

Global Trade Protection Report 2007 DATA & ANALYSIS

*A review of global trade protection
activity (anti-dumping, countervailing
duty and safeguards) covering
the whole of 2006*

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By Cliff Stevenson

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1 Trends in anti-dumping activity

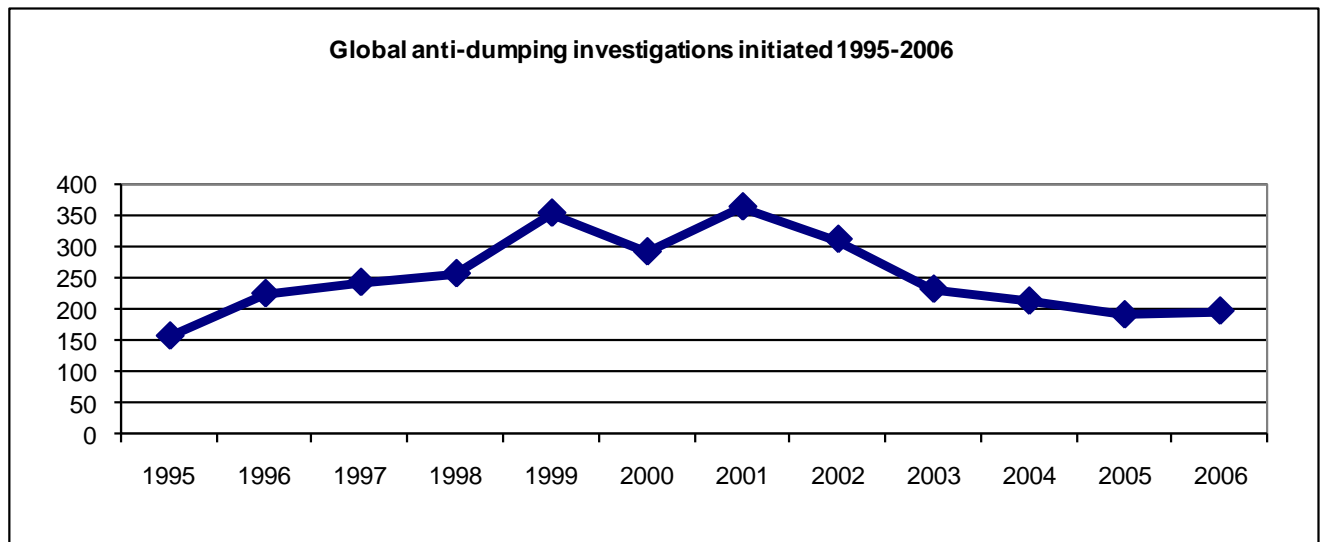
1.1 Overall anti-dumping activity remains at similar level to 2005.

Measuring anti-dumping activity by the number of anti-dumping (AD) investigations initiated¹, anti-dumping activity remains relatively low but has remained relatively constant compared to 2005.

Anti-Dumping Investigations Initiated²

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
157	225	243	257	354	292	364	312	232	213	191	197

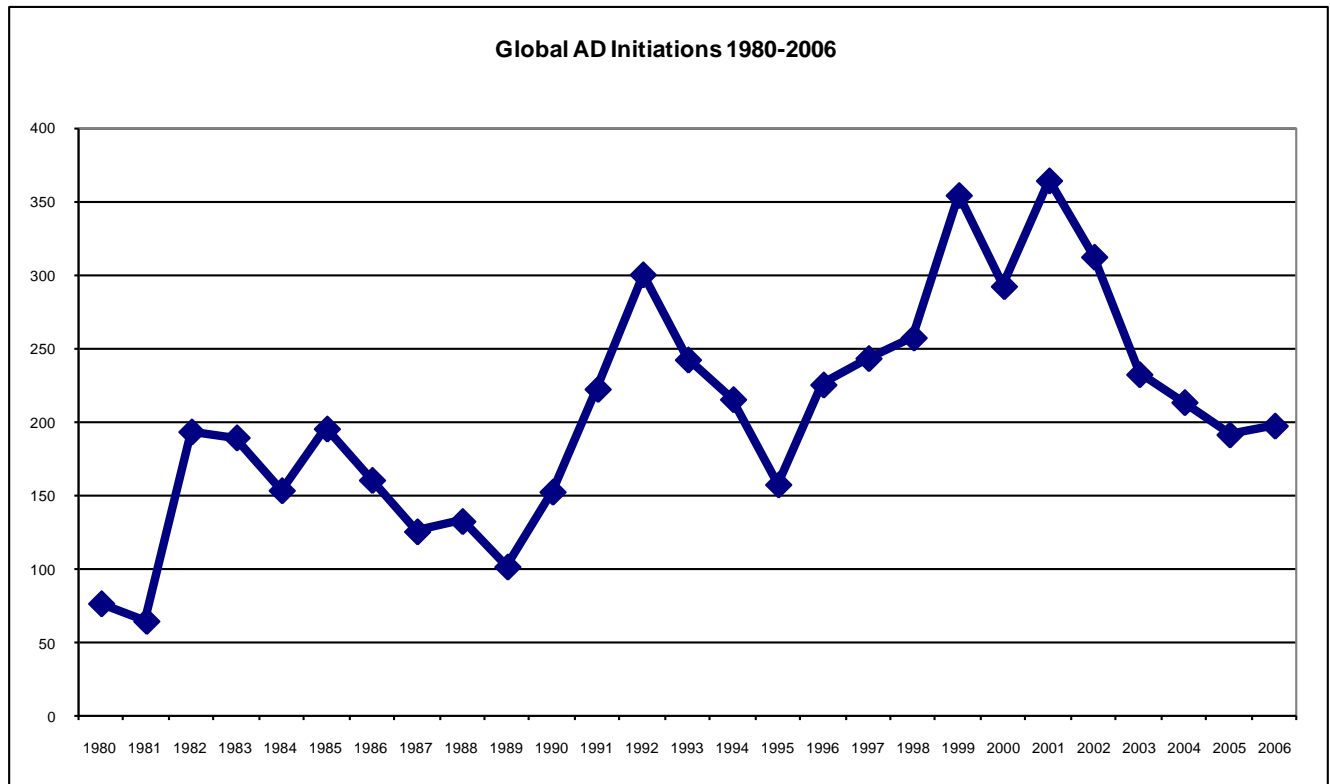
The trend since the creation of the WTO in 1995 is shown in the following graph.



As argued in previous Global Trade Protection (GTP) reports, it would be a mistake to conclude that anti-dumping activity has permanently fallen to these relatively low levels. It is clear that anti-dumping is cyclical and there are peaks and troughs. It is also apparent that the peaks and troughs have been increasing when looking at data back to 1980.

¹ Figures are based on the number of new anti-dumping investigations initiated (does not include reviews). If one country initiates an investigation against a particular product from five countries, this will be recorded as five cases. Although AD measures will not be adopted in every case, the initiation of a case alone can have an effect on trade. Therefore, the number of cases initiated is the best indicator of the level of AD activity. This is the method used by the WTO.

² In previous GTP reports, all post-1995 figures were calculated from the twice yearly notifications of WTO members to the WTO Secretariat. Due to the fact that the WTO now publishes useful and detailed statistics on Members' AD activity, the data for 1995-2005 used in this report is based instead on the statistics provided by the WTO Secretariat. 2006 data is taken the Member notifications (except for India whose notification was still not available on the WTO website as at 1 April 2007 – Indian statistics are based on information from the Indian Department of Commerce website) which in some cases differ from the WTO stats. See the statistics section of www.antidumpingpublishing.com for more discussion of differences between WTO And GTP statistics. Pre-1995 figures are taken from "Anti-Dumping Action in the US and Around the World: An Analysis of International Data" June 1998. Congressional Budget Office.



The level of anti-dumping activity in the 1990s was significantly above that of the 1980s. In that regard, the current levels of anti-dumping activity remain at the bottom end of the range that has been present for the past 15 years or so. Although there has been a significant drop from the record level of activity between 1999 and 2001, current levels are around the same level as the previous trough around the mid-1990s. This current level is clearly above the two troughs of the early 1980s and around 1990. Thus, it is clear that AD activity is not at an exceptionally low level but, rather, at the trough of a cycle.

As previous GTP Reports have argued (see Global Trade Protection Report 2006 at www.antidumpingpublishing.com for the most recent evidence), there are a number of explanations why anti-dumping activity is at a relatively low level:

Commodity type product prices are still relatively high – The GTP Report 2006 provided detailed evidence on the link between commodity type product prices and anti-dumping activity. Most anti-dumping investigations concern commodity-type or semi-finished products. As a general rule, many such products are subject to significant variations in price. This means that at certain times it is much easier, and perhaps necessary, to bring anti-dumping cases than it is at other times. For many industries, prices are still on the high side of the cycle and there is no injury being suffered. Even if imports have been increasing from a particular source, it is not straightforward to make an injury case if prices remain high. Given that the WTO anti-dumping agreement requires not only that imports are dumped but that those imports are the cause of injury before AD measures can be adopted, this is the primary explanation of the low level of AD activity.

Further, in certain industries, prices are at levels where no dumping is taking place. For example, world steel prices remain high relative to the trend since 1995. This means that global steel markets are at a stage in the business cycle where virtually no-one is dumping as there is no market incentive to do so.

The fact that many sectors experience cyclical pricing means that when steel and other commodity-type prices go down, an increase in AD activity can be expected.

The impact of WTO disputes

Another significant factor that may be limiting use of AD activity is dispute settlement under the WTO Dispute Settlement Understanding (DSU).

Global trends in WTO dispute settlement involving trade protection measures have been analysed in ‘Global Trade Protection Disputes 2006’³. This analysis found that consultations relating to all WTO agreements had been requested under the DSU in 351 cases. Of these 351 disputes, around 18% related to anti-dumping. In the broader context, around one third of all disputes related to all trade protection measures i.e. anti-dumping, countervailing duties or safeguard measures.

A particularly noteworthy point from this study was that 25 of the 63 anti-dumping disputes reached the stage of a panel ruling on the measure in question and only of them one found no violation. That is, problems of WTO inconsistency were found with 24 of the 25 AD measures reviewed by Panels (taking into account any Appellate Body rulings when relevant)⁴.

Thus, with almost a fifth of consultations under the DSU involving anti-dumping measures, and the very high success rate in challenging measures through the Panel process, this may well have had a restraining effect on countries using anti-dumping.

The point is also reinforced by the fact that some of the WTO jurisprudence emerging on anti-dumping has focused on the requirements relating to injury and causal link. This has emphasised the difficulty of using anti-dumping at a peak in the pricing cycle for commodity type products. Measures that do not meet the high standards required on injury and causality are now successfully challenged in the WTO and, until significant injury re-emerges in these industries, countries may be taking fewer risks..

Anti-Dumping activity will increase, but not to the levels of 1999-2001

The clearer standards arising out of the WTO disputes probably means that the record number of AD investigations in the period 1999-2001 will never be repeated (i.e. the next peak in the AD initiations cycle will not be as high as the last one). Nevertheless, dispute settlement as a factor explaining trends in AD activity is not as significant as the business cycle. In the author’s experience, at least some AD measures continue to be adopted based on weak evidence and analysis that does not appear to meet the high standards

³ “Global Trade Protection Disputes 2006. – WTO disputes involving anti-dumping, countervailing duty and safeguards: who is challenging who?” 17 November 2006, Cliff Stevenson, antidumpingpublishing.com.

⁴ When including countervailing duty and safeguards in the analysis, it is seen that, of 42 panels assessing the WTO consistency of AD, CVD or SG measures, only one measure was found to be WTO consistent i.e. a problem was found with every CVD or SG measure.

required by the WTO agreement. This is evidenced by the fact that so many measures continued to be challenged in 2006⁵. WTO Members appear to be willing to adopt WTO inconsistent measures when it is politically expedient to do so but it would appear that the high WTO standards may have an impact in reducing the incidence of such cases.

A number of factors suggest that AD activity might be expected to significantly increase in the future:

- There will eventually be a downturn in the commodity type prices which will lead to more cases given the general link between business cycle and initiations.
- Gradual liberalisation of textiles following expiry of transitional quotas in major markets such as the EU and US. As Chinese imports of these sensitive products increase, it is possible that domestic industries will turn to anti-dumping where prices are low and there have been significant increases in imports.

1.2 The EC and India are the major users in 2006

The top 10 users (i.e. countries initiating anti-dumping investigations) in 2006 are shown below.

2006	
EC	35
India	31
Argentina	19
Brazil	12
Australia	10
China	10
Egypt	9
Canada	8
Malaysia	8
Turkey	8
US	7
All countries	197

The EC was the biggest user in 2006, closely followed by India. Argentina was also a significant user in 2006.

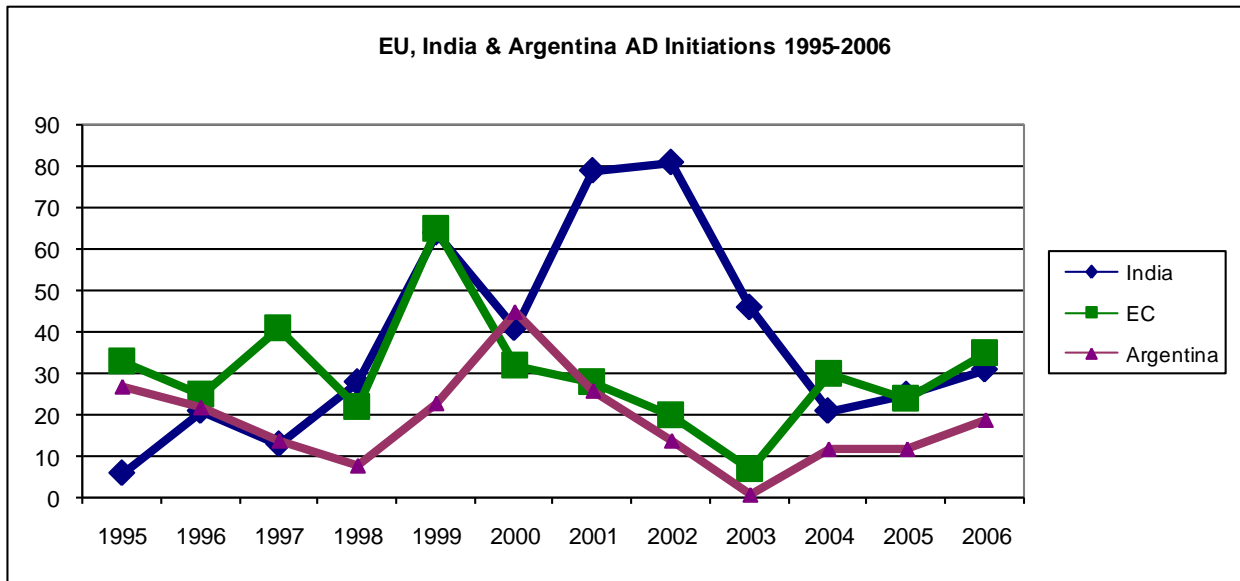
This can be compared with the main users for the period 1995-2006 shown in the table below. India is by far the biggest user during this period, with the US and EC in 2nd and 3rd place.

⁵ In 2006, of the 16 disputes started as of November 17 2006, 7 of them (43.8%) relate to anti-dumping (an even higher proportion than the trend over the past decade).

1995-2006	
India	456
United States	373
EC	362
Argentina	223
South Africa	200
Australia	189
Canada	142
China, P.R.	134
Brazil	134
Turkey	109
Mexico	91
Korea, Rep. of	84

1.3 The top users have been increasing AD activity

Given that global anti-dumping activity has fallen to its lowest level for a decade, it is something of a paradox to see that the trend for the biggest users in 2006 is an upward one.



Whereas the global trend has remained at relatively low levels in 2006, it is clear that the EC and Argentina trend has been upward since 2003 and since 2004 for India.

In the case of the EC, the increase is particularly striking. The EC initiated the 3rd most cases in 2006 since the creation of the WTO 1995. Only in 1997 and 1999 did it initiate more anti-dumping investigations.

This can be contrasted with other major users. For example, the US had its lowest level of anti-dumping activity for more than a decade in 2006. Likewise, China had its lowest level of anti-dumping cases for 6 years.

The fact that anti-dumping cases are increasing in certain countries is evidence of the fact that this is still an instrument very much in use. Despite continued high commodity prices which have a clear impact on the number of cases (as outlined above), anti-dumping activity has remained buoyant in certain countries.

1.4 Other ways of measuring anti-dumping activity

1.4.1 Percentage of cases ending in measures

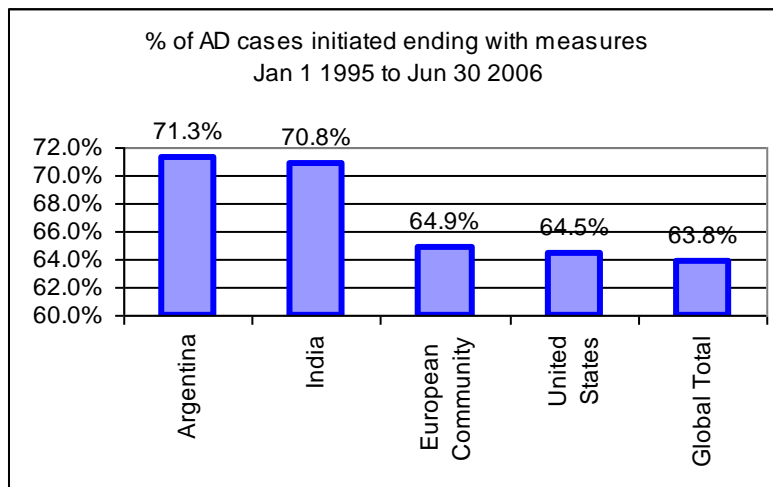
Over the years, many people have commented on the methodology for measuring anti-dumping activity, pointing out that the number of initiations is not the only measure.

Initiations are a good measure of overall activity in anti-dumping activity. The very initiation of an investigation often has significant effects on the market in question and, thus, the number of investigations is the single most important indicator of global anti-dumping activity.

That said, not every anti-dumping investigation ends with measures. Thus, it is also interesting to look at the number of **measures**, which the GTP report has done from time to time.

For the four top users during the period 1995-2006, we can look at the number of measures adopted relative to the number of initiations.

1995-2006 (6mths)	Measures	Initiations	% measures
Argentina	149	209	71.3%
India	323	456	70.8%
EC	224	345	64.9%
United States	236	366	64.5%
Global Total	1875	2938	63.8%



This analysis uses WTO figures which, at the time of writing, only go up to June 2006 and are not yet available for the full year. However, given that the figures are aggregated over more than a decade, this makes no difference to the trends being illustrated.

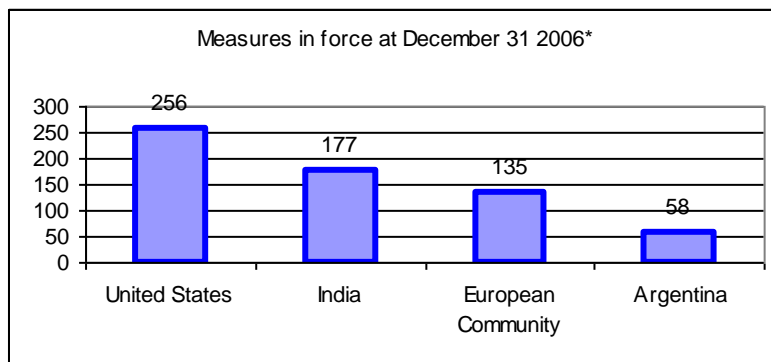
This is not a 100% accurate method for counting how many initiations end with measures. This is because some of the measures in 1995 (and perhaps even 1996) were cases initiated prior to 1995, meaning that the initiations are not counted but the measures are. At the same time, most initiations in 2006 will not have decisions on measures until 2007. However, given that this data is calculated over 13 years, this is not an issue which will significantly affect the outcome in terms of the relative rankings of the countries.

It can be seen that all four of the top users adopt broadly similar levels of measures as a proportion of cases initiated. However, Argentina and India are both somewhat above that of the EC and US, the latter two of which are at very similar levels.

1.4.2 Duration of measures

Some people have also commented that the duration of measures should be considered. This can be gauged by looking at the number of anti-dumping measures actually in place in 2006. The following table shows the number of anti-dumping measures at December 31 2006 (except for India which is at 30 June 2006).

United States	256
India	177
EC	135
Argentina	58



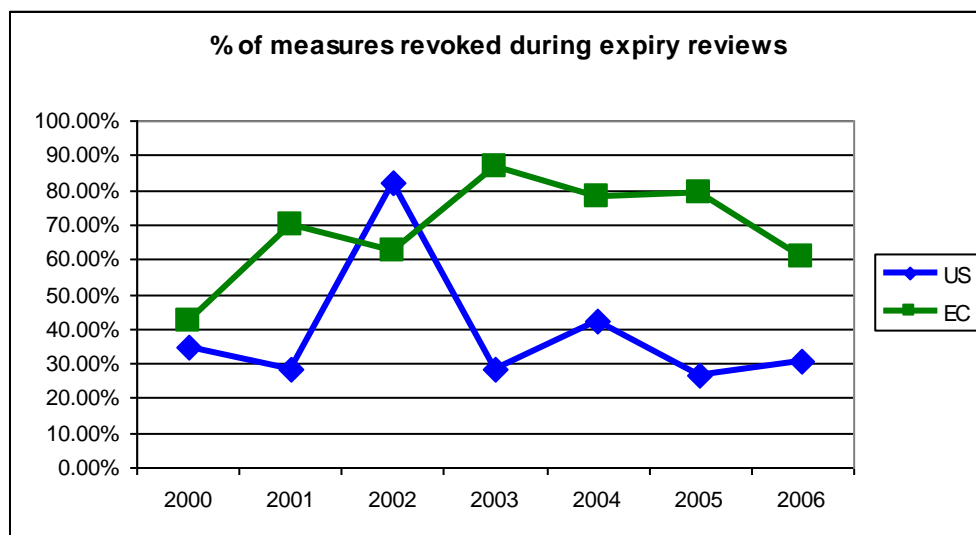
* = for India, measures are as at June 30 2006

This table suggests that there are striking differences in the duration of measures. The US and EC, for example, have similar levels of measures adopted as a proportion of cases initiated. The fact that the US has significantly more measures in effect must mean that US measures last longer. In effect, what this suggests is that more US measures are continued beyond the original 5 years than for the EC.

This can be tested by looking at the proportion of expiry reviews resulting in measures being revoked by the US and EC respectively (cases where no expiry review is initiated and measures automatically expire are counted as 'revocations'). The following table is based on expiry review decisions during the period 2000 to 2006.

Proportion of expiry reviews resulting in revocation of measures

	US	EC
2000	34.57%	42.11%
2001	28.13%	70.00%
2002	81.82%	62.50%
2003	28.57%	86.67%
2004	41.94%	78.26%
2005	26.67%	79.41%
2006	30.56%	60.71%
95-06	33.95%	69.89%



This data was created from information in the annual reports of DG Trade on TDI statistics and the website of the US Import Administration, Department of Commerce.

This analysis confirms that the explanation behind the US having significantly more measures in place than the EU is that, on average, US measures are in place longer than those of the EC.

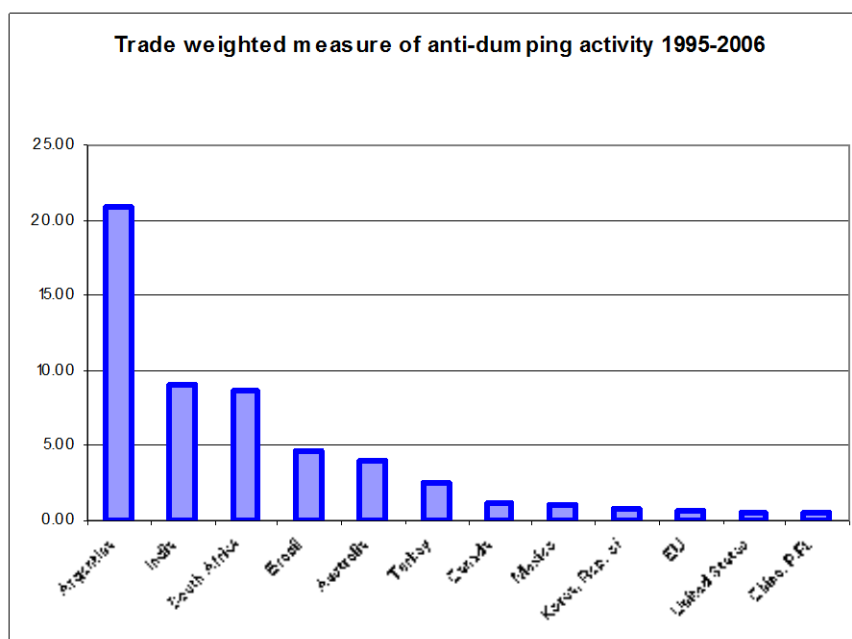
It is interesting to note that, despite Argentina appearing to have a relatively higher propensity to adopt measures than the other three major users as shown in 1.4.1 above, it has the lowest number of measures in place. Of course, this is partly explained by the fact that Argentina has had the fewest cases of the four major users. However, it is also explained by the fact that Argentina does not automatically adopt measures for 5 years. According to its notifications to the WTO, many Argentinean measures are imposed only for 3 years and some even for 2 years.

1.4.3 Trade weighted anti-dumping activity

As a final point on making fair comparisons in TDI activity, it is also necessary to take into account the volume of imports. A country with a higher level of imports may, by definition, have more anti-dumping cases.

The following table shows % of global initiations for the period 1995-2006 and % of global imports for 2005. The ratio of % of global initiations relative to % of global imports gives an indication of whether a country is adopting a lot of anti-dumping measures relative to its share of world imports.

	% of AD Initiations 1995 to 2005	% of global imports	Init/imports
Argentina	7.4%	0.4%	20.82
India	15.1%	1.7%	9.06
South Africa	6.6%	0.8%	8.60
Brazil	4.4%	1.0%	4.63
Australia	6.2%	1.5%	4.04
Turkey	3.6%	1.4%	2.48
Canada	4.7%	3.9%	1.19
Mexico	3.0%	2.9%	1.05
Korea	2.8%	3.2%	0.86
EC	12.0%	18.0%	0.66
US	12.3%	21.4%	0.58
China, P.R.	4.4%	8.1%	0.54
Global	100.0%	100.0%	1.00



This evidence suggests that, of the big users, Argentina and India are much more intensive users, given their level of imports, than the US and EC. However, it should be noted that just because a country imports less overall, it does not mean that it does not have the same problems caused by dumped imports, albeit on a smaller scale. It is not automatically the case that lower overall imports must mean lower rates of anti-dumping activity.

1.5 China remains the main target in 2006

The following table shows the top 10 targets for 2006.

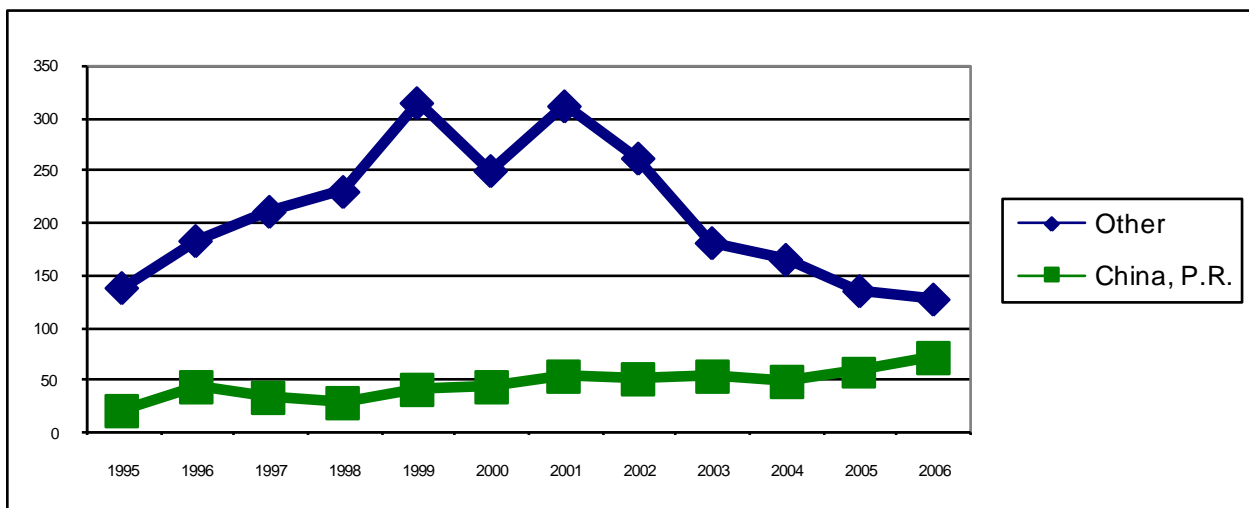
China, P.R.	71
Taiwan	13
USA	10
Korea, Rep. of	10
EU + MS	10
Brazil	9
Thailand	9
Japan	9
Indonesia	8
India	7

This can be compared with the period 1995-2006

China, P.R.	540
EU+MS	502
Korea, Rep. of	228
United States	172
Taiwan	173
Japan	134
Indonesia	129
India	127
Thailand	120
Russia	102
Brazil	93

China is the biggest target in 2006, continuing the clear trend that exists for the period 1995-2006. However, it is remarkable that China as a target has not experienced the same fall in anti-dumping activity that the rest of the world has seen. In looking at the EC plus its Member States for the period 1995-2005, it is seen that the EC was also a major target of anti-dumping investigations but this is not so in 2005 and 2006 (see section 1.6 below for more on this point).

Global AD initiations against China and other countries 1995-2006



	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Global AD initiations	157	225	243	257	354	292	364	312	232	213	191	197
Initiations against China	20	43	33	28	40	43	53	51	52	49	57	71

This means that the proportion of total AD cases targeting China continues to increase very significantly on a long term upward trend. The trend in 2006 suggests that this continues to rise at a rapid rate.



	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Totals
%China of total	12.7%	19.1%	13.6%	10.9%	11.3%	14.7%	14.6%	16.3%	22.4%	23.0%	29.8%	36.0%	17.7%

The fact that China has seen a growth in AD activity targeted against its exports during a period of generally low AD activity suggests that one would expect even further growth in cases against China should the cycle of AD activity increase again as earlier suggested.

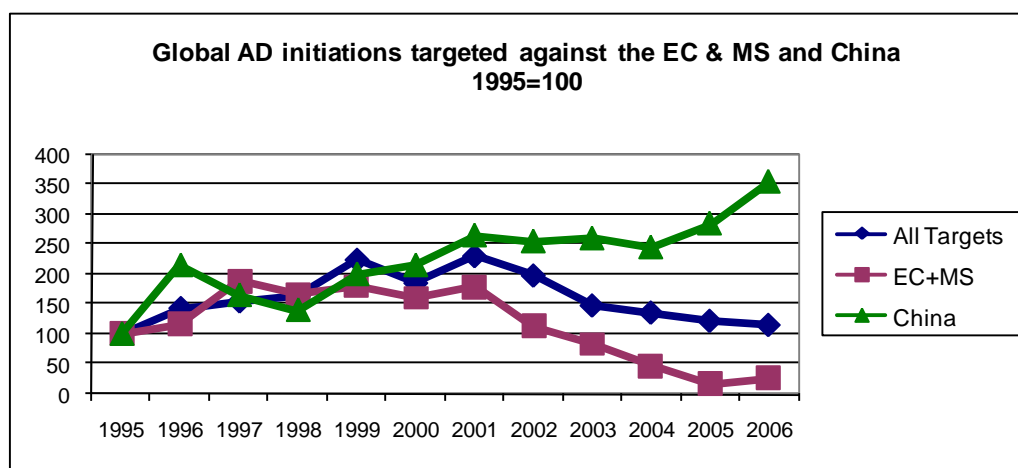
1.6 Trend in investigations against the EC is the complete opposite of China

Whereas the trend in AD activity against China has consistently increased, especially in the past two years, the trend in investigations against the EC is quite the opposite. The EC (and its Member States) has been one of the major targets of global AD activity since the creation of the WTO in 1995.

Looking at the actual number of cases initiated, it is clear that between 1995 and 2002, the EC was as significant as China as a target of global AD activity⁶. However, from 2003 onwards, cases against the EC fell very significantly at the same time that they increased against China.

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
All Targets	157	225	243	257	354	292	364	312	232	213	191	197
China, P.R.	20	43	33	28	40	43	53	51	52	49	57	71
EC + MS	36	42	68	60	65	58	64	41	30	17	6	10

The fall in cases against the EC has been much more dramatic than the fall in global AD activity, and completely opposite to that of China, as is apparent in the following graph.



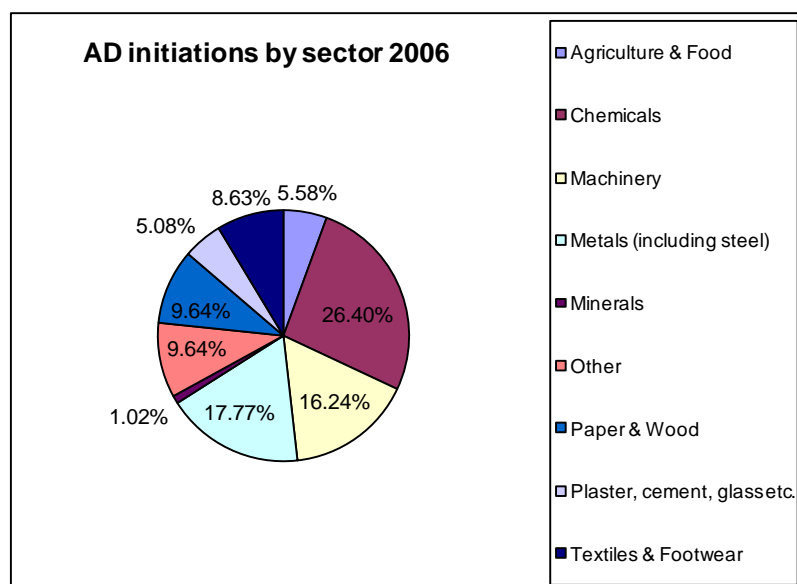
⁶ Note that some countries initiate cases against the EU as a whole while others initiate against individual Member States. The WTO statistics count against the EU on product X as 1 investigation, while it would count investigations against France, Germany and the UK on product X as 3 investigations. The statistics here aggregate the cases against the EU and the Member States. This could result in double-counting in that the second example above should be counted only as 1 case. This means that the EU+MS statistics may a slight over-estimate of AD activity against the EU. However, this does not dramatically affect the overall trends commented on here.

It is not obvious why there should have been such a significant fall in investigations against the EC. Of course, it is possible that the cyclical effect of AD activity has, for some reason, become more pronounced in the EC than for the global trend. However, it is also conceivable that some of this fall may be accounted for by greater caution to the EC's active stance in dispute settlement on AD and other trade protection cases.

1.7 Chemicals and metals remain most targeted sectors, though their relative importance has diminished

The sectors targeted in 2006 are shown in the following table and graph:

Chemicals & allied products	52	26.40%
Metals & metal articles (including steel)	35	17.77%
Machinery	32	16.24%
Other	19	9.64%
Paper & Wood	19	9.64%
Textiles & Footwear	17	8.63%
Agriculture & Food	11	5.58%
Stone, Plaster, Cement, Asbestos, Mica or Similar Materials; Ceramic Products; Glass and Glassware	10	5.08%
Minerals	2	1.02%
TOTAL	197	100.00%



More than a quarter of cases in 2006 involved chemicals and around a little less than one fifth involved metals and metal products (including steel).

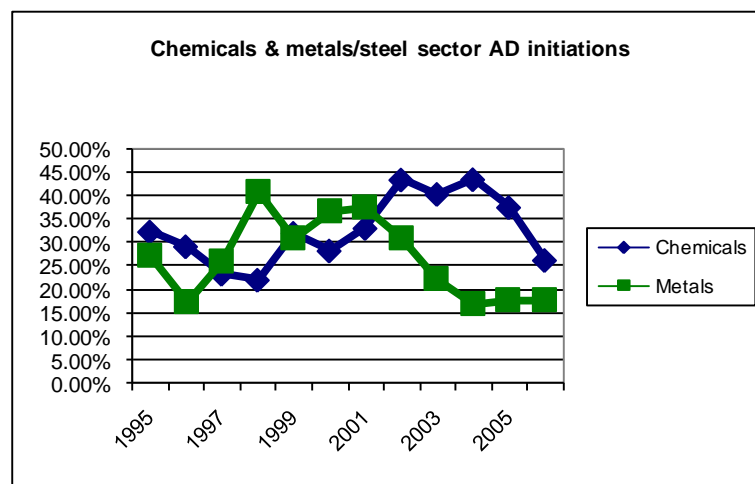
This can be compared with the trends in earlier years, where chemicals and metals have traditionally accounted for around one third of cases each.

Sectors targeted 1995-2006

Chemicals & allied products	996	32.90%
Metals & metal articles (including steel)	856	28.28%
Machinery	292	9.65%
Textiles & Footwear	244	8.03%
Paper & Wood	192	6.08%
Agriculture & Food	151	4.99%
Other	133	4.39%
Stone, Plaster, Cement, Asbestos, Mica or Similar Materials; Ceramic Products; Glass and Glassware	107	3.50%
Minerals	66	2.18%
TOTAL	3037	100.00%

Over the last decade, more than 60% of AD investigations have involved chemicals or metals/metals articles. However, the fall in anti-dumping activity in recent years has been particularly prominent in those sectors.

This is seen in the following graph which shows the trend of chemicals and metals investigations as a percentage of total investigations for the period 1995-2006.



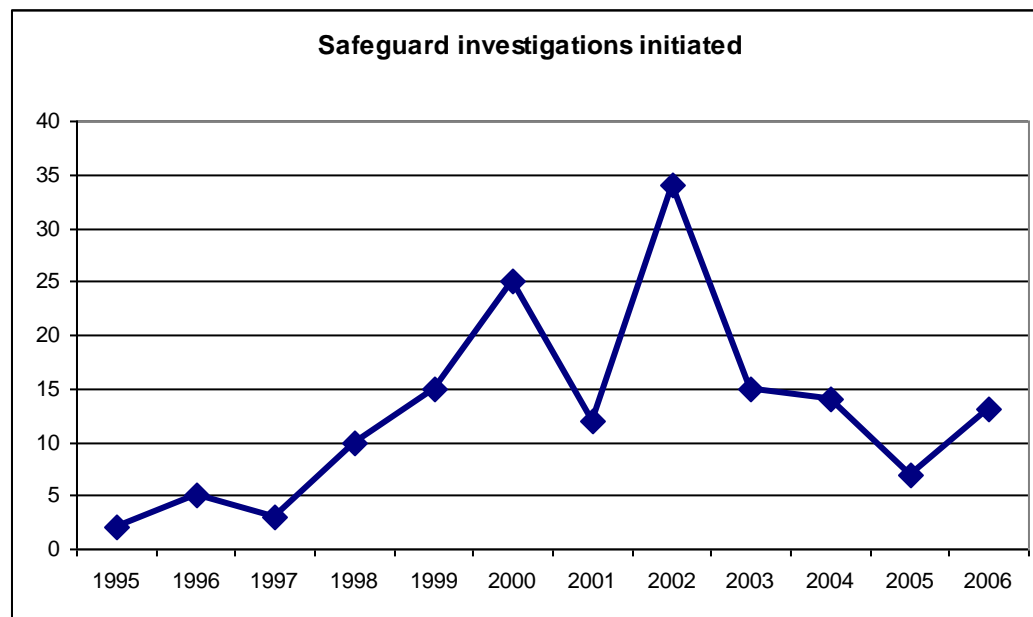
Given that there is clearly a link between the business cycle and anti-dumping activity, and both of these sectors have many commodity type problems where pricing is cyclical, it is not surprising that the relative importance of these sectors as AD targets fluctuates. However, at the point in the future that the business cycle deteriorates, it can be expected that the relative importance of these two sectors in anti-dumping activity will again increase.

It can also be noted that the number of anti-dumping investigations involving textiles will increase in the next few years. Many products remain protected by quotas despite the expiry of the MFA quotas (the new EC and US quotas expire in 2007 and 2008 respectively). Thus, unless these quotas are renewed, it is highly likely that the importance of textiles as an AD target will increase.

In the longer term, further agricultural liberalisation and subsidy reduction is likely to result in more AD activity involving agriculture and food products.

2 Trends in safeguard activity

In 2006, there appears to have been an increase in safeguard activity from the levels in 2005.



	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total safeguard investigations initiated	2	5	3	10	15	25	12	34	15	14	7	13

Countries initiating safeguard investigations in 2006 are shown in the following table. Turkey initiated 5 safeguard investigations in 2006, as many as it has previously initiated in total.

Turkey	5
Tunisia	2
Philippines	1
Argentina	1
Indonesia	1
Chile	1
Jordan	1
Panama	1

This can be compared with the trend over the past decade. The following table shows safeguard initiations for the period 1995-2006.

Safeguard initiations 1995-2006

India	15
Chile	11
Jordan	11
United States	10
Turkey	10
Czech Republic	9
Philippines	7
Ecuador	7
Argentina	6
Bulgaria	6
Venezuela	6

The above trends are based on Member notifications of safeguards to the WTO secretariat. However, it is arguable that in, some cases, this under-estimates the level of safeguard activity. In 2002, for example, the EC initiated a large safeguard steel action against 21 different products. These were all analysed as 21 different products, some of which resulted in measures and some which did not, and should therefore be treated as 21 different investigations. In a similar way, the US steel safeguard action initiated in 2001 covered 33 separate product categories. In both cases, the EC and US notified these investigations in one document and the WTO Secretariat has therefore counted each of them as one investigation. A similar example occurs in 2006. Chile initiated a case against ‘dairy products’, which included powdered milk, liquid milk and Gouda cheese. The trends in imports for these three products are analysed separately and it is arguable that this should be counted as 3 cases.

Based on what we believe to be a more accurate methodology, the number of investigations in 2001 is actually in excess of 53 rather than 12, and in 2002 more than 130 rather than 24.

In comparing these statistics with the number of AD actions, it is important to note that each safeguard case may involve multiple supplying countries. Thus, whereas an AD investigation on a product from 5 countries would count as 5 cases in the WTO statistics, a safeguard investigation on the same product would count as only 1 (even though there may, in fact, be more than 5 supplying countries). This is an additional reason why the plain safeguard notification numbers under-estimate the protective impact of such measures through measuring them in the same way as AD measures.

3 Trends in countervailing duty activity

Countervailing duty (CVD) investigations have remained relatively low in 2006, with only 7 cases initiated as the following graph shows:

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
10	7	16	25	41	18	27	9	15	8	6	8

The investigations in 2006 were opened by 4 countries:

US	3
Canada	3
Chile	1
EC	1

As the following table below shows, 3 of the 4 users in 2006 are also the main AD users for the period 1995-2006. This indicates that countervailing duties continue to be a relevant trade protection tool, even if not extensively used currently.

CVD investigations initiated 1995-2006

United States	75
EC	46
Canada	20
South Africa	11
Australia	6
New Zealand	6
Chile	5
Egypt	4
Argentina	3
Peru	3

As mentioned in several previous reports, there are two key reasons why the anti-subsidy instrument will always remain less used than the anti-dumping option:

- (a) Anti-subsidy investigations are politically more sensitive due to the fact that another government is being investigated as well as an exporting industry. Only the latter is investigated in an anti-dumping investigation.

- (b) Subsidy calculation methodologies are less established than dumping calculations. Thus, countries using anti-subsidy measures for the first time are more vulnerable to challenge than if they "copy" established dumping methodologies. Given that there have been 23 WTO disputes involving countervailing duties, and all 8 that went to a panel were found to be WTO inconsistent, the 'risk' of using CVD is relatively higher than for anti-dumping.

That said, neither the US or EC have previously used countervailing duties against China. However, in 2006, the US initiated an investigation into subsidies on coated free sheet from China. Further, as part of the current review of trade remedies/trade defence instruments taking place in the EC, consideration is being given to using the CVD instrument against China where imports are subsidised. Thus, it can perhaps be expected that countervailing duty activity against China will increase in the future.

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