



FONDATION POUR LES ÉTUDES  
ET RECHERCHES  
SUR LE DÉVELOPPEMENT  
INTERNATIONAL

Comments on  
Does Safeguards need Saving?  
Lessons from the Ukraine Passenger Cars  
Dispute

The Legal-Economic Analysis Case  
Law of 2015

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# Outline

- WTO Disputes under the Safeguards Agreement (SA)
- Ukraine car market
- Timeline Ukraine car dispute
- General Issues raised by dispute
- Comments on economic analysis

# WTO Disputes under the Safeguards Agreement (SA)

Dispute	Adoption	Appeal
Ukraine - Definitive Safeguard Measures on Certain Passenger Cars	July 20, 2015	No
Dominican Republic - Safeguard Measures on Imports of Polypropylene Bags and Tubular Fabric	February 22, 2012	No
United States - Definitive Safeguard Measures on Imports of Certain Steel Products	December 10, 2003	Yes
Argentina - Definitive Safeguard Measure on Imports of Preserved Peaches	April 15, 2003	No
Chile - Price Band System and Safeguard Measures Relating to Certain Agricultural Products	October 23, 2002	Yes
United States - Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea	March 8, 2002	Yes
United States - Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia	May 16, 2001	Yes
United States - Definitive Safeguard Measures On Imports of Wheat Gluten from the European Communities	January 19, 2001	Yes
Argentina - Safeguard Measures on Imports of Footwear	January 12, 2000	Yes
Korea - Definitive Safeguard Measure on Imports of Certain Dairy Products	January 12, 2000	Yes

# WTO Safeguard cases

- 155 safeguard measures (Jan 1995 – Dec 2015)
- 26 measures challenged at WTO
- 10 cases reviewed and found in violation of SA
- For U.S. – 4 out of 6 safeguards measures challenged with all 4 in violation of SA.
- 9 of 9 findings of violation for SPS cases
- 90% success rate for challenges in general
- Tyres case is exception that shows that a safeguard measure can be found not to violate WTO rules.

For all WTO case Law reviews since 2001 see

<http://globalgovernanceprogramme.eui.eu/wto-case-law-project/>

# Ukraine Car market

- WTO Membership in 2008. Ukraine reduced the import duty on passenger cars from 25% to 10%.

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- *By 2008* Ukraine was the 7<sup>th</sup>. largest market in Europe ( cars sold) + anticipation of further growth (low car density: 138 /1000)
- The import market was a \$5.7 billion in 2008. Crisis: cars bought under credit down from 50% to 5%
- In run-up to 2008 car sales were growing by about 30% annually.

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- Investigation requested in 2011 by domestic firms (Zaz, Eurocar, KrasZ, Bogdan). Firms producing under foreign manufac. licenses.
- Many car brands hard hit (Opel, Mercedes, Audi, Volkswagen, Seat). Assembly for only few brands (Chery, Chevrolet, Geely, Skoda, Hyundai)
- By time of investigation, no Ukrainian cars produced (last in 2011).

# **Timeline Ukraine Passenger car dispute**

June 2011 – Initiation of the investigation

**April 2012 – Decision of the authority to impose a safeguard measure**

**March 2013 – Decision is published**

April 2013 – Measure is in force [33.4% on cars (1.0-1.5 L) ; 47%(1.5-2.L) engines.

October 2013 – Japan requests consultations (only major country with no FDI in Ukraine auto industry)

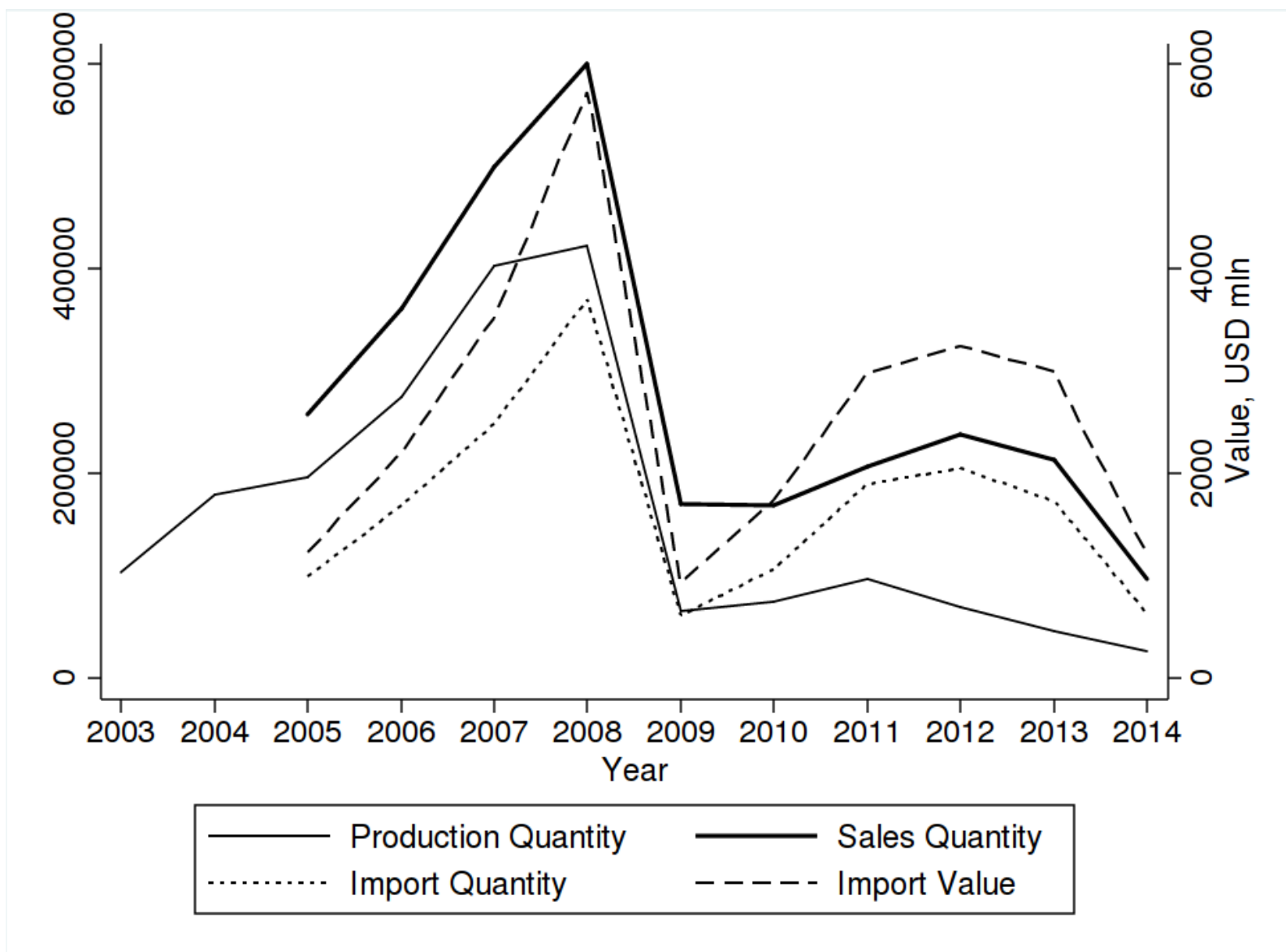
April 2014 – Measure reduced

March 2014 – Panel is established

June 2015 – Panel report

September 2015 – Measure is revoked

# Passenger cars: Production, imports and sales 2005-2014 (1)



## *Passenger cars market in Ukraine, 2008-2012*

Consumption, units	623000	162300	162600	220000
Domestic production	327000	97000	54000	68000
Import	296000	66000	108000	152000
Export	73000	18000	33000	42000
Import market share, per cent	0.48	0.41	0.66	0.69
Average unit price, EUR	13965	14295	16605	16364

*Source. Autoconsulting, available at [http://gazeta.zn.ua/ECONOMICS/programma\\_nadezhd\\_dlya\\_avtoproma.html](http://gazeta.zn.ua/ECONOMICS/programma_nadezhd_dlya_avtoproma.html)*



# General Issues raised by the Case (1)

- WTO Safeguard Agreement (SA) requires evidence on 3 counts:
- ...evidence of ‘substantial cause’ (article 2.1 of the SA) and ‘serious injury (Article 3.1 of SA) [both in section 201 of US 1974 trade act].
- + (“existence of causal link”—i.e. article 4.1)
- Ukraine auto industry was found to fail on all three core elements of SA.
- In US case, of 6 injury cases awarded by ITC 4 were successfully challenged at WTO for lack of causality Irwin (WTR-2003) suggests that simple ‘calibration’ as in the paper is sufficient to rationalize AB decisions.

## General Issues raised by the Case (2)

- Ukraine case is good illustration of the difficulty of addressing endogeneity vs. exogeneity. WTO accession in 2008 resulted in lowering of tariffs (which had been set high to attract FDI into car assembly as in case of tariff-jumping FDI by Japan during US auto VERs on Japan in early 1980s ). So, arguably reduction in supply was partially attributable to joining WTO (is that exogenous?) .
- An example of what can be done with partial equilibrium calibrated simulation analysis with limited data availability- HS-4 production and trade data for autos on a yearly basis for a few years.

# Comments on economic analysis(1)

- Model: Domestic and imported cars are perfect substitutes. Over-estimates import response to a shift in D or S it favors the defendant by establishing injury. But around 10% [25%] of production exported in 2008 [2010]).
- More realistic model with imperfect substitutes augmented by exports and strong separability throughout

$XS(PC) = DD(PD, PM) + ED(PE)$	(1) Supply on composite price (PC)
$ED/DD = F(PE/PM)$	(2) CET allocates production to E and D
$XM(PWM) = MD(PM, PD)$	(3) Import market
$XE(PM) = ED(PWE)$	(4) export market

- A richer equilibrium model to fit all data suitable for comparative statics.
- Model decomposes changes in supply due to price changes (assuming D and S elasticities) and to shifts in D and S.
- No causality, just contributions of changes in each of 3 components.

# Comments on economic analysis (2)

- Avoid linearization because of large changes. Use standard two step procedure: (i) calibrate the shift parameters in the demand and supply fns. in the base year to fit observed data. (ii) for the second year solve for the shift factors that produce the observed prices and quantities keeping the assumed elasticities.
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- Carry out systematic sensitivity analysis with a set of high, middle and low elasticities
  - Use proximity analysis; to build a synthetic counterfactual- Abadie (AER- 2001)
  - Quarterly data on production and trade could allow for econometric estimates (e.g. Grossman on US steel industry (JIE - 86)). Still would not solve causality issue.
  - With high frequency data one could use Granger-causality tests (Pindyck- Rotemberg (JLE-74))