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# **A**ntidumping and the global financial crisis: the impact on Latin America and the Caribbean

Robert M. Feinberg



UNITED NATIONS

**ECLAC**

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## Abstract

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Global antidumping activity peaked in 2001, with 366 petitions initiated world-wide, and rapidly diminished to just 163 cases in 2007. With the onset of the current major world-wide recession some observers feared that antidumping usage would climb dramatically; however while antidumping activity was up by 28% in 2008 (to 208 cases initiated, according to WTO statistics), the rise was not nearly commensurate with the financial distress, and new antidumping initiations for the first three quarters of 2009 –at 154 cases– are on pace to show little change for the full year compared to the previous one (based on data from Bown's Global Antidumping Database). However, antidumping has largely become a problem of the developing world, both in terms of major importing country users (e.g., the three largest users in 2008 were India, Brazil, and Turkey, the three largest users in 2009 so far have been Pakistan, India, and Argentina), and of targets (with China by far the largest exporting country hit by antidumping petitions, but Thailand, Taiwan and Indonesia the next largest targets of cases filed in 2008).



## I. Introduction

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Since the formation of the World Trade Organization in 1995 and the dramatic lowering of conventional barriers to international trade (quotas, tariffs, and the like), an increasingly large role has been played by antidumping enforcement. Dumping in international trade generally refers to exporters selling goods in foreign markets at prices below “fair value” –here this is determined either as an export price lower than the home market price or at a price below full economic cost (i.e., including a reasonable profit margin). Antidumping is a form of WTO-authorized administrative protection which allows extra duties to be imposed on exporters of (usually) narrowly defined goods found to be both dumped and to have caused “material injury” to a domestic industry.

Global antidumping activity peaked in 2001, with 366 petitions initiated world-wide, and rapidly diminished to just 163 cases in 2007.<sup>1</sup> With the onset of the current major world-wide recession some observers feared that antidumping usage would climb dramatically; however while antidumping activity was up by 28% in 2008 (to 208 cases initiated, according to WTO statistics), the rise was not nearly commensurate with the financial distress, and new antidumping initiations for the first three quarters of 2009 –at 154 cases– are on pace to show little change for the full year compared to the previous one (based on data from Brown’s Global Antidumping Database).<sup>2</sup> However, antidumping has largely become

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<sup>1</sup> Throughout this report numbers of cases or petitions refer to petitions filed by a particular country against a single exporting country in a distinct product category. Very often multiple petitions are filed simultaneously against several exporting countries for the same product; occasionally, multiple (related) products are targeted against a particular exporter. By counting the total number of cases defined this way, we capture to some extent the scope or coverage of antidumping activity.

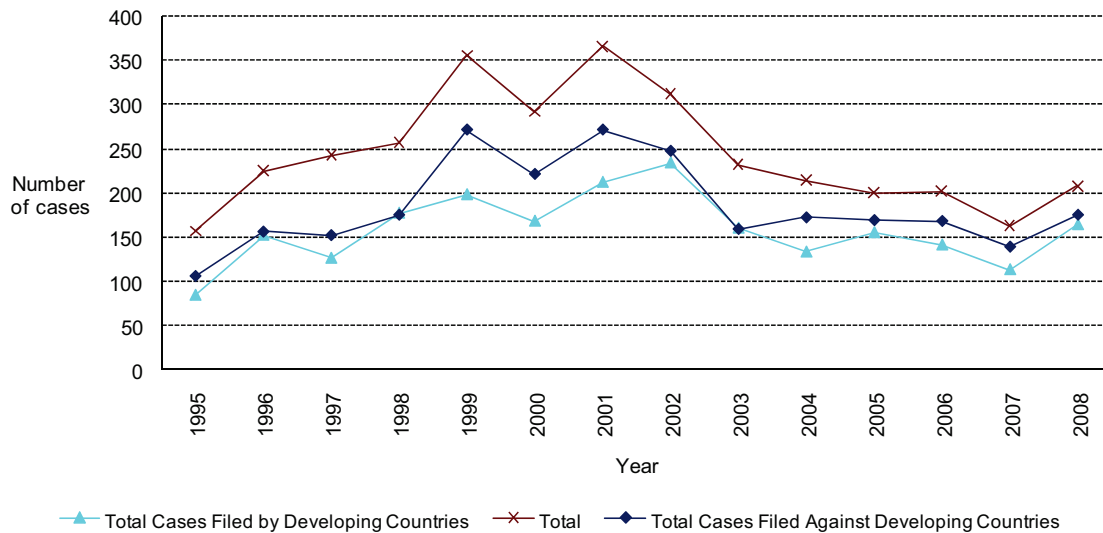
<sup>2</sup> What has risen much more sharply are the so-called “escape clause” or “safeguard cases” (allowing temporary but broad protection against import surges without the necessity of showing unfair trading practices.



a problem of the developing world, both in terms of major importing country users (e.g., the three largest users in 2008 were India, Brazil, and Turkey, the three largest users in 2009 so far have been Pakistan, India, and Argentina), and of targets (with China by far the largest exporting country hit by antidumping petitions, but Thailand, Taiwan and Indonesia the next largest targets of cases filed in 2008). Figure 1 shows the trend in global cases over the 1995-2008 period, as well as the trend in cases filed by developing countries, and the trend in cases filed against developing countries.<sup>3</sup>

Global antidumping activity peaked in 2001, with 366 petitions initiated world-wide, and rapidly diminished to just 163 cases in 2007.<sup>4</sup> With the onset of the current major world-wide recession some observers feared that antidumping usage would climb dramatically; however while antidumping activity was up by 28% in 2008 (to 208 cases initiated, according to WTO statistics), the rise was not nearly commensurate with the financial distress, and new antidumping initiations for the first three quarters of 2009 – at 154 cases – are on pace to show little change for the full year compared to the previous one (based on data from Brown’s Global Antidumping Database).<sup>5</sup> However, antidumping has largely become a problem of the developing world, both in terms of major importing country users (e.g., the three largest users in 2008 were India, Brazil, and Turkey, the three largest users in 2009 so far have been Pakistan, India, and Argentina), and of targets (with China by far the largest exporting country hit by antidumping petitions, but Thailand, Taiwan and Indonesia the next largest targets of cases filed in 2008). Figure 1 shows the trend in global cases over the 1995-2008 period, as well as the trend in cases filed by developing countries, and the trend in cases filed against developing countries.

**FIGURE 1**  
**TRENDS IN GLOBAL AD CASES FILED**



Source: WTO, Statistics on Antidumping

<sup>3</sup> For purposes of this figure, developing countries are all countries other than the United States, Canada, Japan, Australia, New Zealand, the EU-15 (European Union members through May 2004), and other Western European countries. Some of these countries were more likely to be regarded as developing at the beginning of the period than at the end (the most obvious of these is probably South Korea). It might be more appropriate to regard the distinction as between “traditional” users of antitrust and relatively “new” users.

<sup>4</sup> Throughout this report numbers of cases or petitions refer to petitions filed by a particular country against a single exporting country in a distinct product category. Very often multiple petitions are filed simultaneously against several exporting countries for the same product; occasionally, multiple (related) products are targeted against a particular exporter. By counting the total number of cases defined this way, we capture to some extent the scope or coverage of antidumping activity.

<sup>5</sup> What has risen much more sharply are the so-called “escape clause” or “safeguard cases” (allowing temporary but broad protection against import surges without the necessity of showing unfair trading practices).

In an earlier study (Feinberg 2006), trends in US antidumping actions against Latin America and the Caribbean (LAC) between 1980 and 2004 were analyzed, with consideration of the economic determinants of this enforcement activity and the economic impacts on the region. This report updates that study and examines current patterns of protection in response to the global recession. The focus is on cases filed by and targeting LAC, but global issues are addressed as well.



## II. Recent literature

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Nelson (2006) is an excellent survey of prior work on determinants and effects of antidumping enforcement. In what follows I will touch on some more recent research, including some addressing developing country antidumping in general and Latin American usage in particular.

Feinberg and Reynolds (2006), after noting the growth in worldwide use of antidumping after 1995 –41 WTO-member countries initiated antidumping cases over the 1995-2003 period, found that a strong motive (though certainly not the only one) for this surge in antidumping usage was retaliation by countries against prior antidumping usage against their own exporters. Similarly, Vandebussche and Zanardi (2008), focusing on “the rapid spread of antidumping laws amongst developing countries,” find retaliation to play a role here as well.

Feinberg and Reynolds (2007) investigate the extent to which, as often claimed, antidumping (and “administrative protection” more generally) is a mechanism which has allowed for trade liberalization to proceed by acting as a safety valve to reassure domestic firms. They find some support for this rationale, while acknowledging other motivations.

Moore and Zanardi (2009) are more skeptical; especially for the new users, primarily developing economies, they find the evidence “not supportive of the safety valve argument for these countries.”

Two recent works have investigated these issues specifically for developing countries. For India, which has emerged as the world’s leading user of antidumping, Bown and Tovar (2009), find evidence supporting both a retaliatory motive, but also as an offset from trade liberalization in key sectors (while not directly addressing the question of whether this usage was necessary to get the liberalization achieved). Finger and

Nogues (2006), through a series of country studies on LAC antidumping usage since the creation of the WTO, examine the role antidumping (and safeguard/escape clause) cases played in each country's efforts at trade liberalization. While patterns differed a bit, on the whole they find that there was a serious effort to limit the damage that such cases might have on integrating these countries into the global economy, that macroeconomic imbalances often made limiting such usage difficult, and that the LAC countries tried to balance impacts on consumers and producers in antidumping enforcement.

### III. Recent trends in antidumping involving Latin America and the Caribbean

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Of course, the dominant feature of the global economy over the past two years has been the severe recession and financial crisis, initially caused by collapse of the market for subprime mortgages in the United States, but spreading worldwide to the financial sector more broadly and through financial distress to the real economy. The countries of Latin America and the Caribbean generally fared relatively well, especially compared to the U.S. experience, with GDP growth of 5.8% and 4.2% in 2007 and 2008, respectively, compared to corresponding figures of 2.1% and 0.4% for the U.S.

Forecasts for 2009 are not quite as optimistic, with an anticipated GDP decline for the year of 1.9% for the region, compared to a projected 1.3% decline for the U.S., but a rebound of 3.1% growth for Latin America and the Caribbean is expected for 2010. Particularly hard-hit, however, has been Mexico, projected to see a GDP decline of 7% for 2009 and only modest 2.5% growth in 2010.<sup>6</sup>

As reported in Feinberg (2006), Latin American and Caribbean nations filed 21 percent of global antidumping cases in the 1995-2003 period, with Argentina, Brazil and Mexico the leading users; the US filed 13.5% of them (and only 1.5% of all global AD cases (36) involved both US petitioners and LAC exporters). LAC countries filed 57 cases against the

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<sup>6</sup> Porzecanski (2009) notes that while the LAC countries have not been immune from the current global economic woes, they have largely escaped the financial sector crisis which has affected other regions.

US, but 113 cases against other countries within the region. Only 72 cases were filed from outside the region against LAC countries. In the longer period from 1980 to 2004, LAC countries were targeted by 150 US antidumping petitions, 13.4% of all US cases; the top 3 countries so-targeted were Brazil, Mexico and Venezuela.

Since then, from 2005 through 2008, the US filed just 67 antidumping cases –only 5 against LAC countries. Over this four-year period the LAC countries filed 156 cases (20 percent of all global AD cases), almost half of these against China, only 9 against the US, but 27 against other countries within the LAC region. Only 39 cases were filed against LAC countries (by comparison, 261 cases were filed against China in this four-year period), and of these just 12 antidumping cases targeted LAC countries from outside the region. Brazil was the target of 16 cases, Argentina 10 cases.

In the first three quarters of 2009, only Argentina (of countries in the region) has aggressively pursued antidumping enforcement, with 23 new cases initiated –13 of these targeting China, 7 targeting other countries within the region (none against the US); 11 cases were initiated by all other LAC countries (7 of these vs. China, 2 vs the US). Argentina's surge of antidumping filings might seem difficult to explain in terms of macroeconomic factors given its GDP growth in 2008 of 7%, and projected growth of 1.5% in 2009; however, in the context of an average growth rate over the 2004-2008 period of 8.5%, the drop-off in 2009 is quite severe. The US filed 17 new AD cases in the first three quarters of 2009, 10 of these against China, just one against LAC (vs. Mexico). The LAC countries were the target of 10 cases in this most recent period, with 7 of these cases against Brazilian exporters, but only 3 cases from outside the region. While globally there has been a recent upsurge in escape clause/safeguard cases, this has not been a major focus of the LAC countries, with a total of 7 cases filed from 2005 through the first three quarters of 2009 (although 7 additional cases –all by Colombia and Ecuador– specifically targeting China).

## **IV. How did predictions in Feinberg (2006) hold up in predicted US cases vs. LAC?**

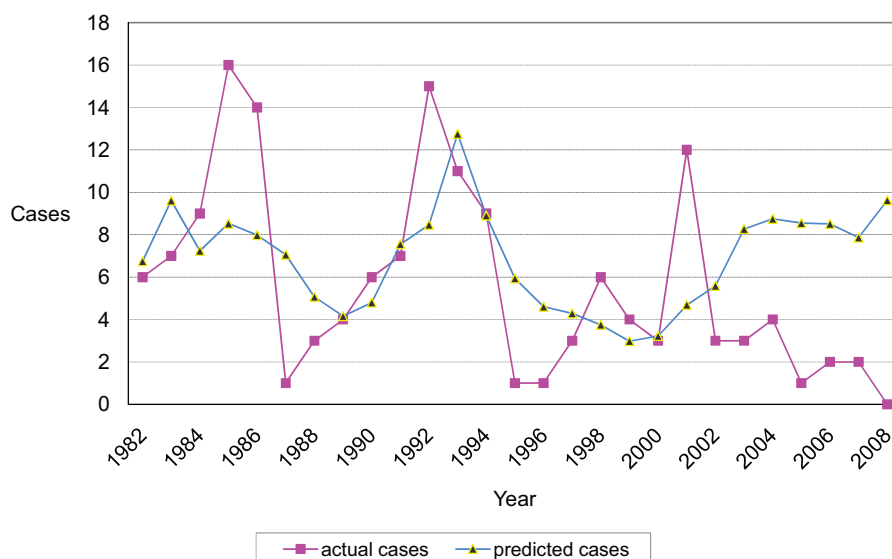
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In Feinberg (2006), an estimating equation was produced to explain US antidumping filings against 9 LAC countries (all those in which more than one such case was filed against them over the 1982-2004 period); this was estimated by a Negative Binomial Regression approach as a function of the real external value of the US dollar against each country, the annual rate of growth in US real GDP, the one-year lagged US unemployment rate, the natural log of US imports from each country (one-year lagged), and dummy variables for the period after which US petitioners could use “cumulate” imports from several exporting countries to argue for significant injury effects (years from 1985 on) and –only for Mexico– for the post-NAFTA period.

While not typically done in the academic literature, it is of interest to see how well this estimating equation predicts US cases in the post-sample period, i.e., from 2005 through 2008. Figure 2 shows that the answer is “not very well”. In particular, while the sluggish and then declining US economy of the mid-to-late 2000s would have predicted an increasing number of antidumping petitions against Latin America and the Caribbean, in fact there was a steady decline in these filings.



**FIGURE 2**  
**US ACTUAL VS. PREDICTED AD CASES AGAINST LATIN AMERICA AND THE CARIBBEAN**



Sources: Bown,(2009a), Feinberg (2006).

In the past few years there has been an upsurge globally in the use of the so-called “escape clause” or safeguard measures of trade protection;<sup>7</sup> these have the advantage of being both broader protection than antidumping cases (though generally more politicized) and requiring simply injury to a domestic industry from surges in imports but no claim of unfair trading. It is possible that some antidumping cases the rest of the world might have filed against LAC countries have been replaced with safeguard cases (which are aimed at all global exporters, though allow for countries –usually selected developing ones– to be exempted).<sup>8</sup> However, this would not explain diminishing US antidumping cases against Latin America and the Caribbean, as the US has not filed any safeguard cases in recent years with the exception of one case filed just this year against China (for automobile tires).

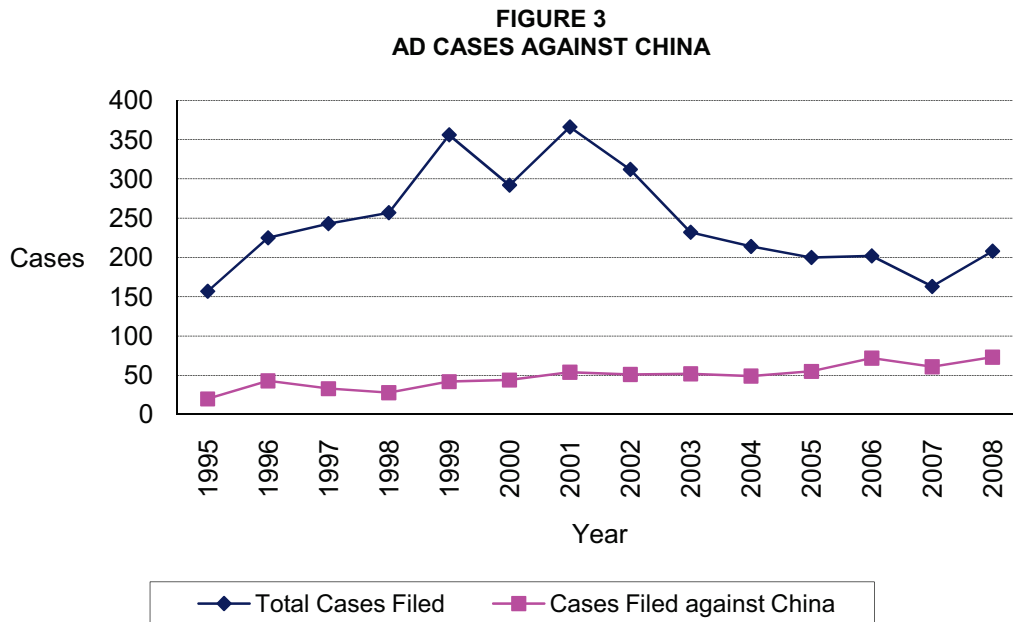
It is also worth noting (to put the recent trends in some perspective) that while global safeguard cases initiated (including both general and China-specific) have increased dramatically since 2007, from 7 that year, to 13 in 2008, and 27 in the first three quarters of 2009 alone, the 2009 figure will likely be just comparable to the 35 such cases filed in 2002. Just as antidumping has become largely a mechanism employed by developing countries, the same can be said (perhaps more so) for escape clause cases –of the 47 cases initiated since 2007, all but three have been filed by developing countries.

A better explanation for reduced antidumping filings against LAC exporters (both from the US and from the rest of the world) is China, which has seen antidumping cases filed against it by all countries rise steadily (as seen in Figure 3) as well as growth in China-specific escape clause/safeguard cases –perhaps diverting attention away from other potential targets. The trend of US cases against China is even stronger, as almost 50 percent of all US antidumping petitions since 2005 have targeted that country’s exporters, reaching an all-time high of 61 percent of cases filed in 2008 and staying close

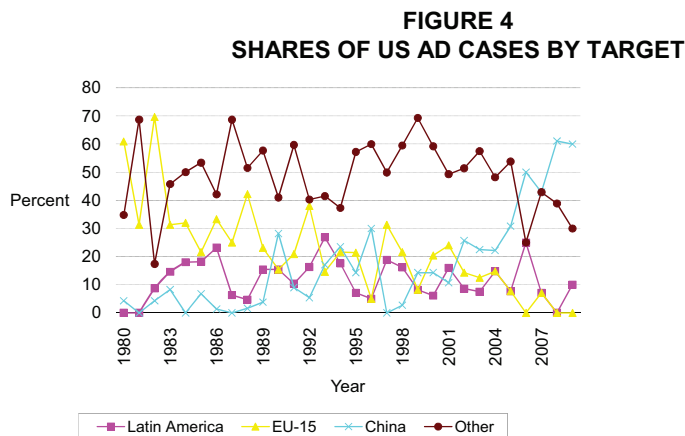
<sup>7</sup> See, for example, Bown (2009b).

<sup>8</sup> Since the start of 2008, (non-China-specific) safeguard protection has been sought for the following products: Blankets, Dextrose Monohydrate, Cotton Yarn, Steel Angle Bars, CD-R and DVD-R, Wire Nails, White Cement, Ceramic Tiles, Phthalic Anhydride, Linear Alkyl Benzene, Oxo Alcohols, Dimethoate Technical, White Sugar, Cotton Yarn, Liquid Chlorine, Steel Rebars, Acrylic Fibre, Hot Rolled Coils/Sheets/Strips, Glass Bottles and Flasks, Coated and Uncoated Paper, Particle Board, Wheat Flour, Matches, Unwrought and Waste/Scrap Aluminum, Sheet Glass, Polyvinyl Chloride (PVC), and Caustic Soda.

to that level in 2009 to date; by comparison, in the previous four years (2001-2004) only 18 percent of US antidumping cases targeted China. Many of these recent cases target Chinese exporters of basic steel products, which had been –in the past– a major focus of US antidumping enforcement against Latin America. Figure 4 illustrates this increasingly narrow focus of US cases on China, with a slight decline in the share targeting Latin America and the Caribbean, and a major drop in EU-aimed cases.



Source: WTO, Statistics on Antidumping

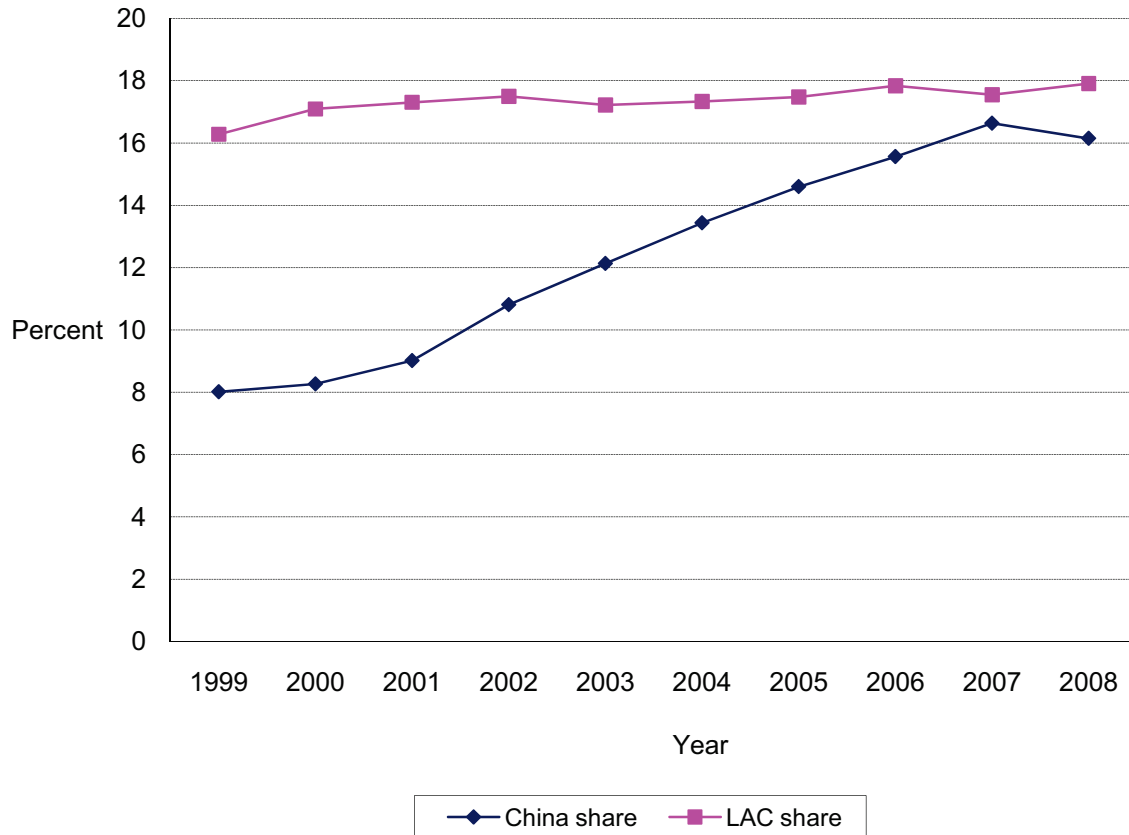


Source: Bown (2009a)

A final explanation for the US trade protection focus being re-directed towards China is simply the tremendous growth in imports from that country, both in absolute terms and as a share of total US imports. Figure 5 illustrates that while imports from Latin America and the Caribbean have maintained a

significant share of all US imports over the past ten years (averaging 17 percent with little movement), Chinese imports have doubled (from 8 percent in 1999 to over 16 percent in 2008). Given limited resources, US firms have chosen to direct their trade policy focus towards this new threat.

**FIGURE 5**  
**SHARES OF US IMPORTS: CHINA AND LATIN AMERICA**



Source: U.S. International Trade Commission, Dataweb, U.S. Import Statistics

## **V. Detail on recent antidumping cases against Latin America and the Caribbean**

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As noted above, since 2005 (through September 2009), the US has filed just 6 antidumping cases against LAC countries (3 leading to measures imposed, 2 of these vs. Brazil). Details of these cases are given in Table 1 (where A=affirmative decision, S=suspended case).

An additional 12 cases have been identified which were filed against LAC exporters by other countries outside the region; these are presented in Table 2 (where A=affirmative, N=negative, W=withdrawn case, T=terminated case). However, note there that only 3 of these cases – all vs. Brazil – have led to measures imposed (two are still pending), none in the past three years.

Potentially more important are the 33 antidumping cases since 2005 filed by one LAC country against another. These, listed in Table 3, involve a wide range of products, with Argentina involved in almost two-thirds of them either as petitioner (16 cases) or exporting country (5 cases). Brazil has been the target of 14 of these cases (13 from Argentina) and a petitioner in another 5 cases (2 of these targeting Argentina).

**TABLE 1**  
**US ANTIDUMPING CASES VS. LAC, 2005-2009:3RD Q**

Target Country	Product	Date Initiated	Final Decision
Argentina	Lemon Juice	09/27/2006	S
Brazil	Orange Juice	01/04/2005	A
Brazil	Polyethylene Terephthalate Film/Sheet/Strip (PET Film)	10/05/2007	A
Mexico	Lemon Juice	09/27/2006	S
Mexico	Light-Walled Rectangular Pipe and Tube	07/03/2007	A
Mexico	Certain Magnesia Carbon Bricks	08/10/2009	pending

Source: Bown (2009a)

**TABLE 2**  
**REST OF WORLD CASES VS. LAC (2005-2009:3RD Q)**

Petitioner	LAC Exporter	Product	Date Initiated	Final Decision
India	Brazil	Ethylene-Propylene-Non-Conjugated Diene Rubber	04/28/2005	A
Canada	Brazil	Certain Copper Rod	08/30/2006	N
European Union	Brazil	Certain Aluminium Foil	07/12/2008	A
European Union	Guatemala	Ethyl Alcohol	05/26/2005	W
South Africa	Argentina	Refined Sunflower Oil	06/10/2005	N
South Africa	Brazil	Refined Sunflower Oil	06/10/2005	T
South Africa	Brazil	Biaxially Oriented Polypropylene (BOPP) Film	11/04/2005	A
South Africa	Brazil	Chopped Strand Mats	05/12/2006	T
South Korea	Argentina	Soybean Oil	10/23/2006	W
South Korea	Brazil	Soybean Oil	10/23/2006	W
Pakistan	Brazil	Phthalic Anhydride	05/29/2009	pending
India	Mexico	Penicillin-G Potassium	07/22/2009	pending

Source: Bown (2009a)

**TABLE 3**  
**WITHIN-LAC CASES (2005-2009:3RD Q)**

Petitioner	Exporter	Product	Date Initiated
Argentina	Brazil	Three Phase Transformers Using Dielectric Liquid	01/18/2006
Argentina	Brazil	Wooden Closets/Wardrobes	06/12/2006
Argentina	Brazil	Steel and Bimetal Handsaw Blades	08/17/2006
Argentina	Brazil	Certain Drinking Glasses	09/07/2006
Argentina	Brazil	Flumetralin	02/14/2007
Argentina	Brazil	Acrylic Yarns	03/25/2008
Argentina	Brazil	Stainless Steel Cutlery	04/25/2008
Argentina	Brazil	Certain Taffeta Ligament Weft and Warp Fabrics	01/06/2009
Argentina	Brazil	Electric Food Processors	01/14/2009
Argentina	Brazil	Stainless Steel Knives with Plastic Handles	03/20/2009
Argentina	Brazil	Iron Pipe Accessories	05/14/2009
Argentina	Brazil	Printing Ink	07/14/2009
Argentina	Brazil	Gas Compressors (except air)	09/09/2009
Argentina	Paraguay	Recordable Compact Discs	03/25/2009

(continued)

Table 3 (concluded)

Petitioner	Exporter	Product	Date Initiated
Argentina	Peru	Zippers	05/05/2008
Argentina	Uruguay	Polystyrene Trays	03/06/2007
Brazil	Argentina	Polycarbonates	08/09/2005
Brazil	Argentina	Biaxially-Oriented Polypropylene Films (Bopp)	08/28/2008
Brazil	Chile	Biaxially-Oriented Polypropylene Films (Bopp)	08/28/2008
Brazil	Ecuador	Biaxially-Oriented Polypropylene Films (Bopp)	08/28/2008
Brazil	Peru	Biaxially-Oriented Polypropylene Films (Bopp)	08/28/2008
Chile	Argentina	Meat of Fowls of the Species Gallus Domesticus	04/20/2003
Chile	Argentina	Wheat Flour	04/24/2004
Colombia	Brazil	Tire Rubber Bands	12/31/2008
Colombia	Mexico	Tire Rubber Bands	12/31/2008
Colombia	Venezuela	Particle Boards	05/17/2005
Costa Rica	Chile	Flexible Packaging made of Printed Metallized Polypropylene	01/09/2006
Mexico	Chile	Mushrooms	05/11/2005
Peru	Argentina	Paper Cups	03/06/2005
Peru	Dominican Republic	Portland Cement	11/02/2007
Peru	Mexico	Paper Cups	03/06/2005
Peru	Mexico	White Cement	09/07/2006
Peru	Mexico	White Cement	10/27/2008

Source: Bown (2009a)



## VI. Conclusion

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Despite concerns expressed over the potential for increasing protectionism in response to the current global downturn, to date this has not been reflected generally in the antidumping enforcement actions by countries of Latin America and the Caribbean (with the notable exception of Argentina). Where protectionism has shown itself most strongly in Latin America, both in terms of antidumping and safeguard/escape clause cases, is in term of actions taken against Chinese exports –joining with the rest of the world in this pattern.

Given the relatively few cases filed, it seems unlikely that that export growth by LAC countries is being seriously challenged by antidumping actions taken by petitioners outside of the region (with the possible exception of Brazil, which has faced the bulk of successful cases and thus antidumping duties on its exporters). More important have been intra-LAC filings, though even here it is unclear the extent to which these have dramatically affected trade flows. However, improving regional coordination of trade policies may be a better approach than this usage of administrative protection against neighbors.





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