Chinese exporting CTV. The case happened during the recovering period of world economy from the financial crisis, while trade protectionism was definitely not welcomed. The United States are the largest market for Chinese exporting CTV. One third of Chinese exporting CTV are going to US' market. Chinese CTV industry is the one of the top industries that is targeted by anti-dumping measures. Recently, foreign countries, such as US and EU, launched several contingency measures against China's CTV industry. In August 2008, the United States launched the anti-dumping and countervailing final ruling against Chinese CTV. And the anti-dumping duty is vary from 0% to 210.48% while the countervailing duty varies from 2.45% to 14%. In September 2009, the president administration propagated to start a special safeguard against China's CTV. They will levy the stepwise punitive duties of 35%, 30%, and 25% in the following three years. The specific safeguard case had great impact on China's CTV. In 2008, China exported 40% of its total production, while 30% of its exports went to The USA. Plus the punitive duty, the tariff will be raised from 4% to 39%. It was estimated by Chinese

Industry Association, the Special safeguard case affected the employment of 100,000 Chinese people. The United States' demonstration effects are very apparent, followed by Brazil in June 2009; Later in December 2009, Argentina started the anti-dumping investigation against Chinese CTV. India decided to levy anti-dumping duties from 24.97 % to 88.27% against Chinese CTV for 5 years (China trade remedy information). China CTV industry is hurt badly by these intensifying contingency measures. China's CTV exports have decreased by 70%-80% compared with that of the same time in the former year. NOW, China's CTV industry is in a most difficult period ever. After seeing the difficult situation of China's CTV industry, I went back to China to study the situation of Chinese CTV Group in the furious international environment and their strategies to deal with the problems. After I searched and collected lots of information of the currently largest electronic group in China—TCL Group, I have more ideas about their reactions against the trade barriers.

4.4.2 Introduction of the TCL Group and KONKA Group

TCL Group Co., Ltd was initially built in year 1981, with a history of 30 years in electronic manufacturer. Major products are CTV and telephone and air-conditioner, Annual CTV capacity is the biggest one, about over 10 million units. TCL has been appraised as China top 500 companies. TCL Group treats science, quality and market as core elements of its brand strategy and implements the “people-centered” management system. TCL have successively passed the authoritative certifications of USA, Economic Commission of Europe (ECE) and China Compulsory Certification (CCC) and its CTV major performance indexes have achieved international advanced level. Furthermore, TCL Group became the

first electronic enterprise in China that got the certification of “China far-famed trademark” and “China famous brand product”.

KONKA Group was initially built in year 1980, with a history of 31 years in electronic manufacturer. It’s name is “Guangdong Guangming Electronic Co.” at first. Major products are CTV and air-conditioner. Recently annual CTV capacity is about over 25 million units. KONKA Group has also been appraised as China top 500 companies.

4.4.3 Chinese CTV industry is attacked by world trade barriers

USA is one of the largest foreign markets for the Chinese CTV industry. From 2003, USA levied punitive duty on TCL, KONKA, this is extremely difficult to continue their exports to USA .Especially, USA levied punitive duty increasing from 27.94% to 45.87%, undoubtedly, this is a destructive beat for them. It is extremely difficult to continue its exports to US. It is said it is utterly unjustifiable safeguard from the US but the influence is enormous. They have squeezed out much profit. Hence, if they want to continue to sell CTV to US without increasing price to the distributor after tariff, they will lose money. But if they shift extra tariff to their distributors, then products can not compete with CTV from Korea and Thailand in the United States.

As I learned from the officer of international market service department, the special safeguard case impacted greatly on exported CTV. Moreover, countries such as India, Argentina, and Brazil started anti-dumping measures following the USA’s safeguard case. Although the export volume of them to these countries is

relatively small, the atmosphere of world wide trade protectionism is affecting the export market.



Chapter 5

The Reasons and Impact of AD from the USA

5.1 The reasons for the USA's anti-dumping measures against China

China's impressive expansion of international trade started during late 1970s, when two decades of trade liberalization had already resulted in considerably lower tariff levels in many countries. Since then further deepening of trade liberalization has reduced significantly the importance of tariff as a trade barrier. The original intension of setting anti-dumping behavior is to protect the legal rights of WTO members, to preserve the equal trade environment and to prevent unfair competition. As anti-dumping activities can be invoked relatively easily and selectively compared to other trade measure, and as antidumping investigations, regardless of the nature of their final rulings, can lead to almost immediate loss of market share on the part of exporting countries, they have also become the most frequently used trade remedies.

By the 1990s anti-dumping had become a major instrument of trade protection for developed countries. So while trade liberalization opens doors for late industrialists; anti-dumping, safeguard, and countervailing measures have also been used to deter or harass them, China in particular.

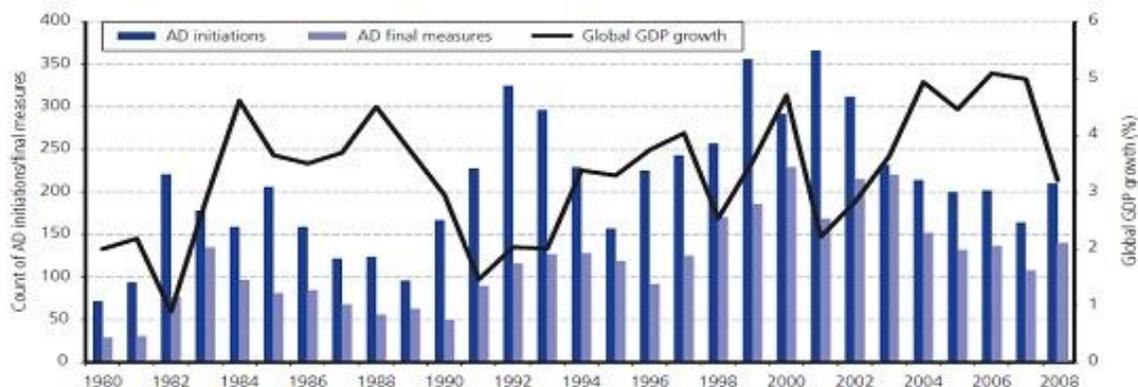
The following sector I will analyze on the major factors contributing to China's position as the top target of anti-dumping investigations of the United States over the past consecutive few years.

5.1.1 The economic performance of US has encouraged the protectionism

There are some connections between a country's use of contingency measures and its economic growth. The link between trade contingency measures and the level of macroeconomic activities can somehow be proved in the Chart below. There has been a pronounced increase in the frequency of anti-dumping initiations (and measures), with some tapering off after the global economic slowdown. Figure 1 illustrates the pattern for all the countries which, according to the WTO anti-dumping database, had at least one AD initiation from 1979 to 2008. Thus, it goes beyond the countries for which the link between AD and macroeconomic conditions was documented by existing empirical studies. The chart plots the frequency of AD initiations against global GDP growth over the past three decades. In general, the use of AD initiations rises during slowdowns in the global economy. This is particularly evident during severe downturns: in 1980-82 (recession and the debt crisis); 1991-92 (economic contraction and the Iraq war); 1997-98 (Asian financial crisis); and 2001-02 (bursting of the dotcom bubble and the terrorist attacks on 11 September) (WTO world trade report, 2009). With these data, there is some statistical evidence of a negative relationship between global AD activity and macroeconomic conditions. The current global economical crisis also promoted the using of Anti-dumping measures.

Figure5-3 Trade contingent measures and the global business cycle

Trade contingent measures and the global business cycle

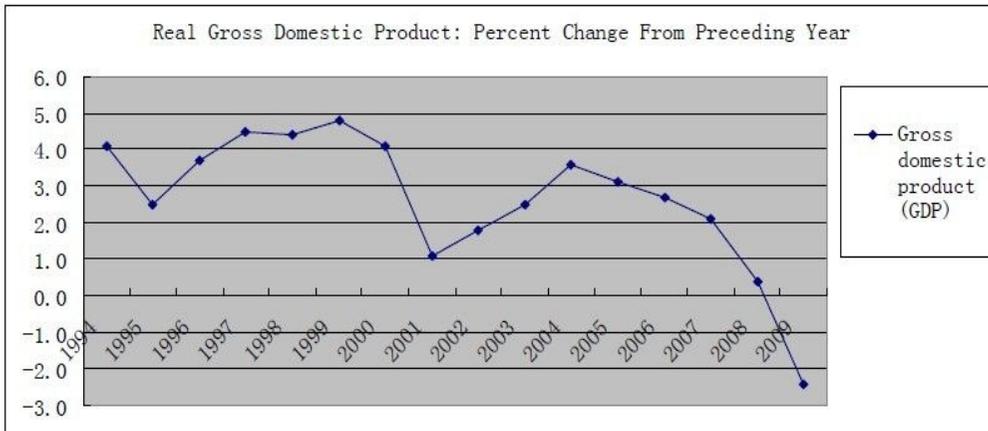


Note: Global GDP growth is from the IMF World Economic Outlook database

Source: WTO, Secretariat.

While looking at the economic performance of the United States in recent 15 years, its economic growth is going into a tendency of low down. The financial crisis that has so weakened the United States' economy began in mid-2007 with declines in the values of mortgage-backed securities. This had a severe impact on the balance sheets of major financial institutions. The crisis intensified dramatically following the collapse of the Wall Street investment bank Lehman Brothers in September 2008 and the government-led rescue of a number of financial institutions in the United States and elsewhere. The United States are badly hit by this financial crisis. In 2009, the GDP growth of US is -2.4% attacked by the global financial crisis. The economic performance of US has encouraged the protectionism and at the same time, more anti-dumping measures are used.

Figure 5-4 the real gross domestic product: Percent change from 1995 to 2009



5.1.2 The imbalanced trade between US and China

The imbalance of trade between China and US is becoming larger and larger. China has taken over Japan, Mexico and Canada, and become largest imports resource country. In 2009, the trade surplus is more than US\$91 billions. This big amount of trade deficit could not be tolerated by US government. Rather than loose its restriction of technology exporting, US government will launch more trade barrier especially contingency measures to block Chinese products enter into US' market.

Table3 the trade statistics between US and China (in millions of US Dollar)

The United States	2008	2009
export	261,150	204,699
import	337,773	296,402
China's Trade Surplus against US	76623	91703

Source: Trade Stats Express

An increasing number of Chinese firms in the export sector are Operating in a market environment where the purchase of inputs and raising finance is founded on commercial principles. Exporting enterprises however have yet to learn to operate more systematically, i.e., by conducting feasibility studies and business planning. Herd behavior is common in export market, once a producer enter in US' market; any others follow in order to share the big cake. As a result, the furious price competition will be shown in the US' market—prices will be knocked down and export volume will be raised. In the process, not much attention has been paid to the overall volume and value increase in the export market. These huge increases do easily trigger anti-dumping petitions. From 1978 to 2002, China's exports increased by around 12 percent on a year-on-year basis –much higher than the world average (IMF, 2005). While it is not an unprecedented phenomenon, China's sharp increase of trade within a relatively short period of time is still quite remarkable. Not surprisingly, this event has given rise to increasing anti-dumping petitions. Currently, China's large bilateral trade surplus with the United States is a heated political topic in the United States and has led to allegations of currency manipulation and unfair trade practices. All this indicates that China has now entered a stage of intense trade frictions with some of its trading partners, as did Japan in the 1970s.¹⁰

5.1.3 Non-Market Economy issue

Another reason that China became the largest victim of the anti-dumping

¹⁰ Li Yuefen, "Why is China the world's number one anti-dumping target", *World Economy Study*, 05, 2007, serial No.159.

actions is China still recognized as a non-market economy (NME). According to its WTO accession agreement; China will continue to be treated as a non-market economy until 2016. China's non-market economy status makes it an even easier target of Multinational Enterprises collusion, as 'surrogate values' for anti-dumping ruling are always obtained from a third party in "comparable market-economy countries". Multinational Enterprises sometimes succeeded in getting companies related to the enterprises in the complaining country to provide surrogate values. The non-market economy status has left China a victim of rampant. Anti-dumping measures imposed by other WTO members, which often use production costs in other countries as a reference to evaluate whether Chinese exports are dumped or unfairly priced. Anyhow, I'm not going to discuss the issue of whether or not it is fair to regard China as a NME. However, when China is categorized as an NME, it greatly increases the possibility of a positive dumping ruling and places China at a disadvantage. With this clause in China's accession protocol, the burden to prove "less than normal value" and "material injury" would be much lighter¹¹. As a matter of fact it has also given rise to abuse as production costs can be calculated according to those that are from a surrogate country. Since the surrogate country had not been chosen by the Chinese firms, the very often situation is that the countries that were chosen were places where material and labor costs were much higher than in China, which definitely do not lay the foundation for a fair assessment in anti-dumping cases. A product was more likely to be regarded as dumping products when assessment of the products cost was increased by choosing the unfamiliar surrogate. There are opportunities to

¹¹ Li Yuefen, "Why is China the world's number one anti-dumping target", *World Economy Study*, 05, 2007, serial No.159.

manipulate data, which in greater likelihood results in positive ruling of a case. In addition, an assessment of this kind of data could also result in much higher dumping margins, and lead to higher punitive anti-dumping duties. There is also a domino effect as the whole process can be executed relatively easily and chances of success are high. This, in turn, leads to a higher level of anti-dumping incidence¹².

5.1.4 The export market structure and products structure

The United States have for many years topped the list of those submitting anti-dumping cases against China. However, as China's exports are highly concentrated in their markets, China does not have much leverage against anti-dumping investigations originating in these markets.

However, with the increase in recent years of both FDI inflows and exports from the United States into China, the Situation has, to some degree, been mitigated. China has now even filed anti-dumping cases against the United States. For example, last year, right after the United States announced to petition the anti-dumping investigation against Chinese tires, Chinese government, as responding to that unfair activity, launched anti-dumping investigation against US' chicken meat and auto parts. China's heavy concentration of exports destinations as well as its dramatic expansion of trade is closely related with the rising importance of processing trade. Unlike Japan and the Republic of Korea, which emphasized the development of their national brands and their national giants with horizontal and vertical production specialization, i.e., with the entire production process

¹² Li Yuefen, "Why is China the world's number one anti-dumping target", *World Economy Study*, 05, 2007, serial No.159.

undertaken within their countries, China' trade expansion has relied heavily on processing trade. Since 1995 processing trade has been the most important mode of foreign trade in China. Presently around 50 per cent of China's exports are processed. While there is a deficit under normal trade, China's total trade surplus mainly comes from processing trade—processing of imported materials accounts for three quarters of this trade while the remainder is taken up by the processing of material provided by foreign importers of the eventual finished products. On the other hands, a large amount of international trade of the United States is done by the Multinational Enterprises.

Table5-4 the top products that US has deficit with China in 2009 (in millions of US Dollars)

Item	Trade deficit
85--Electric Machinery etc; Sound Equip; TV equip; PTS	63467.37
84--Nuclear Reactors; Boilers; Machinery etc.; Parts	54023.31
95--Toys; Games & Sport Equipment; Parts & Accessories	23061.00
94--Furniture; Bedding etc; Lamps Nesoi etc; Prefabbd	15909.45
64--Footwear; Gaiters etc. and Parts thereof	13291.09
62--Apparel Articles and Accessories; Not Knit etc.	12892.06
61--Apparel Articles and Accessories; Knit or Crochet	11442.59
73--Articles of Iron or Steel	6821.60
42—Leather art; Saddlery etc; Handbags etc; Gut Art	5965.99
63--Textile Art Nesoi; Needlecraft Sets; Worn Text Art	4692.96

Source: the Office of Trade and Industry Information (OTII), Manufacturing and

Services, International Trade Administration, U.S. Department of Commerce.

5.1.5 Export disorder of export enterprises

The exports from China are determined by the development of China's economic. As China is still at the start of industrialization, and he will keep its role of the factory center of lower value added and processing products. In other words, labor intensive sectors will be the major industry of China for a long time. A significant part of Chinese export is still concentrated in such anti-dumping intensive products as textiles, clothing, and footwear and travel items. Loosen industry organization, low entry barriers, small producing scale but large numbers of producers, herd actions are the main characteristics of these industries. As a result, companies compete on price and squeeze off the profit in the end, rather than to think about the long term strategies. As product upgrading requires research and development and the recovery of this kind of sunk cost will take time, companies tend to avoid this type of strategic investment.

In addition, the majority of enterprises resort to price competition for market entry and market expansion in both domestic and international markets. Product upgrading and differentiation is yet to by utilize as a tool to capture and maintain market share Instead, there is a tendency for domestic entrepreneurs to rush to produce the same products at about the same time, thereafter creating a highly competitive situation. Enterprises competing by price in the Unites States will easily been treated as dumping action.

5.1.6 Less participation of enterprises in the law case

The lack of legal capacity on the part of Chinese enterprises to respond to anti-dumping investigations abroad is also a factor contributing to the frequency of final anti-dumping measures against Chinese exports. China has not built up a mature mechanism to deal with the anti-dumping petition. The situation in China is that most of the Chinese exporters were unaware of the anti-dumping process. So when their products were accused of being dumped, their first response was bewilderment and panic. Because the lack of litigation funding, when they learnt of the cost of anti-dumping litigations, they invariably pulled out. As a result, no-response and absentee rulings were quite common, which means affirmative injury ruling was almost a certainty. The lack of qualified staffs with good knowledge of international laws and English language skill bringing the case and anti-dumping practice also prevented Chinese enterprises from defending their interests. In this situation the vulnerability of Chinese producer is unparalleled because most of them are still not aware about dumping and anti-dumping practices. In addition, China never had any successful producers' associations before, nor did it have powerful and effective interest groups, which is unusual in developed countries. When each enterprise fought its own battle, their strength definitely could not match their foreign counterparts. The lack of actions against anti-dumping petitions could induce foreign companies keeping start new petitions.

5.1.7 Political reasons

The contingency measures are regard as economic issues, but at the same time, political reasons play a role in the game. After democracy party became the ruling

party for less than 2 years, something interesting is that the total numbers of anti-dumping measures within these 2 years against China are more than that in the past 8 years when Bush administration was in the White House. Prusa (2000) has pointed out that countries generally have significant discretion in the use of anti-dumping law because of the way in which anti-dumping statutes are drafted. Thus, countries and individual industries within countries have learned that they can use the laws to their advantage in a several ways. So if politically and strategically China-bashing during a United States election years is t their advantage, there would be more anti-dumping activities against China. It has been a routine practice to increase trade frictions between the Unites States and China every election year.

5.1.8 The AD laws could be used to benefit multinational enterprises and victimize late industrialists

The basic economic assumptions about international trade of anti-dumping laws are conducted in the 18th century. That is what a recent study describes as a “residency-based view of trade”, which means that exports are goods and services leaving a nation’s borders, regardless of nationality and ownership of producers and service-providers involved, while imports are the mirror of exports. In the modern world, the emerging of multinational companies has changed the model of doing international trade. The multinational firms begun to offshore their production activities and trade between affiliates and their parent companies have mushroomed. As pointed out by Richard J. pierce Jr. (1999), globalization and the rise of multinational enterprises have meant that in many cases anti-dumping laws

have been administered and manipulated to “facilitate the formation, maintenance, and enforcement of cartels”. In 2003, the United States threatened to levy dumping charges on some TV sets made in China. One of the world’s largest screen TVs makers Philips assembled TV sets in China and sold to the United States. It’s Chairman and Chief Executive Officer said that the anti-dumping activity “do not affect Philips operations” as his company “could shift TV production to its Mexico plants” and export to the US market from there.

5.1.9 Anti-dumping activities are encouraged by advanced countries

Developed countries have made anti-dumping activities user-friendlier. Country such as the United States, have even provided incentives to the users of anti-dumping measure. In the United States, amendments to anti-dumping law have made it easier for domestic firms to prove the existence of dumping, include both international price discrimination and sales below cost. Moreover, the United States have a particular legislation, known as the Byrd Amendment, which was designed to give anti-dumping duties collected by the United States Customs Service to private Companies that filed anti-dumping petition. The Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), also known as the Byrd Amendment, requires CBP to disburse antidumping and countervailing duties to domestic producers injured by foreign dumping and subsidies. U.S. Customs and Border Protection paid out \$247million in fiscal year 2009 antidumping and countervailing duties to U.S. industries that petitioned the federal government for relief from unfairly traded imports that sold in the United States at less than fair

value¹³.

5.2 Impacts on Chinese exporting products from Anti-dumping measures

Take a view of a single exporter, anti-dumping action will relatively decrease its products margin in target market, or even receive negative profit. As a result, he will either accept less profit in that market, or quit. It is hurtful to quit a market where was costly for him to enter in. In a wider point of view, the dependence of export to most of Chinese products is high, and an extra duty from anti-dumping action will impact on an industry. Take the example of Chinese television case, in 2003, after been levied 84% anti-dumping duty, the market share of Chinese television decrease from 12.69% (in 2003) to 5.43% (in 2005) in US market. An anti-dumping investigation always goes with chain reactions which are followed by other countries. Especially, in nowadays, there is a tendency of regional economic integration, when Chinese products face anti-dumping investigation, it is possible for that products lose there market in an economical region. The effects of anti-dumping measures can be compared with the effects of a tariff on imports. Similar to a tariff, anti-dumping duties will improve the circumstances of domestic producers, raise revenues for government but increase the cost of imports for domestic users or consumers. Thus, the standard economic analysis of tariff protection can be applied to analyze the likely effects of antidumping measures. However, the affect of anti-dumping measures have more impacts beside it

¹³ CDSOA 2009 Annual Reports Download 12th March 2010 from
http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/cdsoa_09/

increasing in the import duties.

5.2.1 Impacts on domestic market

Anti-dumping actions are tending to protect the “sunset industries” in import countries, while hurt industries of export countries. Usually, these industries are import to export countries and have comparative advantages in the world market. When their products are blocked in the export market, and it is too hard to transfer their products to another market, they have to return back to their domestic market. A rush increase of export orientating products will definitely impact the demand and supply curve of domestic market, and bring more competition, even threat the domestic economy growth.

5.2.2 Influence the investment environment

Foreign investment is important to China’s economy development. To create a stable investment environment is the basic requirement to attract foreign investments. When the anti-dumping punishments relate to there investment in China, their confidence of Chinese investment will be queried and they will reluctant to put future investment in China.

5.2.3 Obstruct the optimization of industry structure and technology improvement

Foreign advance technologies are essential to the progress of Chinese technological improvement and modification. Large favorable balance of trade between China and US will help to increase the technology transfer. The optimum way to narrow the U.S' trade deficit against China is to loose to restriction of technology exportation rather than forcing China to change its currency policy. Anti-dumping action will easily block the way for China to get more trade surplus.



Chapter 6

Countermeasures for Chinese Export Enterprises against AD Activities Abroad

Antidumping is a systematic project, which requires government, industry associations and enterprises to work hard together. However, after all, the enterprises are the main anti-dumping body, so the key is to look at the enterprise's performance in response to anti-dumping issues. Enterprises should pay attention to do the following two aspects of work in response to anti-dumping abroad.

6.1 Countermeasures before AD Investigation

6.1.1 The Enterprises should adjust international marketing strategies and normalize their export behaviors, strive to avoid complaints from anti-dumping abroad.

The Enterprises want to avoid anti-dumping abroad thoroughly, they must adjust the international marketing strategies, and normalize export behaviors. First, they should break the business concepts in which price competition is seen as the core. And increase the scientific research and direct investment so as to increase the

technology. Moreover, add products value through the implementation of product different strategies. Improve the quality of service and packaging to change the "price competition "for "quality competition". Enterprises should strengthen the study of U.S. anti-dumping laws in order to use anti-dumping measures cleverly to deal with the U.S. anti-dumping when it is possible. Export enterprises can adjust the investment strategy of selectively timely setting up plants abroad, in order to bypass the anti-dumping barriers.

Enterprises should be adjusted to diversify export markets and the structure of products. Focusing in all directions to explore the international market, we should actively explore new markets overseas, particularly to strengthen the Eastern Europe, Latin America, Africa and other market development, in the consolidation of the U.S. market. Through this we can reduce risks resulting from too concentrated market, and avoid anti-dumping investigation.

6.1.2 Perfect management systems to prepare for response to anti-dumping proceedings abroad.

Generally, in anti-dumping proceedings, the initiative of the instructions on the damage rests in the hands of the prosecution. But the initiative on the evidence of dumping rests in the hands of respondent. The key to responding to anti-dumping cases for enterprises is proving that the export price is not lower than "normal value" .This requires companies to collect multiple data and evidence But a considerable number of enterprises in our country are not strict with the market costs and other financial accounting systems, which cause the difficulty of transaction for receipt of all files Incomplete or inaccurate invoices are the most

prominent problem, however the requirements of the United States in this regard is very strict. Such as the enamel burner anti-dumping case the United States to China in 1985. In that case the U.S. Department of Commerce sent inspectors to Shanghai, not only visited the production process, but also access to the relevant books pages and files. For the investigation of surface freight, they even asked us, accompanied by car from the factory to the docks, in order to determine the correct course we offer. Information on the verification of the cost is even more nuanced. For example, what specifications metal enamel burner ,the raw material, is, how much money a ton, by whom are imported from Japan, whether there is the invoice, the number of discs of metal can be opened, how to use bits and pieces, how to make earrings or drag films, how much using rate is, and so on. Without invoice information, the price can be only determined according to of the other information provided to determine the price, which is an important cause of lost causes. Therefore, export-oriented enterprises should improve the management system in accordance with international standards and improve the business files, including the company's various contract agreement, business letters, bill payments, etc. So that in the event of anti-dumping lawsuits, companies will be able to prepare the necessary information in a short time.

6.2 Countermeasures after AD Investigation

According to statistics, the global anti-dumping case ruled that the fact that the establishment of dumping about 53% of cases, of which approximately 27% United States, about 35% of the cases in the United States convicted of dumping incident does not hold, otherwise 38% of the cases the prosecution to drop out . This shows

that Chinese enterprises still have a great grasp of victory as long as the active fight and say "no" to the anti-dumping ". "Chrysanthemum" brand fan anti-dumping case the United States to China in 1991, we eventually found no dumping due to our fight. When Chinese exports in the United States are accused of dumping, the domestic enterprises involved in the response can take the following measures:

6.2.1 The export enterprises should respond to accusation of anti-dumping abroad actively and positively.

When the United States Department of Commerce issued a notice to initiate an investigation, if the enterprise can give enough attention and collaborate with other departments to its investigation, we will win the ultimate positive impact. For example, the Chinese canned mushrooms by the anti-dumping complaints, Foodstuffs Import and Export Corporation and the Embassy urged the U.S. Department of Commerce properly handle the case. In addition, the company sent people to the United States to handle the case which left U.S. Department of Commerce a deep impression and pay attention to listen to our appeals to them. If the company adopted a negative attitude towards the complaint of the United States, and did not carefully prepared, we will take losing for the end. The companies involved should not only actively respond but also register in time .WTO anti-dumping rules and the anti-dumping laws of United States make a strict limit on deadlines and procedures for responding.

6.2.2 The export enterprises should set up a special group inside to response to accusation.

Responding to anti-dumping is a highly professional work so it is very

important to set up anti-dumping responding agency .The companies involved should be set up by lawyers, accountants, economists and the specialized agencies. Enterprises should get in touch with industry associations actively. As more companies involved, it can be established by industry association coordination group to discuss countermeasures. All the companies involved should join together to play a collective combat advantage, focusing on financial, human and material resources, to improve the ability of the respondent.

6.2.3 The enterprises should employ outstanding lawyers

Quality of lawyers plays a key role in the work of the respondent. In responding to U.S. anti-dumping case, the domestic enterprises not only need to hire a lawyer, but also hire American lawyers to assist businesses in the United States. For domestic lawyers, recommended by industry associations, to select those familiar with the U.S. anti-dumping and has extensive experience lawyer. The foreign law companies need to hire those who have experience and understand China's national conditions of China-friendly

6.2.4 The export enterprises should take participate in the hearings actively

In the process that the International Trade Commission of the United States rule whether the damage is established, enterprises should actively participate in the hearing and provide the evidence and information. International Trade Commission will review whether the accused products will cause substantial

damage to domestic industry in the United States, or threat of material injury or material retardation of the establishment of related domestic industries. If the International Trade Commission Preliminary ruling made or arbitration is negative, then the anti-dumping investigation procedures end. In the International Trade Commission hearing, members of the Committee will appear in court to listen to the domestic industry parties and respondent's statements. They make the decision for the damage depends on sector shown at the hearing of Chinese enterprises. If Chinese enterprises participate in the hearing provide evidence that the export activities have not caused material injury to U.S. industry and do not constitute a material injury to U.S. industry the threat, we win the case even closer. Conversely, if you do not attend the hearing, the defense does not provide evidence and information, the International Trade Commission will make a preliminary affirmative easily.

6.2.5 The export enterprises should select the appropriate alternative country.

In the process that the United States Department of Commerce rule whether the fair value of imports is lower than the sales, we should do a lot of work in order to choose the right "alternative country ".Being able to find the "alternative country " whose economic level is similar with China decides whether we win . Appropriate "alternative country" can be able to provide a reasonable "fair value".

Chapter 7

Suggestion and Conclusion

7.1 My Suggestions to Chinese export enterprises

Since I have discussed about the countermeasures for enterprises against anti-dumping measures, the measures above are suitable against foreign contingency activities. But I would like to provide special discussion for TCL Group and KONKA Group in these contingency cases.

7.1.1 Seize the opportunity and accelerate the development

China is enjoying the world's fastest growth and there is no better time to do business ever. China is going to be the largest demand market in the world, so the potential demand in the future is inestimable huge. As one of the Chinese Exports Enterprises, it should make good use of its domestic position and enlarge its market share in domestic market. Since Chinese fruits makers are still very small compare with the world giant makers. So the critical thing should be done now is to seize the opportunity when the domestic demand is very powerful. They should go from strength to strength and accelerate the development its own products. Setting up long term strategic alliance with domestic automakers is a good way to ensure the domestic demand.

7.1.2 Market diversification

Enterprises will be hurt less if their market structures are diversifier in this case, Both of them is facing difficulties with a lost of there largest exporting market. If they have a wider and diversifier international market structure, then the lost of market in US could be replaced by the other international market, and minimum lost will be achieved.

7.1.3 Establishment of Multinational Corporation

Although in the current, many Chinese enterprises don't have the strength to do foreign direct investment (FDI) and set up subsidiaries in abroad, Multinational Corporation should be the long term aim for most Chinese enterprises. By using FDI, Multinational Enterprises are able to jump anti-dumping activities. They should rethink about its entry model to the foreign market. In stead of merely exports goods to abroad, more FDI could undertaking.

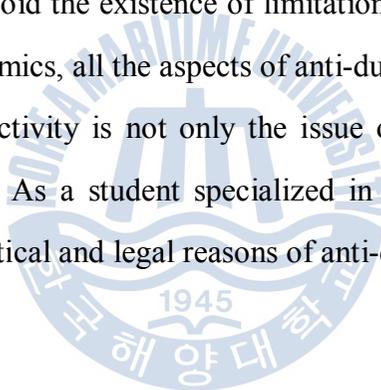
7.2 Summery on the analysis

The research problems of this thesis was to explore the reasons that the United States launched anti-dumping measures against Chinese products, and find out countermeasures to deal with anti-dumping activities. In the analysis part, I stated the reasons from both external and internal perspectives that China was launched anti-dumping measures. And later on, I talked about the impacts of anti-dumping

measure. By looking at the severe effects from anti-dumping activities, government, industry associations and enterprises are necessary to carry out counterplots. To sum up this chapter, I mentioned the establishment of an integrity and multi-aspects linkage countermeasure system. In the special case study, based on the empirical study, I lay out some suggestions to TCL and KONKA Group to deal with the international contingency measures as well.

7.3 Limitation of the study

A thesis can never avoid the existence of limitation. As this thesis is based on the point of view of economics, all the aspects of anti-dumping activities can not be included. Anti-dumping activity is not only the issue of economics, but also the issue of politics and law. As a student specialized in international economics, I could not mention the political and legal reasons of anti-dumping initiation.



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