
Has the Crisis Changed the Use of Antidumping? A Comparative Analysis

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Using detailed trade and tariff data, in this chapter various features of the antidumping investigations initiated in the first three quarters of 2009 are contrasted with similar investigations for the same three quarter period in 2007. This comparison reveals whether the targets of antidumping investigations have changed during the recent crisis.

Introduction

Previous economic downturns have seen many governments resort to greater use of antidumping measures. Recent trade policy monitoring initiatives have reported a substantial increase in antidumping actions in the third quarter of 2009 and, the evidence so far for the fourth quarter appears to reinforce this impression (Bown 2009, Global Trade Alert database). Given the considerable research and evidential base on antidumping investigations, duties, and their effects, surely policymakers and firms have some idea what to expect from the recent increase in antidumping filings? Much depends on whether during the current global economic crisis antidumping is being employed in the same way as before. The purpose of this chapter is to assess whether certain pre-crisis empirical regularities concerning antidumping filings have carried over to filings during the crisis era.

Checking whether anti-dumping has been employed differently during this crisis may have policy and commercial significance. If the characteristics of the products and importers targeted for such investigations changed during the past 12 months, then this directly impinges on the commercial interests of trading partners. Moreover, given the discretion built into the implementation of antidumping legislation, during a severe global economic downturn governments may employ antidumping differently than they do in typical business conditions. For example, falling prices may raise fears that foreign firms are engaging in predation, a commercial practice that can get caught in the antidumping net. In other cases, governments may want to use antidumping measures that affect many import sources as a substitute for safeguard actions, the multilateral rules on the latter requiring a higher legal standard to be met than on the former.

In addition, governments may be tempted--and encouraged by some import-competing domestic firms--to use antidumping investigations during a crisis to effectively reverse the effects of previous tariff cuts. Of course, it may be the case that the relative importance of the different motivations for, and factors affecting, the targeting of antidumping investigations have not changed during the recent economic crisis

and confirming such a finding would be useful.

To make a meaningful comparison between different features of antidumping usage before and during the recent global economic downturn two samples of antidumping investigations were collected. One sample includes all of the known antidumping investigations that were initiated in the first three quarters of 2009. Likewise, the other sample was created from all the known investigations two years prior to the first sample, namely, in the first three quarters of 2007. It being taken as given that any turbulence in global financial markets did not influence international trade flows and the enforcement of antidumping legislation in the first nine months of 2007, this period therefore being taken as a representative sample of the pre-crisis era. For each investigation (disaggregated) HS (2002) 6-digit level trade data was collected on the imports from all foreign sources of the product that would subsequently come under investigation. Moreover, the World Trade Organization's Tariff Download Facility was used to assemble information on the Most Favoured Nation tariff rates applied on a product by a given government in the years before any antidumping investigation was initiated.

It should be acknowledged up front that, for several reasons, any conclusions drawn from the empirical analysis conducted here is necessarily preliminary. For a start the global economy has not fully recovered and more crisis-era antidumping investigations may be launched. Second, some may prefer a different benchmark for the pre-crisis era. While subsequent analyses may call for the findings and policy implications of this chapter to be revisited, given the pervasive use of antidumping at present putting together some fact-driven assessment for public and private sector decision-makers may be of interest.

The remainder of this chapter is organised as follows. In the next section, more information on the two samples of antidumping investigations is presented. The third section reports the main findings and the fourth draws out some implications for decision-makers and for interpreting contemporary policymaking as it relates to antidumping.

Two samples of antidumping filings

The comparisons made later in this chapter are between two samples of antidumping cases, one of those cases initiated in the first three quarters of 2007 and a second for the same quarters in 2009.¹ The samples contain similar numbers of antidumping investigations; with 63 in the pre-crisis sample and 84 in the crisis sample.² The antidumping cases in these samples were initiated by 14 individual countries and the European Union.³

1 The source of the antidumping data used here is Bown (2009).

2 Regrettably due to lack of data a total of nine antidumping actions that were found in Bown (2009) for 2007 and 2008 were not included in our analysis. Five of those actions refer to the 2007 sample, four to the 2009 sample. The codes to identify the dropped cases are: ARG-AD-195; ARG-AD-196; ARG-AD-222; ARG-AD-223; BRA-AD-197; BRA-AD-199; BRA-AD-200; BRA-AD-231; USA-AD-1173.

3 These countries are Argentina, Australia, Brazil, Canada, China, India, Indonesia, Mexico, New Zealand, Pakistan, Republic of Korea, South Africa, Turkey, and United States.

Our samples share the same characteristics of many analysed in the literature. For example, the so-called historic users of antidumping no longer account for the majority of cases filed.⁴ In fact, the new users were responsible for initiating 92 of the 147 filings, roughly two thirds of all the cases considered here. The jurisdiction filing the most antidumping cases was India (26 filings), the United States second (25 filings), Argentina third (24 filings) with the European Union a distant fourth (11 filings).

Altogether forty-two countries have been targeted antidumping filings in our two samples. Most prominent among these targets are Asian countries with the People's Republic of China being targeted in 106 of 147 cases. With the Republic of Korea (18 cases), Taiwan (14 cases), Thailand and Indonesia (both 12 cases) Asia ranks prominently in the Top 5 of investigated countries. In contrast, the European Union and its member states have been investigated in 16 cases, the United States in 13 and Canada in a mere 3 cases. By far the most affected sector has been the chemical sector with 22 filings reported for that industry. The second and third most affected sectors are iron or steel (8 filings) and plastics (7 filings), respectively.

Empirical evidence on changes in antidumping practice during the crisis

The manner in which an antidumping regime is implemented may vary over time even if the governing legislation does not. The products targeted, the attributes of the products targeted, the identity and number of trading partners investigated are characteristics that, amongst others, can change over time. In this section a comparison is made between a set of antidumping investigations initiated before the crisis and one set during the current global economic downturn. The goal is to ascertain what, if anything, about antidumping practice has changed--indeed to what extent our understanding of pre-crisis determinants of antidumping activity provides a reliable guide to the use of antidumping during the crisis.

Given the legal standard to met for imposing an across-the-board safeguard is higher than that for antidumping (at least in respect of the injury standard) one concern is, by naming many trading partners in an antidumping suit, that essentially antidumping could be used as a "cheap" or "easier" safeguard measure during straightened economic times. The evidence does not seem to support this concern. First, before the crisis the mean number of trading partners named in an antidumping investigation was 1.95. During the crisis, the mean number rose to 2.11, which is hardly dramatic. Second, as Figure 1 makes clear crisis-era antidumping investigations tend to target smaller shares of imported products than their pre-crisis predecessors. As a general matter, then, it seems hard to argue that each antidumping suit is being used to target a broader range of commerce. Having said that, this evidence does not discount the possibility that from time to time the occasional antidumping investigation is used in such a manner.

If anything, the evidence in Figure 1 is potentially consistent with greater selectivity in targeting trading partners in during the crisis. Figures 2 and 3 also indicate dis-

⁴ Historic users are: Australia, European Union, Republic of Korea, New Zealand, and United States. New users are: Argentina, China, India, and Pakistan.

Figure 1 Crisis-era antidumping investigations target smaller shares of product imports

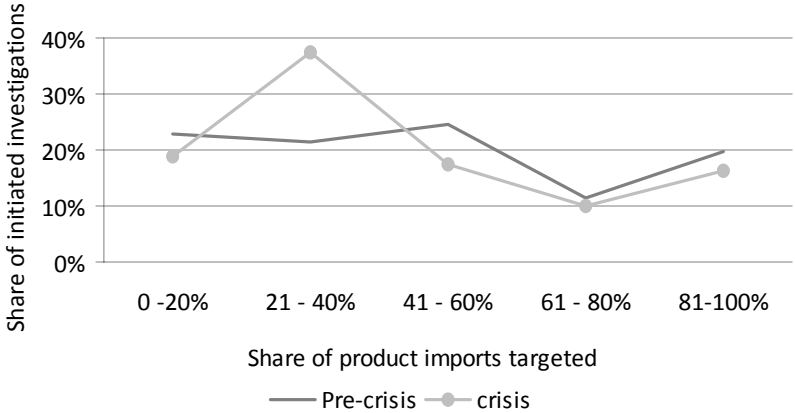


Figure 2 More investigations target faster growing foreign competition during the crisis

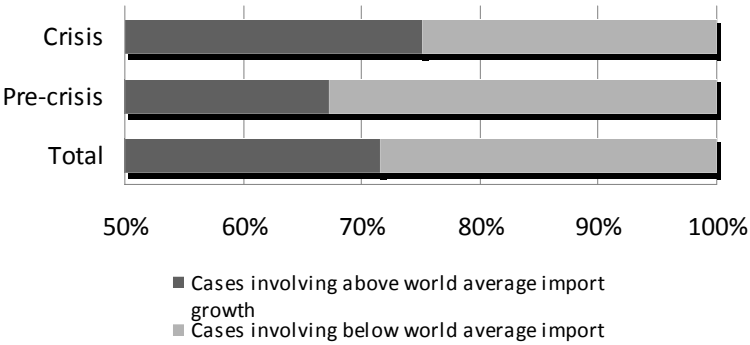
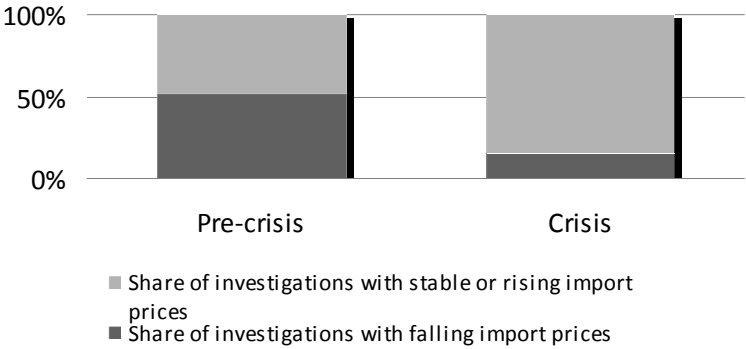


Figure 3 Most crisis-related cases are brought against foreign firms raising their prices



tinctive crisis-era patterns of targeting trading partners during the first three quarters of 2009. Before the crisis two-thirds of antidumping actions concerned products where the previous year's growth of total imports exceeded the world average; during the crisis this fraction had risen to three-quarters (see Figure 2). Given that world trade was falling in 2009, the latter finding implies that antidumping actions targeted more often those products where imports into the investigating jurisdiction did not fall fast enough.

Another characteristic of the products targeted more often during the crisis relates to pricing (see Figure 3). Specifically, during the crisis a smaller proportion of antidumping actions have targeted imports with falling unit values (prices). This finding is significant because some policymakers and commentators might fear that foreign firms take advantage of the global economic downturn to engage in predatory pricing and to drive out import-competing rivals. The evidence presented here seems to suggest that this fear has not played a greater role in the decisions as to which products to target in antidumping investigations. An alternative interpretation is that, compared to before the crisis, during the past year import-competing firms facing falling prices from foreign rivals have not increased their demands and lobbying for antidumping anymore than other firms.

Next, the relationship between antidumping actions and tariffs was explored. Figure 4 confirms that before the recent crisis half of antidumping investigations were in products where there the bound (maximum legal) tariff rate was very close to the tariff rate actually applied. Crisis-era antidumping actions share the same property. Whatever the era, it seems that governments are less likely to resort to antidumping actions when they can legally raise tariffs on a product; it being possible to execute the latter without following the procedural steps associated with the former.⁵ The crisis does not appear to have altered the relevance of this logic.

Differences between the crisis and pre-crisis era do emerge, however, when considering the extent of prior tariff reform. For each antidumping investigation the change in the Most Favoured Nation tariff treatment over the previous five years of the product in question was calculated. Before the crisis, approximately half of antidumping actions were against products where the tariff cut over the previous five years was greater than the respective national average. During the crisis this fraction fell to a quarter. Large prior tariff falls were even less likely to trigger antidumping actions during the first three quarter of 2009 than before. This finding is significant, precisely because some have argued that governments are more willing to cut tariffs if they know they can use antidumping duties to reverse the reform should hard times occur after the reform takes place. Most would agree that times were hard in 2009, yet products where tariff reforms were larger than the national average now account for a lower proportion of antidumping cases.

The matter of retaliation is often mentioned in the context of antidumping actions. Is there any evidence that governments target products from trading partners where the former's exporters are less exposed? For each investigation the share of the investigation country's exports to a targeted trading partner was calculated at the product level (that is, the product under investigation), at the sectoral level (that

5 Once the gap between bound and applied rates exceeds 25 percent, however, there seems to be an increase in the proportion of antidumping cases.

Figure 4 Half the antidumping investigations have little water in the tariff

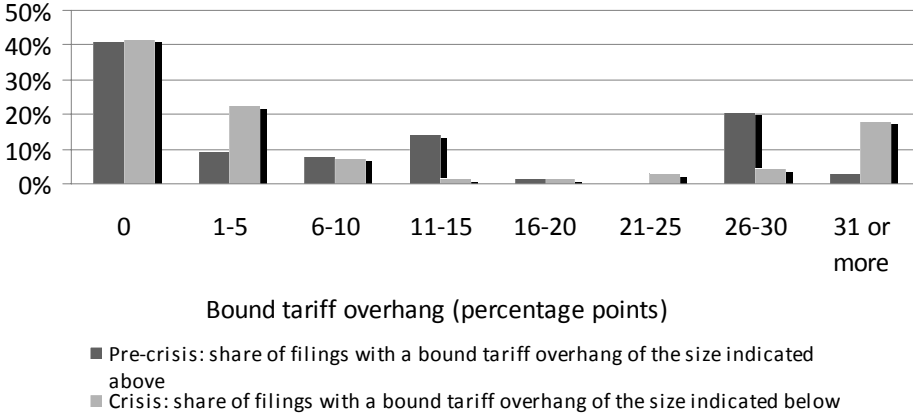


Figure 5 Less than a quarter of of crisis investigations are in products were tariffs have been cut a lot

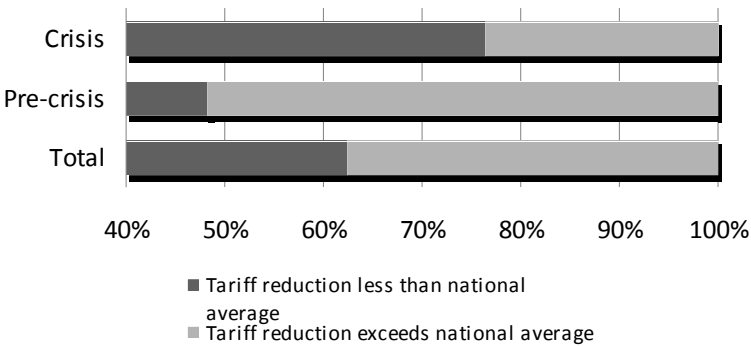
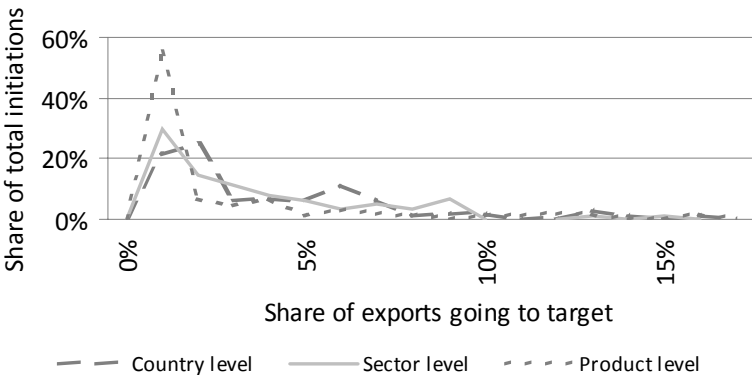


Figure 6 Where nations export less, they target more



includes the product under investigation), and at the national level. The relationship between the proportion of antidumping investigations and the share of the investigating country's exports that could be subject to retaliation is plotted in Figure 6 for the pre-crisis era.

Figure 6 shows quite clearly that before the recent crisis most investigations are in products where the targets are such that the investigating country has few exports at risk of retaliation. (Indeed, as one might expect there is an inverse relationship between the percentage of own exports at risk and the proportion of cases brought.) Plotting a similar figure for the crisis era reveals exactly the same pattern. This casts doubt on any claim that the crisis exacerbated the fear of retaliation deterred the bringing of antidumping cases because governments would react to such a fear by targeting on those products and trading partners where even fewer exports are at risk. The very fact that the distributions plotted in Figure 6 for the pre-crisis era almost exactly overlap with the comparable distributions for the crisis-era suggests that any changes in the fear of retaliation have so far had no impact on the targeting behaviour by governments.

Concluding remarks

Policymakers, analysts, and businesspeople might be concerned about the implications for their interests of the growing resort to antidumping actions witnessed in 2009. Analysis of antidumping actions is not new, but the question still arises as to whether crisis-era antidumping follows the same pattern as in more settled economic times. The purpose of this chapter was to ascertain if the antidumping measures initiated in the first three months of 2009 differed in material respects from before the crisis. Without doubt, as time goes by much more analysis of these matters could be conducted, and such analysis may qualify the conclusions presented here. Still, certain potentially significant differences were uncovered; perhaps the most important of which is that crisis-era antidumping actions have tended to target more often products and trading partners where imports and their associated prices have fallen less in the past year. If anything, targeting has become more selective. Crisis-era antidumping use does not appear to be substituting for safeguard actions, nor is it compensating for prior tariff reforms, nor does it appear to have changed in response to greater fears of retaliation, should those fears exist.

Reference

Bown (2009). Chad P. Bown "Global Antidumping Database," [Version 5.1, October], available at www.brandeis.edu/~cbown/global_ad/

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