



# The Pattern of Antidumping and Other Types of Contingent Protection

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## I. Newly Initiated Trade Remedy Investigations

Many of the major economies in the multilateral, rules-based trading system find themselves in a situation in which their applied tariff rates are quite close to the tariff binding levels that form their legal commitments at the WTO. This implies that they cannot simply raise applied tariff rates to respond to domestic industry demands for additional trade barriers to protect them from imports. One of the fundamental and potentially WTO-legal ways in which national governments can respond to domestic industry calls for additional protection from imports is by resorting to trade “remedy” policy instruments such as antidumping, safeguards, and countervailing duty (antisubsidy) policies. This note, which describes newly collected data made available through the World Bank-sponsored *Global Antidumping Database*, reports on the combined use of such policies, comprehensively collected across the major WTO member economies.

In the third quarter (3Q) of 2009, WTO member governments initiated 44 new *product-*

*level* investigations in response to domestic industry requests for the imposition of new import restrictions under national trade remedy laws such as antidumping (AD), global safeguards (SG), countervailing duties (CVD), and China-specific safeguards (CSG). These 44 new investigations in 3Q 2009 were an increase of 52.6 percent compared to the third quarter in 2008.<sup>1</sup>

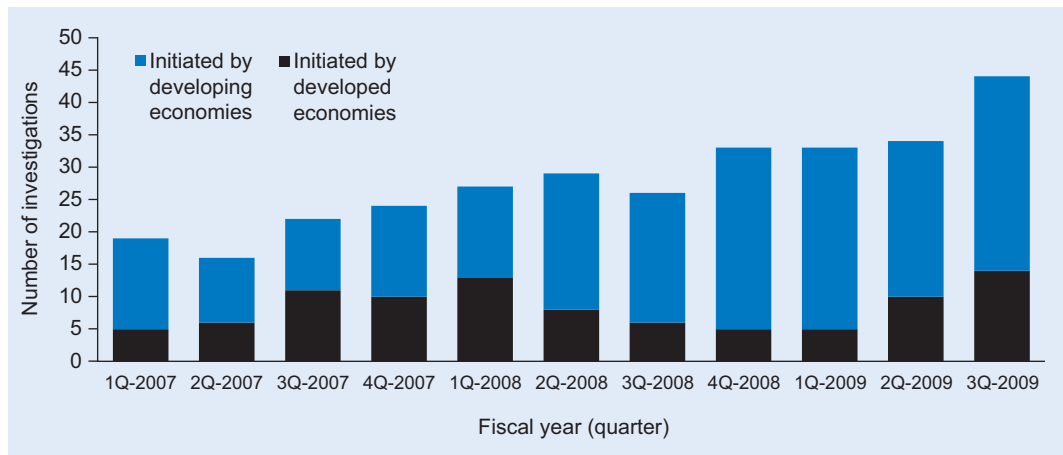
The cumulative number of such new requests for protection throughout the first three quarters of 2009 is 30.3 percent higher than the number of requests that took place in the first three quarters of 2008. As illustrated in figure 1, the 2009 increase continues an upward trend, as the 30.3 percent increase in the first three quarters of 2009 compared to 2008 builds upon a 36.4 percent increase in 2008 compared with the same period in 2007.<sup>2</sup>

While the imposition of a preliminary import restriction occurs typically within a couple of months of initiation of the investigation, the historical data on the use of these trade policies, especially in the case of antidumping, indicate that the majority

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**Figure 1. Newly Initiated Trade Remedy Investigations, 1Q 2007–3Q 2009 (nonredundant AD, SG, CSG, CVD at the product level)**



Source: Global Antidumping Database.

of new investigations ultimately result in the imposition of new “definitive” import restrictions, typically with a 12- to 18-month lag. One implication of the 2008–09 surge in new investigations is the likelihood that they may result in an increase in 2010 in newly imposed definitive import restricting measures. This is an issue to which we return in sections II and III below.

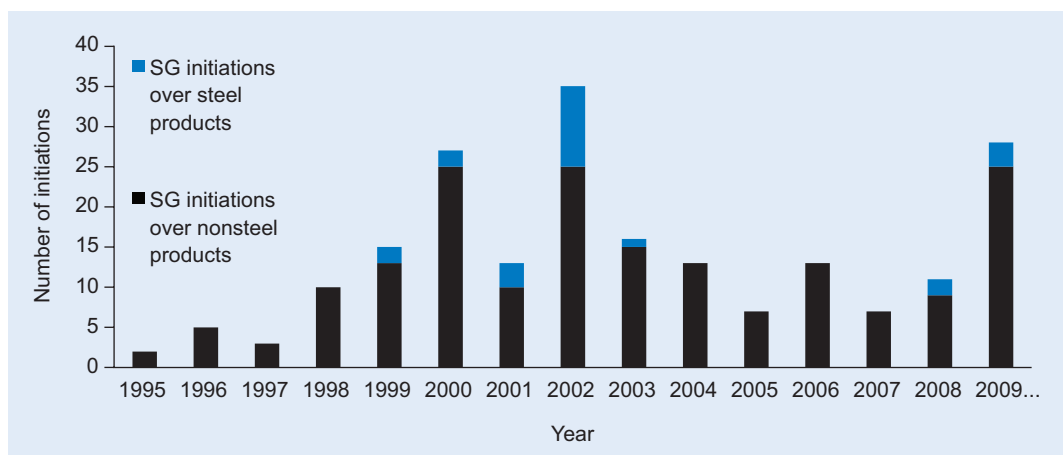
***Continued Use of Global Safeguards***

One of the most striking features in the 2009 data to date is that members have notified

the WTO of 21 new import-restricting global safeguard investigations, 6 of which were initiated in 3Q 2009 alone. The 21 new investigations already constitute the third-highest *yearly* total for any year since 1995, following only 2002 (35 initiations) and 2000 (27 initiations). The 21 new initiations in 2009 build upon the 8 newly initiated safeguard investigations taking place in the second half of 2008 amid the spread of the financial crisis.

As figure 2 illustrates, a continuation of the 2009-to-date pace of new safeguard

**Figure 2. Global Safeguard Initiations by WTO Members, 1995–2008 and 2009 (projected)**



Source: Global Antidumping Database compiled from reports to the WTO Committee on Safeguards.

investigations through the fourth quarter would make 2009 the second most prolific safeguard-using year since the WTO's 1995 inception, following only the "steel safeguard year" of 2002. What differentiates 2009 from 2002 is the fact that a large share of the 2002 safeguard use was triggered by a single *industry* event, which is not the case in the year 2009 data.<sup>3</sup> In fact, the projected use of safeguards in 2009 for nonsteel products would be the most ever initiated in one year.

### ***Resurgence of the Dominant Antidumping Policy***

Despite the increase in global safeguards use and the recent media attention paid to the China-specific safeguard policy,<sup>4</sup> *antidumping* was still the "preferred" trade remedy of choice by national governments and their industries: 37 of the 44 product-level investigations initiated in 3Q 2009 occurred under a national antidumping law.

As figure 3 indicates, there was a sharp increase in initiated antidumping investigations in 3Q 2009, even compared with earlier data from the period of the global

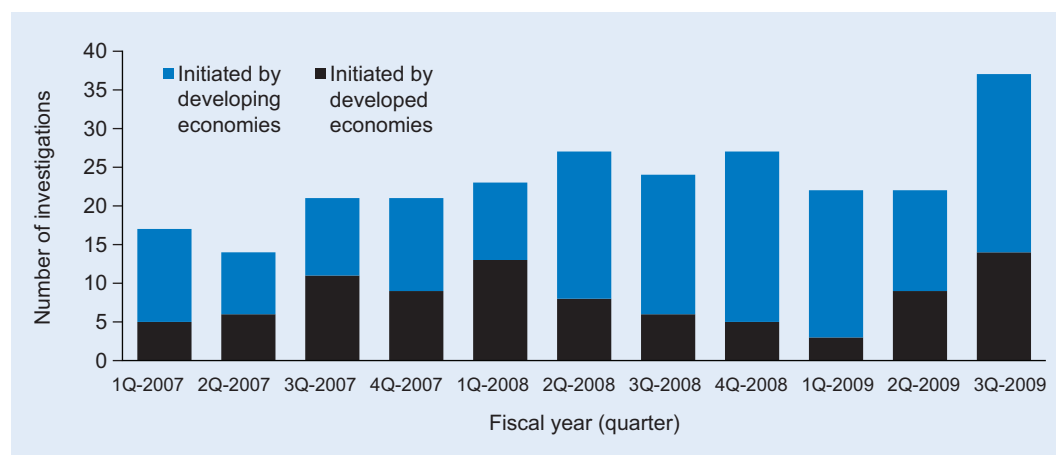
financial crisis. The surge was 42.6 percent higher than the average of 24 new *product-level* antidumping investigations initiated per quarter during the crisis period of 1Q 2008 through 2Q 2009.

### ***Policy-Imposing Countries***

Seventeen of the thirty-three different WTO members for which the Global Antidumping Database tracks information on trade remedy use initiated at least one new product-level investigation in 3Q 2009 under one of these trade remedy laws. As figure 1 illustrates, developing countries dominated use by initiating 68.2 percent of these new investigations, compared to developed economies, which initiated 31.8 percent.

In 3Q 2009, 56.8 percent of the new investigations were undertaken by only four economies: India and Argentina each initiated seven new product-level investigations, followed by the United States (six) and the European Union (five). Turkey initiated three investigations; Brazil, Canada, Pakistan, and Peru each initiated two; and eight other WTO members (Australia, Chile, China, Croatia, Mexico, Morocco, Ukraine,

**Figure 3. Newly Initiated Antidumping Investigations, 1Q 2007–3Q 2009 (product level)**



Source: Global Antidumping Database.

and Vietnam) initiated one product-level investigation each.

### ***Affected Sectors***

The new trade remedy investigations covered a number of different sectors in 3Q 2009. The dominant sectors were chemicals, with 13 total investigations, followed by iron and steel with 8. Other sectors targeted with multiple investigations include agriculture (four), textiles (four), machinery (four), materials (four), plastics and rubber (three), and other miscellaneous manufacturers (two).

Associated with problems in global dairy markets in 3Q 2009, both Chile and Croatia initiated global safeguard investigations over cheeses and other dairy products.

### ***Targeted Exporters***

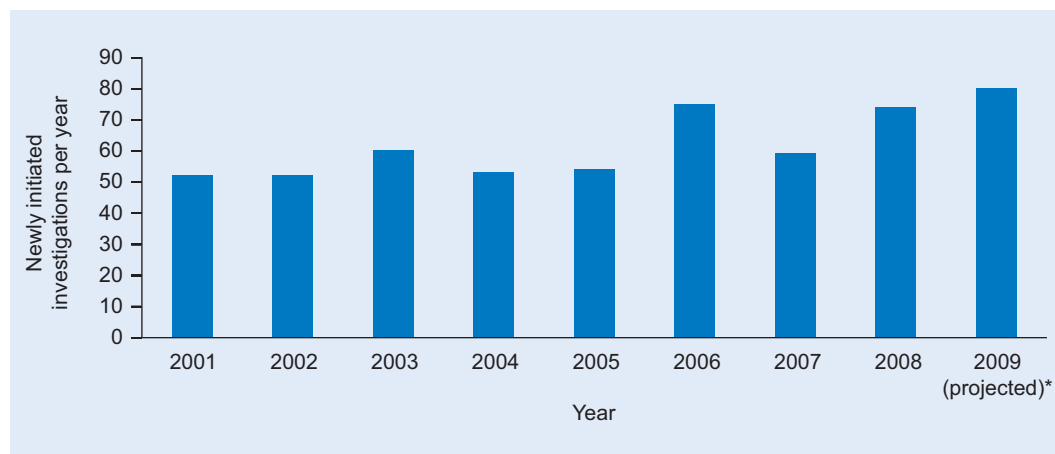
China continued to be the exporting country most frequently targeted by new investigations in 3Q 2009, facing 23 new product-level investigations. Other frequently investigated exporters in 3Q 2009 include the United States (five); and Taiwan, India, and Japan, with four investigations each.

Exporters from the European Union or its member states and Thailand faced three investigations each, while Brazil, Indonesia, and the Republic of Korea each faced two new product-level investigations during 3Q 2009.

China was specifically named in 62.1 percent (23 of the 37) of the newly initiated product-level investigations under (AD, CVD, CSG) laws that require the investigating country to specifically name at least one exporting country.<sup>5</sup> However, the 3Q 2009 figure is lower than that in 2Q 2009, in which 82.6 percent of the newly initiated product-level investigations included China's exporters in the petition. Finally, the 23 new product level investigations in 3Q 2009 is only a slight increase over the number of new investigations facing China's exporters in 1Q 2009 (20 new investigations) and 2Q 2009 (21 new investigations).

When examined on a year-by-year basis, as figure 4 indicates, industry demands for new import restrictions against China under these policies were up 22.7 percent in 2008, and are on the path to another 7.8 percent increase in 2009. It is notable that this in-

**Figure 4. WTO Members' Newly Initiated Investigations of Imports from China, 2001-09 (nonredundant AD, CVD, CSG at the product level)**



Source: Global Antidumping Database.

crease in trade remedy use targeting China's exports in 2008-09 in the midst of the crisis is somewhat smaller than the overall growth in new product-level investigations (see again figure 1 and the discussion above). A contributing explanation is that, relative to the set of cases that WTO members have initiated against all exporters (including under the global safeguards policy), the set of cases against China during the *pre-crisis* period is much larger, forming a much larger base from which additional growth has been slower. Indeed, WTO member use of trade remedies to target China's exports is not a new, crisis-related phenomenon, as it continues a trend dating back to China's WTO accession in 2001 and even earlier.<sup>6</sup>

## II. Newly Imposed Import-Restricting Trade Remedies

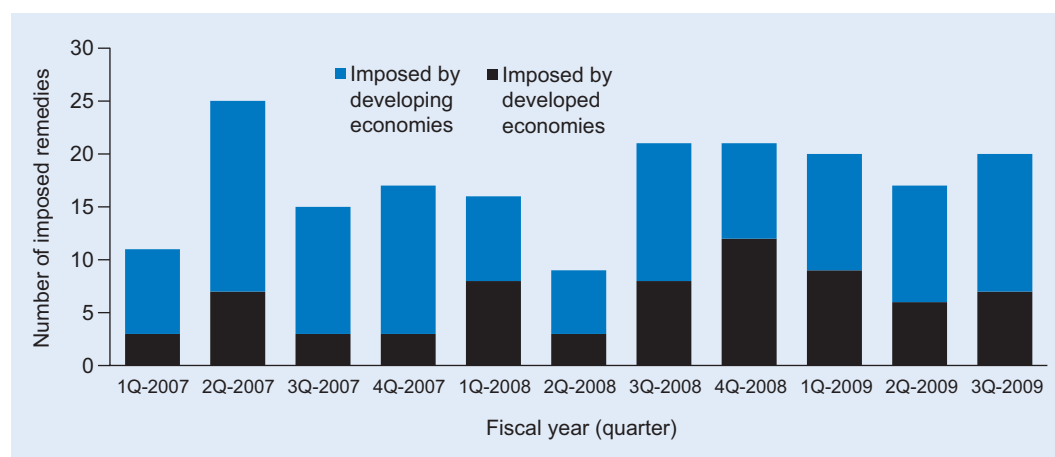
In addition to the newly initiated investigations, WTO members imposed a number of new definitive import-restricting trade remedies in 3Q 2009. Most of these new import restrictions were imposed after months of consideration for investigations initiated only in 2008.

As figure 5 indicates, WTO members imposed 20 new *product-level* definitive import restrictions in 3Q 2009 under national trade remedy laws, a slight reduction from 3Q 2008, when 21 new measures were imposed. The year-to-date count of newly imposed measures through the first three quarters of 2009 is 21.4 percent higher than the rate at which definitive new measures were imposed during the same time period of 2008, though it is notable to point out that 2008 does cover the low point in the post-1995 period for new measures imposed.<sup>7</sup>

### *Policy-Imposing Countries*

Eight different WTO members imposed at least one definitive import-restricting trade remedy in 3Q 2009. As figure 5 indicates, developing countries imposed 75 percent of the definitive new measures, compared to developed economies, which imposed 25 percent. Multiple new product-level import barriers were imposed by India (six), Argentina (three), United States (three), Brazil (two), European Union (two), and Turkey (two). Indonesia and the Philippines each imposed one new definitive import-restricting trade remedy.

**Figure 5. Newly Imposed Trade Remedies, 1Q 2007–3Q 2009 (nonredundant AD, SG, CSG, CVD at the product level)**



Source: Global Antidumping Database.

### *Affected Sectors*

Newly imposed trade remedies covered a number of different sectors in 3Q 2009. The dominant sector was machinery, as well as plastics and rubber, with four new barriers each. Other sectors targeted with multiple new definitive import restrictions include textiles and apparel (three), chemicals (three), and iron and steel (two). Agriculture, materials, wood, and miscellaneous manufactures each faced one newly imposed measure in 3Q 2009.

### *Targeted Exporters*

China was the exporting country most frequently targeted by imposition of new import-restricting trade remedies in 3Q 2009. China's exporters were targeted in 56.3 percent (9 of the 16) of new product-level import-restrictions imposed under the trade remedy laws (AD, CVD, CSG) that require the investigating country to name at least one exporting country.<sup>8</sup> While high, this is lower than the 100 percent (17 out of 17) of cases in 2Q 2009 in which the imposition of a product-level trade barrier included China as one of the exporting countries.

Other countries whose exporters faced the imposition of more than one newly imposed trade remedy in 3Q 2009 include Indonesia (four), Malaysia (three), and Thailand (three). The only developed economy exporter facing imposition of a country-specific trade remedy was the United States at the conclusion of the European Union investigation of Biodiesel.

## **III. The Share of Investigations Resulting in Trade Barriers**

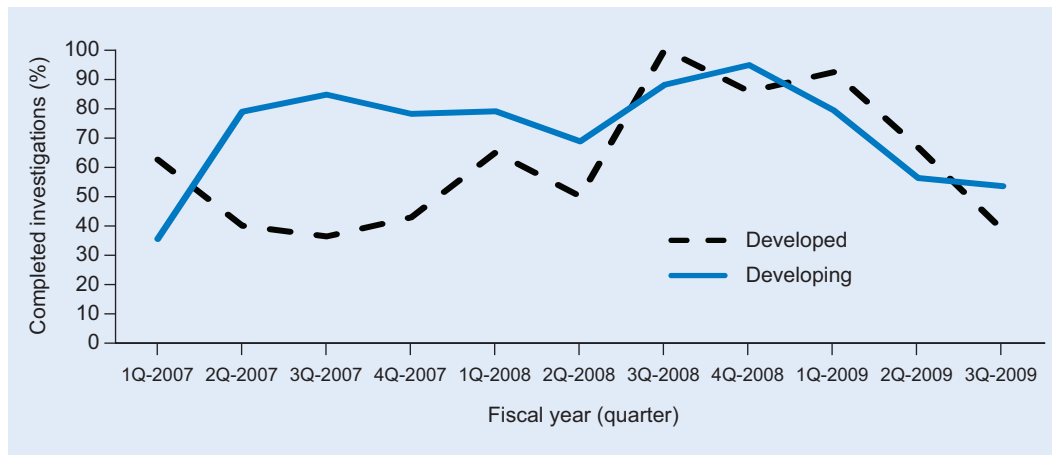
Given the sharp increase in newly initiated investigations in 2008 (figure 1), combined with the more moderate increase in imposition of definitive measures to date in 2009

(figure 5), the following question arises: Why haven't more definitive trade barriers been imposed during the crisis? This question is especially relevant for the most recent quarters, as a sufficient period of time has elapsed for a number of initiated investigations to reach the stage at which governments come to a final decision on whether to impose new trade barriers.

One possible contributing explanation to this phenomenon is that governments may be imposing final measures less frequently at the completion of investigations than they have in the past. Figure 6 provides an initial examination of this potential explanation. The figure plots, for each quarter, the share of all completed investigations that result in the imposition of final trade barriers.<sup>9</sup> The figure covers the 1Q 2007–3Q 2009 period and provides two series of data: the investigations undertaken by developed economies and those undertaken by developing economies. Note that that historical research examining the pre-crisis data on trade remedy investigations finds that developing countries have traditionally had a higher share of completed investigations resulting in the imposition of measures. So the difference in the levels of the two series of data is not what is potentially interesting. What is important is how each series of data may be changing over time.

The movements in the two data series in figure 6 track relatively closely during the crisis period, beginning in 2Q 2008. During the three consecutive quarters of 3Q 2008, 4Q 2008, and 1Q 2009, the share of completed investigations resulting in imposition of final trade barriers was consistently above 80 percent for both developed and developing countries. However, beginning in 2Q 2009, this number has fallen on average and for each group separately. This provides at

**Figure 6. Share of Completed Investigations Resulting in Definitive Import Barriers, by Investigating Country Category, 1Q 2007–3Q 2009**



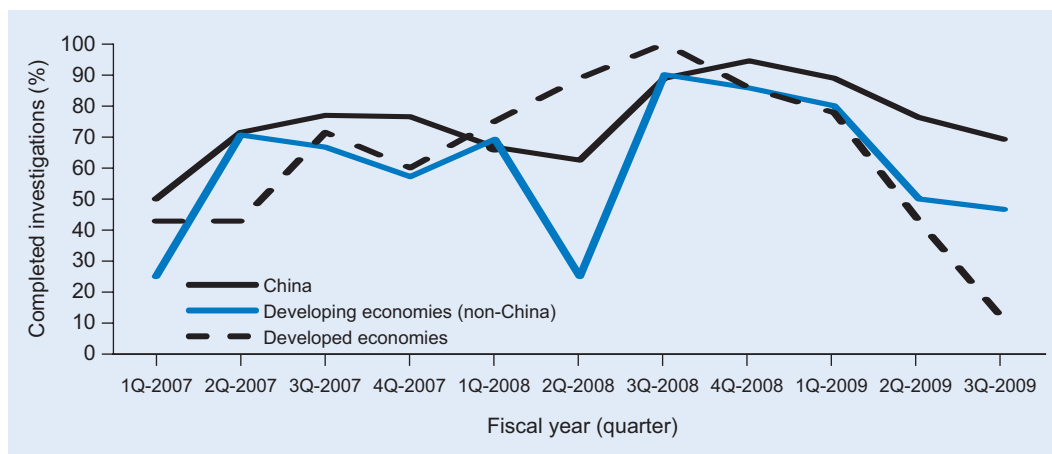
Source: Global Antidumping Database.

least some (weak) evidence that each group is imposing new trade barriers over a smaller share of completed investigations in 2Q and 3Q 2009 than they were in the immediately preceding quarters. And across all imposing countries, only 50 percent of the investigations completed in 3Q 2009 resulted in the imposition of new trade barriers.<sup>10</sup>

Figure 7 presents the same data on the share of completed investigations that have resulted in the imposition of final, definitive

import barriers, but broken down by the category of exporting country being investigated, and separating developing country exporters into two subcategories: (i) China and (ii) all other developing countries. The share of completed investigations in which China’s exporters end up facing definitive trade barriers is consistently higher than for other developing country exporters. Nevertheless, as was the case in figure 6, figure 7 indicates a general downward trend for all

**Figure 7. Share of Completed Investigations Resulting in Definitive Import Barriers, by Investigated Exporting Country Category, 1Q 2007–3Q 2009**



Source: Global Antidumping Database.

exporters in 2Q and 3Q 2009 in the share of completed investigations that have resulted in the imposition of final trade barriers.

Any decrease in the share of completed investigations that end with trade barriers being imposed is likely due to a number of factors. One contributing explanation may be that national governments are taking the WTO's legal and evidentiary criterion for implementing new trade barriers seriously.<sup>11</sup> For example, while the global economic crisis may have led to circumstances (and thus evidence) in which many industries petitioning for import protection under trade remedy laws are "injured," this is only one of the conditions necessary for governments to impose new trade barriers. If governments do not also find evidence that this injury is *caused by* dumped, surging, or subsidized imports, depending on the trade remedy law under which the investigation is taking place, the WTO rules mandate that governments refuse to implement the new trade barriers. While mainly speculative at this point, if governments are rejecting calls for new trade barriers with higher frequency, it could be because they are adhering more closely to WTO guidelines.

## Sources

Version 5.0 of the publicly available *Global Antidumping Database* can be found at [http://www.brandeis.edu/~cdown/global\\_ad/](http://www.brandeis.edu/~cdown/global_ad/). The fully updated version 5.1, complete with detailed data on activity through the third quarter of 2009, will be available in late October 2009.

The 25 WTO members from whom the antidumping data derive are: Argentina, Australia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Ecuador, the European Union, India, Jamaica, Mexico, New Zealand, Pakistan, Paraguay, Peru, South Africa,

the Republic of Korea, Taiwan, Trinidad and Tobago, Turkey, Uruguay, the United States, and República Bolivariana de Venezuela. According to data from the WTO, for the economies that still control use of their own trade policies in 2009—that is, subtracting out newly acceded member states to the EU that used AD prior to their own accession—these 25 members initiated 91.5 percent of all antidumping investigations by the WTO membership during 1995–2008. Thus tracking data from these economies serves as a relatively comprehensive sample likely to reflect general trends in the WTO membership.

The antidumping data provided above are collected from each country's national government publications and made publicly available on their Web sites.

The 17 WTO members from whom the countervailing duty data derive are: Argentina, Australia, Brazil, Canada, Chile, Colombia, the European Union, India, Mexico, New Zealand, Peru, South Africa, the Republic of Korea, Taiwan, Turkey, the United States, and República Bolivariana de Venezuela. According to data from the WTO, these 17 members initiated over 90 percent of all countervailing duty investigations by the WTO membership during 1995–2008. Thus, this serves as a relatively comprehensive sample likely to reflect general trends in the WTO membership. The countervailing data provided are collected from national government publications, the WTO's semi-annual reports, and news agency Web sites.

Data from WTO members' use of global safeguards and China-specific safeguards are taken from the WTO and national government publications.

## Notes

1. Detailed data on cases can be found on the Global Antidumping Database Web site. The 82 different trade remedy investigations during 3Q 2009 can be reduced to the 44 (nonredundant) product-level investigations illustrated in the figure. To make comparable the data on policy use across different (AD, CVD, SG, CVD) trade remedy laws, AD or CVD investigations (measures) against multiple exporting countries are treated as one product-level investigation (measure). For example, Brazil's two antidumping investigations of "Polypropylene Resin" from India and the United States are treated as one product-level investigation. Furthermore, to ensure that they are not redundant, a WTO member's simultaneous AD and CVD investigations (measures) over the same product are treated as one investigation (measure). For example, Canada's simultaneous AD and CVD investigations of "Certain Oil Country Tubular Goods" from China are treated as one product-level trade remedy investigation. Finally, associated with its terms of accession to the WTO agreement in 2001, WTO members were granted access to a transitional (until 2014) China-specific safeguard (CSG) with which they can implement new China-specific import restrictions if there is evidence of injury (or a threat thereof) to a domestic industry associated with increased imports from China.

2. The year 2007 was the low point in the global use of trade remedies during the period since 1995.

3. Following the U.S. initiation of a global safeguard investigation covering billions of dollars of imported steel in June 2001 (resulting in a March 2002 imposition of definitive safeguard measures), other WTO members followed on by initiating 10 safeguard investigations over similar steel imports during 2002 alone.

4. See, for example, the United States decision in September to impose 35 percent

import tariffs under the China-specific safeguard provision, that is, USTR (2009) "Kirk: White House Fulfilling Trade Enforcement Pledge With Announcement of Remedies in Chinese Tire Case," USTR Press Release of 11 September.

5. Of the 44 product-level newly initiated investigations in 3Q 2009, 6 did not name any exporting countries because they were global safeguards, and China initiated one investigation itself.

6. For a discussion and analysis, see Chad P. Bown (forthcoming) "China's WTO Entry: Antidumping, Safeguards, and Dispute Settlement," in Robert Feenstra and Shang-Jin Wei, eds., *China's Growing Role in World Trade*. Chicago, IL: University of Chicago Press for NBER.

7. The 31 different trade remedy investigations that resulted in the imposition of definitive new import restrictions during 3Q 2009 can be reduced to the 20 (nonredundant) product-level trade barriers illustrated in the figure. Indeed, the low point for newly imposed definitive trade remedies occurred in 2Q 2008 (figure 5), that is, four quarters after the low point for newly initiated trade remedy investigations in 2Q 2007 (figure 1).

8. Of the 20 product-level newly imposed trade barriers in 3Q 2009, 4 did not name any exporting countries because they were global safeguards.

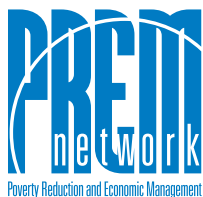
9. We define a "completed investigation" as any initiated investigation that terminates in a given quarter because of any of the following: (i) definitive measures were imposed; (ii) the final decisions in the investigation were made and the government decided that no measures would be imposed; (iii) the preliminary decisions in the investigation were made and the government decided that no measures would be imposed; or (iv) the domestic industry withdrew the petition requesting new import restrictions. Note that for figures 6 and 7, an investigation is defined at the product-exporter level (except

for global safeguard investigations), to allow for the data to determine whether definitive trade barriers may be imposed on one set of named exporters but not others. Global safeguard investigations are dropped from consideration in figure 7, which focuses on exporting countries.

10. An important caveat to the 3Q 2009 data is recognition that a significant determinant of the developing country decline is termination of a single product-level case in India, which had been investigating 15 dif-

ferent export sources of “Hot Rolled Steel Products,” a set of cases initiated in 4Q 2008. However, this does not explain the decline in the *developed* economy share of completed investigations that have resulted in imposed measures.

11. See Chad P. Bown (2009), “Confronting the Protectionism Spawned by the Crisis,” in *G20 Summit: Recovering from the Crisis*. Brookings Institution, Global Economy and Development Program, September.



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