

Global Trade Protection Report 2007

UPDATE 18 OCTOBER 2007

*A review of global trade protection activity
(anti-dumping, countervailing duty and safeguards)
for the first six months of 2007*

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1 Trends in anti-dumping activity

1.1 Overall anti-dumping activity at record low

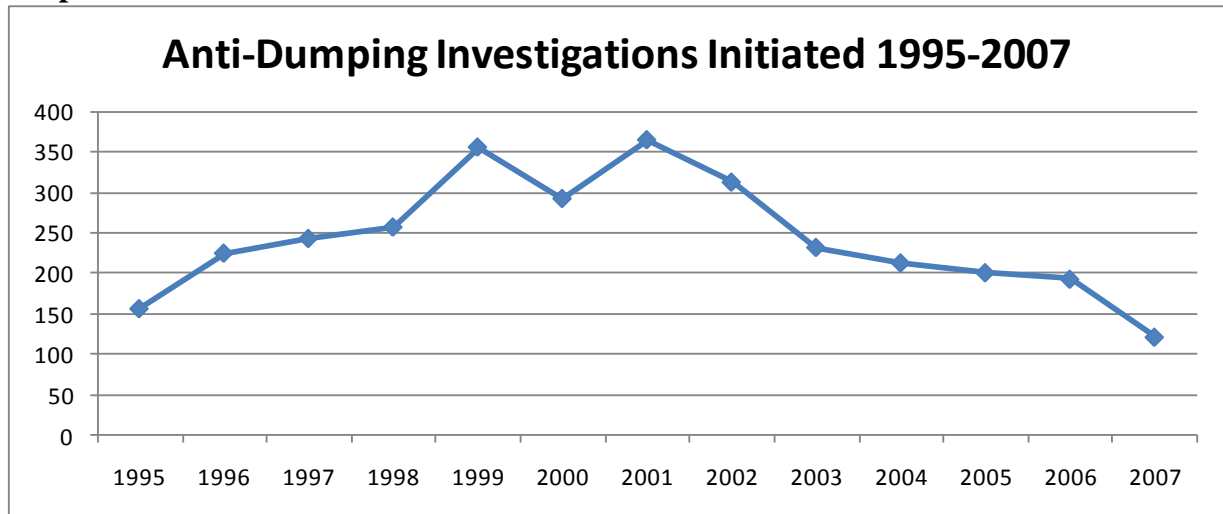
Anti-dumping (AD) activity¹ in the first six months of 2007 has dropped to a record low since the creation of the WTO in 1995.

Table 1 - Anti-Dumping Investigations Initiated²

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007 (6months)
157	225	243	257	355	292	364	312	232	213	201	193	61

The trend since the creation of the WTO in 1995 is shown in the following graph. The figure for the first six months of 2007 is annualised for comparison purposes.

Graph 1

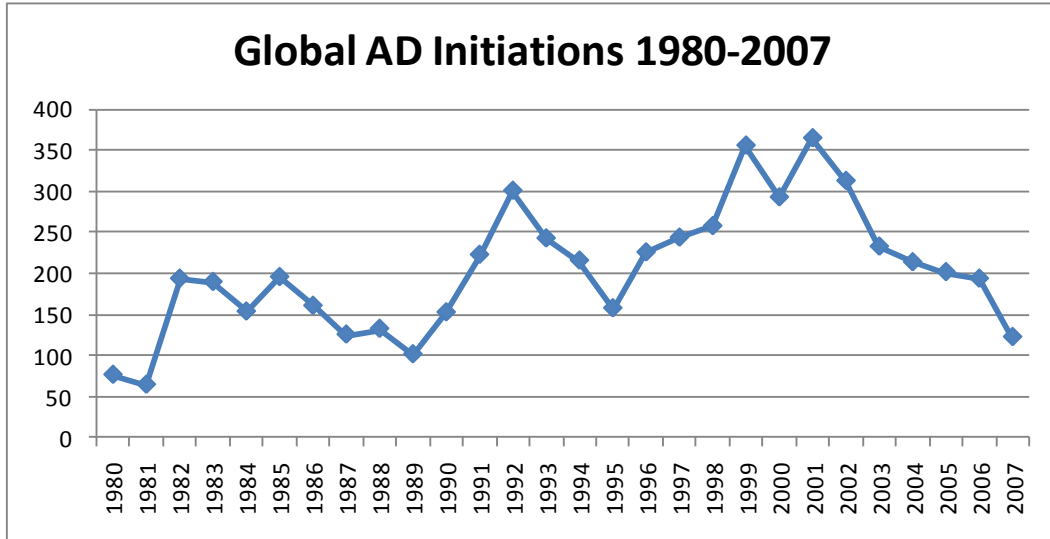


¹ Anti-dumping activity is measured by the number of new anti-dumping (AD) investigations initiated (n.b. does not include reviews). If one country initiates an investigation against a particular product from five countries, this will be recorded as five cases. Although AD measures will not be adopted in every case, the initiation of a case alone can have an effect on trade. The number of cases initiated is the best indicator of the overall level of AD activity and is the method used by the WTO. Other ways of measuring AD activity include the number of actual measures adopted, the duration of measures and how often they are reviewed, and initiations/measures weighted by trade flows. See the previous Global Trade Protection (GTP) Report April 2007 (updated in July 2007) available at www.antidumpingpublishing.com.

² In earlier 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 1995-2006 used in this report is based instead on the statistics provided by the WTO Secretariat. 2007 data is taken from Member notifications to the WTO supplemented by additional information where available. See the statistics section of antidumpingpublishing.com for more discussion of differences between WTO and GTP data. Pre-1995 figures are taken from "Anti-Dumping Action in the US and Around the World: An Analysis of International Data" 1998 Congressional Budget Office. Thanks to APJ-SLG Law Offices and Allende & Brea for clarification of certain points relating to India and Argentina cases respectively.

From graph 1, it is clear that the level of anti-dumping activity in the first six months of 2007 is currently at unprecedented low levels. On an annualised basis, the first six months saw the lowest number of anti-dumping investigations initiated since the WTO was first created. Looking back over a longer period in graph 2, it can be seen that current activity is now around the levels of the early 1980s when anti-dumping was really starting to take off as a global phenomenon.

Graph 2



Looking over a longer period, Graph 2 confirms that seen that anti-dumping is cyclical with lows in AD activity in the early 1980s, around 1987-89, around 1995, and now in 2006/2007. The annualised rate of 122 initiations, based on the first six months of 2007, is actually below the average number of initiations for the period 1980-1989.

Table 2

Average number of initiations	
1980-89	139
1990-89	237
2000-07	241
Post WTO creation average	
1995-2007	243

Several years of AD activity have resulted in some people claiming that the level of anti-dumping activity will remain at these relatively low levels. Previous Global Trade Protection (GTP) Reports have argued that it would be a mistake to interpret the current low in AD activity as a permanent state. We still believe this to be the case for the reasons set out below. Before that, however, it is acknowledged that the current level of AD activity is very low relative to earlier years. Further, there are some factors which perhaps will limit the use of anti-dumping on a long term basis:

- As industries become more globalized, this does tend to reduce the level of anti-dumping activity. For example, the electronics industry was one of the most targeted sectors in the 1980s. Today, there are very few cases involving electronic products and one reason for this is that it has become a truly global industry. The main players produce on a global basis and there is no longer the same concept of national producers. In other industries, globalisation is making anti-dumping investigations more complex. The recent energy efficient light bulbs case in the EU is a good example of this. The main producers in the EU have production facilities both inside and outside Europe, yet only one of them supported the continuation of anti-dumping measures on this product.
- Challenges to measures at the WTO have clarified how the WTO Anti-Dumping Agreement should be interpreted and confirmed that the agreement has real teeth in terms of highlighting WTO inconsistent behaviour. Global trends in WTO dispute settlement involving trade protection measures have been analysed in ‘Global Trade Protection Disputes 2006’³.
- The focus of much anti-dumping activity is now on China. With a particular focus on one country, this may reduce the number of investigations against other countries.

On the other side, there are arguments to suggest that the current level of anti-dumping activity will increase.

- As previous GTP Reports have argued (see Global Trade Protection Report 2006 & 2007 at www.antidumpingpublishing.com for the most recent analysis), there is a high correlation between the **business cycle** and the level of anti-dumping activity. Global economic conditions have been relatively good in recent years, the result of which is that it is difficult to make a case that injury is being suffered. Many anti-dumping investigations concern raw materials and semi-finished goods, often subject to commodity type pricing. Commodity prices have remained relatively high in 2007. Once the business cycle turns for the worse, we can expect to see an increase in case of imports causing material injury. This will likely result in an increase in anti-dumping investigations. There are growing concerns about global economic developments, triggered by recent financial market instability. If conditions worsen significantly, the political pressure for protection from low price imports inevitably increases. Also, as profits worsen in such situations, evidence can be provided that injury is being suffered (even though it may well not have been caused by the low price imports).
- In **textiles & clothing**, despite the expiry of the Agreement on Textiles & Clothing, many transitional quotas remain against China. In the EU, for example, all quantitative limits will be removed by the end of 2007 and there are already rumours that there will be several anti-dumping investigations on textiles & clothing products in 2008. In the US, quotas will expire at the end of 2008. Interestingly, while major export markets have been restricted for Chinese products, other countries previously subject to MFA quotas.
- Although the point is made above that the focus on China may result in fewer AD investigations against other countries, this could work in the other direction particularly on textiles. While quotas remain on Chinese products in key markets such as the US and EU, **other countries have been able**

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.

to increase their exports to those countries. As we start to see more textiles & clothing AD cases targeted against China, the possibility to cumulate imports in AD investigations, as well as concerns about non-discrimination, may result in other countries being included in investigations that are primarily targeted against China.

- Whether through DDA, regional, or bilateral agreements, **protection is falling (tariffs, subsidies)**. Trade protection activity will increase in importance in sectors that are currently still protected (particularly agriculture) but whose position will change in the future.

The overall trend in anti-dumping activity, therefore, is likely to be significantly upward from the current record low levels. However, it is highly unlikely that anti-dumping (and trade protection activity more generally) will increase to the levels seen around 1999-2001 given some of the restraining factors highlighted above.

1.2 India remains the major user in 2007

Of the 42 WTO Members that have used anti-dumping since 2005, only 14 countries initiated anti-dumping investigations in the first six months of 2007 as shown in table 2. The biggest users in this period were India and Argentina respectively, having been 2nd and 3rd in 2006 behind the EU. The EU did not initiate a single anti-dumping investigation in the first six months of 2007, having previously initiated the most cases in 2006.

Table 3 – AD Users 2007

India	14
Argentina	9
New Zealand	6
Brazil	5
Korea	5
US	5
China	4
Japan	4
South Africa	3
Mexico	2
Australia	1
Chile	1
Colombia	1

The users in 2007 can be compared with the main users for the period 1995-2006 shown in table 4 below. India is by far the biggest user during this period, with the US and EC in 2nd and 3rd place.

Table 4 – AD Users 1995-2006

India	457
United States	373
EU	362
Argentina	219
South Africa	200
Australia	189
Canada	142
Brazil	134
China, P.R.	133
Turkey	109
Mexico	92
Korea, Rep. of	88

Of the top 11 countries listed above, 3 of them initiated no anti-dumping investigations in the first six months of 2007; Canada, EU and Turkey. In addition, Mexico, Malaysia and Thailand (also in the top 20 for 1995-2006) also initiated no anti-dumping investigations in the first six months of 2007.

1.3 Initial evidence suggests a significant increase in quarter 3 of 2007

Initial indications on anti-dumping activity in quarter 3 of 2007 suggest that the second half of the year will see greater use of anti-dumping. Current evidence suggests that around 58 investigations are likely to have been initiated in the third quarter of 2007, almost equal to the total of investigations initiated during the first two quarters of 2007 (61 investigations). At that rate of increase, it is estimated that, during the whole of 2007, around 176 anti-dumping investigations will be initiated in total.

If the increase in quarter 3 2007 continues in quarter 4, the total of global AD investigations in 2007, although still relatively low, will not be as low as the 1995 level. Further, it would be well above the average for the 1980s, thus suggesting that the dramatic low of the first six months of 2007 is a temporary phenomenon. See the *GTP Quarterly Update (Q3.07)* for further information.

1.4 China remains the main target in 2007

China was again by far the biggest target in the first six months of 2007, accounting for around one third of all anti-dumping investigations initiated.

Table 5 – Main Targets of AD 2007

Target	Number of Investigations	% of total
China	18	30%
Korea	6	10%
Taiwan	5	8%
Japan	3	5%
Hong Kong	2	3%
India	2	3%
Indonesia	2	3%
Malaysia	2	3%
South Africa	2	3%
US	2	3%

The EU as a whole and four individual EU Member States were each subject to one AD investigation in the first six months of 2007. When added together, this puts the EU and its Member States as joint third target with Taiwan at 8% of total investigations.

This can be compared with the period 1995-2006, shown in table 6 below.

Table 6 – Main Targets of AD 1995-2006

Target	Investigations	Target	Investigations
China, P.R.	536	Germany	78
Korea, Rep. of	229	Malaysia	72
United States	175	EU	63
Chinese Taipei	173	Ukraine	59
Japan	135	South Africa	54
Indonesia	130	Italy	44
India	127	Spain	42
Thailand	120	Singapore	41
Russia	101	UK	41
Brazil	92	Mexico	39

As in recent GTP Reports, it can again be observed that anti-dumping investigations against the EU are at very low levels after previously being a principal target. During the period 1995-2006, the EU and its

Member States were the target in 559 investigations. Taken at face value, this suggests that the EU and its Member States have been the target of more anti-dumping investigation than China⁴.

Also, it can be noted that the EU has grown significantly from 15 to 27 Members in recent years. This also exaggerates the extent to which the EU has been targeted.

1.5 Chemicals accounts for two thirds of investigations

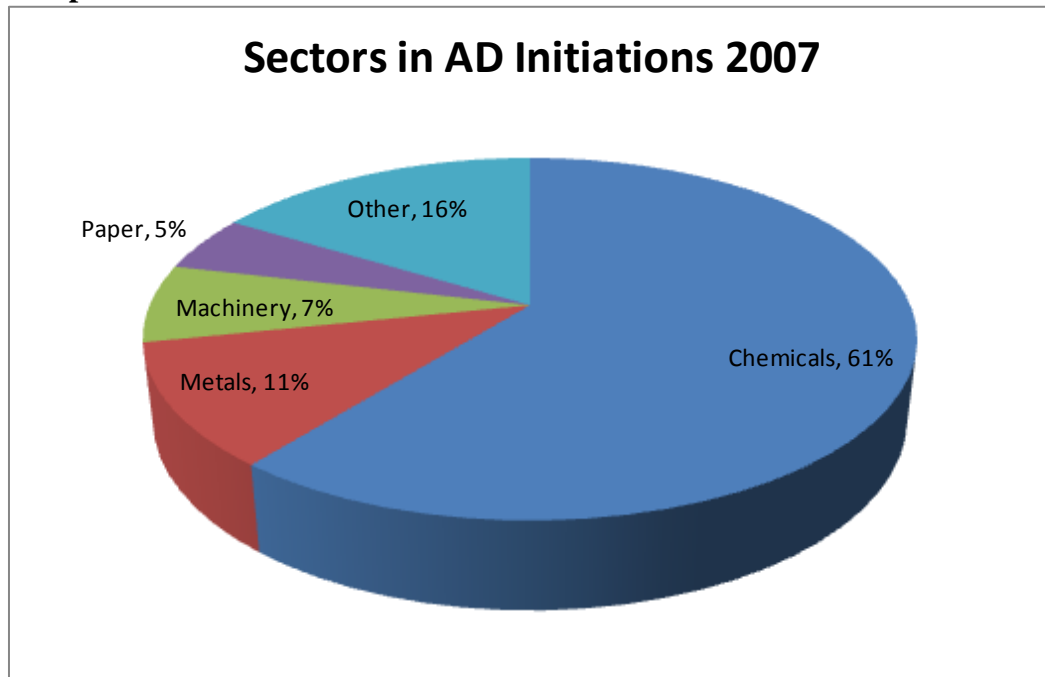
The sectors targeted in 2007 are shown in table 7 and graph 3 below:

Table 7 – Sectors targeted in 2007 AD initiations

Sector	No	%
Chemicals & allied products	37	60.7%
Metals & metal articles (including steel)	7	11.5%
Machinery & Mechanical	4	6.6%
Paper & Wood	3	4.9%
Agriculture & Food	2	3.3%
Stone, Plaster, Cement, Asbestos, Mica or Similar Materials; Ceramic Products; Glass and Glassware	1	1.6%
Textiles & Footwear	1	1.6%
Minerals	0	0.0%
Other	6	9.8%
TOTAL	61	100%

⁴ Note that some countries initiate cases against the EU as a whole while others initiate against individual Member States. The WTO statistics count a case 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 figures reported here for the “EU and its Member States” aggregate the cases against the EU and the Member States. This could result in double-counting in that the second example above could be counted only as 1 case. This means that the EU+MS statistics may be a slight over-estimate of AD activity against the EU. It can also be noted that the EU has now enlarged to 27 Member States, meaning that cases against new Member States are now counted as being cases against an EU Member State. However, these factors do not dramatically affect the overall trends commented on here and the EU & Member States have certainly been a major target alongside China over the years.

Graph 3

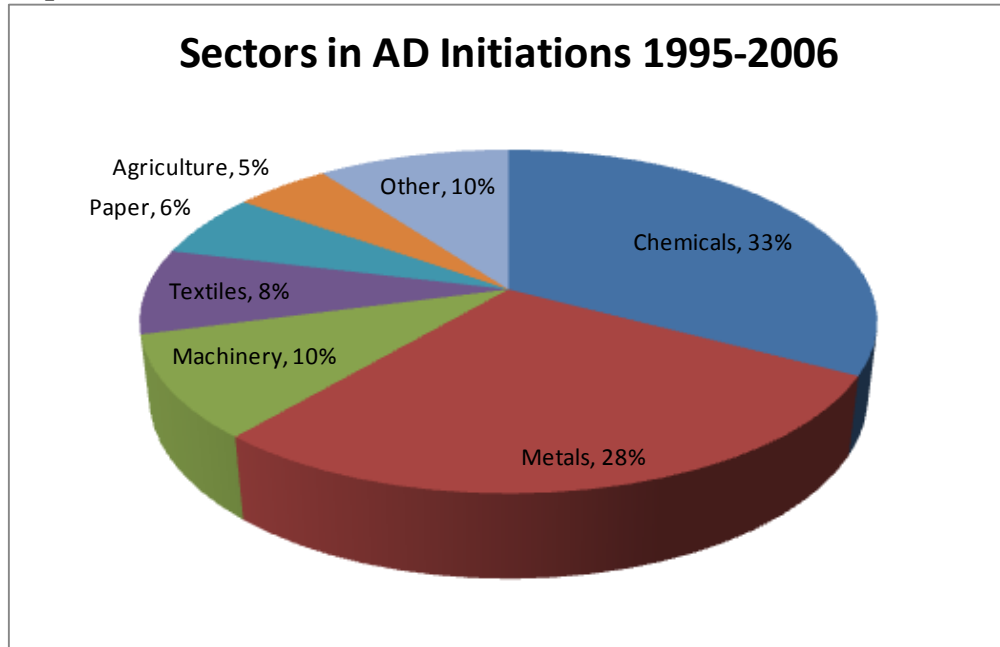


Incredibly, almost two thirds of anti-dumping investigations in 2007 involved chemicals. This is a much higher proportion than is typical for AD cases involving chemicals. As table 8 shows for 1995-2006, the share of anti-dumping investigations involving chemicals products has averaged around one third of cases.

Table 8 - Sectors targeted 1995-2006

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

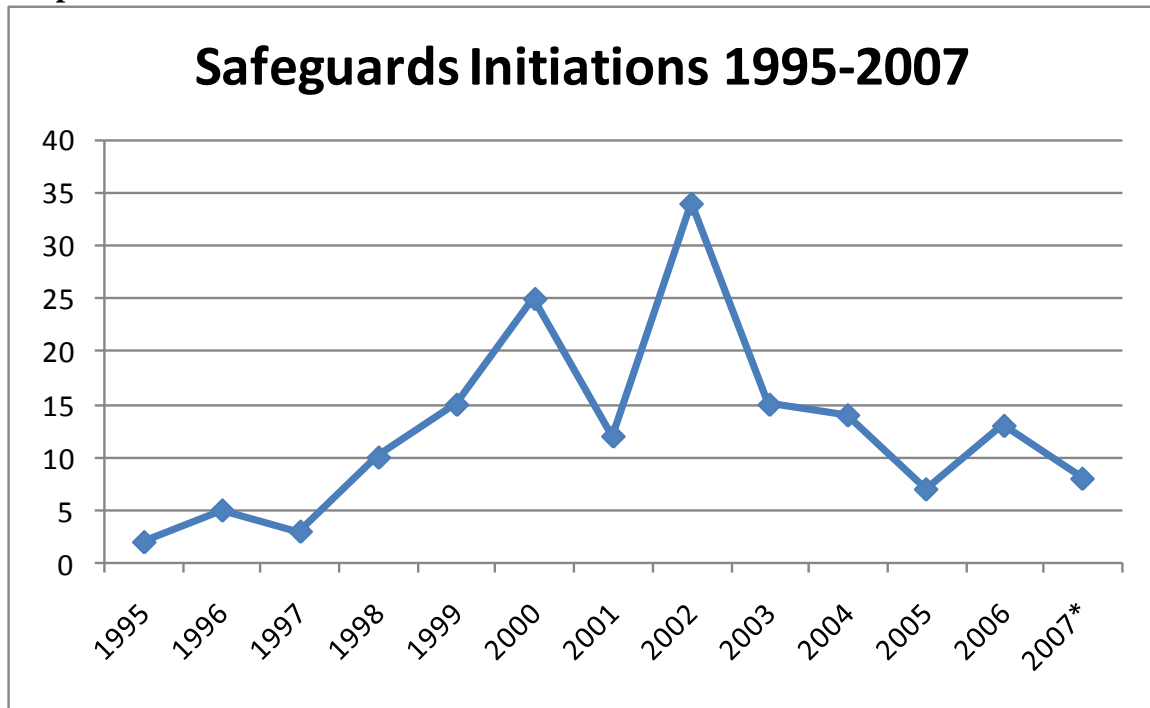
Graph 4



2 Trends in safeguard activity

Safeguard activity remains modest and well below the high levels of 2000 and 2002.

Graph 5



*2007 annualised based on six months.

Table 9

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007*
Total safeguard investigations initiated	2	5	3	10	15	25	12	34	15	14	7	13	4

*2007 based on 6 months

Countries initiating safeguard investigations in the first six months of 2007 were Jordan (ceramic tiles), South Africa (2 cases; lysine & travel goods) and Turkey (spectacle frames).

This can be compared with the trend over the past decade. Table 10 shows safeguard initiations for the period 1995-2006.

Table 10 - 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

Of the 2007 users, it can be seen that both Jordan and Turkey have become relatively active users of safeguards. South Africa, however, is a new user, having initiated its first safeguard investigations in 2007.

As has been pointed out in previous GTP reports, 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.

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 34.

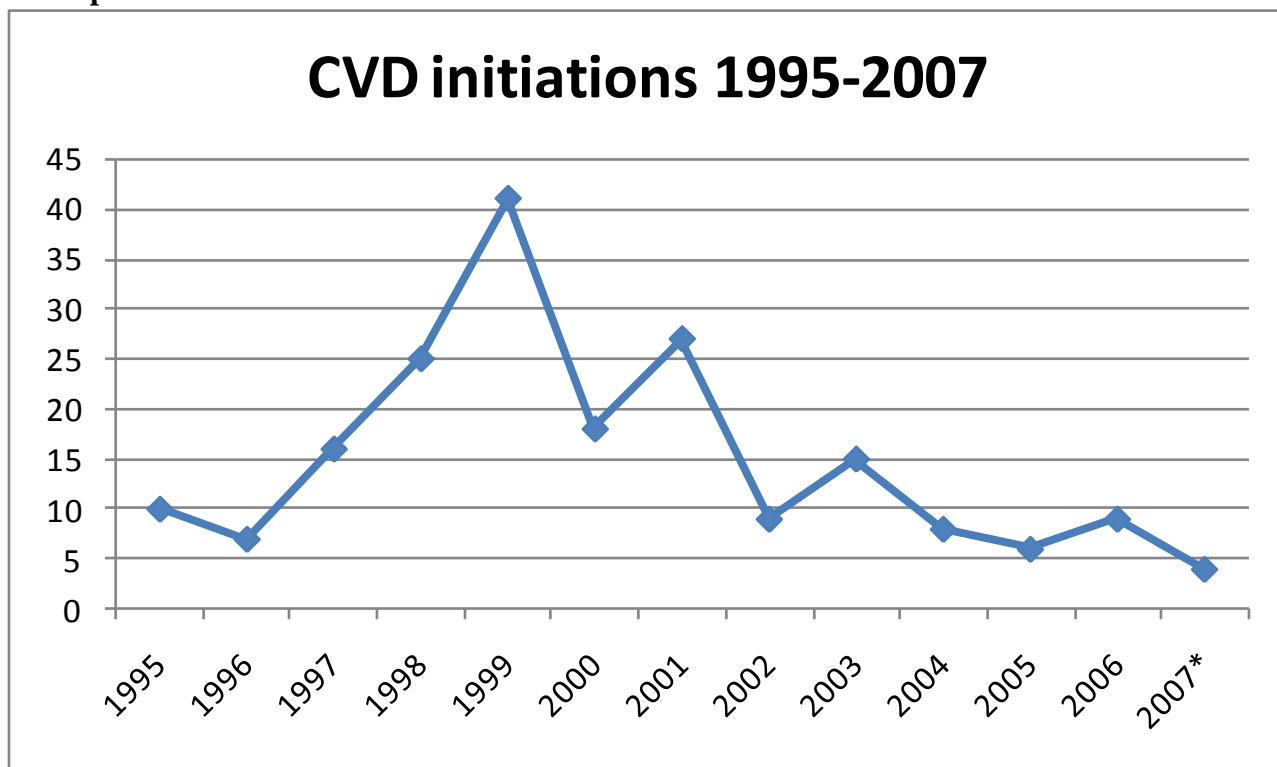
In comparing these statistics with the number of AD actions, it is important to note that each safeguard case may involve multiple supplying countries. Thus, whereas an AD investigation on a product from 5 countries would count as 5 cases in the WTO statistics, a safeguard investigation on the same product 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 were also at very low levels based on the first six months of 2007 as graph 6 shows:

Graph 6



*2007 annualised based on 6 months

Table 11

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007*
10	7	16	25	41	18	27	9	15	8	6	9	2

Whilst 17 countries have initiated CVD investigations since 1995, only two investigations were initiated in the first six months of 2007; Chile (Meat of certain fowl from Argentina) and Brazil (PET film from India).

The major users of CVD for 1995-2006 are shown in table 12 below.

Table 12 - CVD investigations initiated 1995-2006

United States	75
EU	46
Canada	20
South Africa	11
Australia	7
New Zealand	6
Chile	5
Egypt	4
Argentina	3
Peru	3

As mentioned in several previous reports, there are several 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.
- (c) Petitioners can find it more difficult to obtain information on foreign governments' subsidy schemes than data on prices necessary to calculate dumping margins.

That said, the third quarter of 2007 has seen a significant increase in CVD investigations against China (see the GTP Quarterly Update (Q3.07) for more details), primarily by the US.

It is an interesting question whether CVD investigations against China are likely to increase. Traditionally, CVD have not been used against China while it was considered a non-market economy. However, Canada now has 3 countervailing duties in place against China (steel fasteners, laminate floorings and copper pipe fittings) and the US adopted preliminary countervailing duties of 10.9% to 20.35% in May 2007 on coated free sheet paper from China.

As China obtains market economy status under the anti-dumping regimes of its major export markets (particularly the US and EU), the level of anti-dumping duties applied against China is likely to be significantly lower than those currently applied. This may happen in the next few years but will certainly happen within the next 9 years given that the provisions allowing WTO Members to apply non-market economy methodologies expire in 2016. It is therefore likely that countries will increase their usage of CVD as anti-dumping is turned into a blunter instrument against China.

It can be noted that China has requested consultations with the US regarding the CVD (and parallel AD) on coated free sheet paper under the WTO Dispute Settlement Understanding, the first step towards requesting a panel ruling. The future of CVD against China will depend on what happens at the WTO. Whilst the US is pushing ahead with numerous CVD investigations against China, it can be expected that other countries will be cautious pending any WTO ruling on the issue, particularly given the controversy and methodological issues highlighted above.

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