

U.S. Import Injury Boomerang Filings: What Makes a Boomerang?

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This briefing is the fourth in a series that provides an overview of import injury filing trends in industries that have sought relief multiple times between 1995 and 2020 (i.e., “boomerang” petitions/filings¹). With increasing interest in industries that file successive AD/CVD petitions, the series provides insight into various trends regarding boomerang filings.² There are four general conditions under which industries may seek to file boomerang petitions, the most frequent of which is seeking relief from imports from sources other than ones included in prior filings.

Overview

Title VII of the Tariff Act of 1930, as amended, allows industries that believe that they are or are threatened with being materially injured by allegedly dumped and/or subsidized imports to petition for relief in the form of duties that are intended to “level the playing field.” These antidumping (“AD”) and countervailing duty (“CVD”) petitions are typically filed by U.S. industries and/or labor groups producing goods that compete with subject imports.³

These petitions can be filed by either an industry that has never filed an AD/CVD petition or one that has done so previously and may seek AD and/or CVD relief with respect to subject imports from one or more countries. “Boomerang” petition filings⁴ (those made with respect to an industry that has previously sought AD/CVD relief) may be submitted with respect to any source (e.g., country or firm), or set of sources, that (1) has not previously been named in an AD or CVD filing in this industry, or (2) has been previously named in an AD or CVD filing in this industry, but the relief that was sought was not granted, the relief that was granted previously has since been removed, or the relief that was granted previously was for only one type of import injury relief (AD or CVD) and the industry is seeking the other type.

A total of 344 import injury filings were submitted in the U.S. during 1995-2020, of which more than a third (124) were boomerang filings and spanned 48 industries (i.e., stemming from 48 initial filings). Therefore, 76 of the 124 filings were subsequent filings since they followed at some time after the 48 initial filings. Of the 459 countries named in boomerang filings, 137 were named in the 48 initial filings and 322 in the 76 subsequent filings.

Boomerang Petition Filing Conditions

There are four broad conditions that may cause an industry to make another petition filing with respect to the same product. The first, and most common, is that a petition may be filed on imports of the same product with respect to a different country/source or set of countries/sources. This first category covers 32 of the 76 subsequent filings, covering 228 of the 322 countries named in them. The other three conditions under which boomerang petitions may be filed involve countries that were previously named in an AD/CVD petition during the period: after a prior negative determination or petition withdrawal, after duties were removed, and for a new product, firm, or investigation type (figure 1).

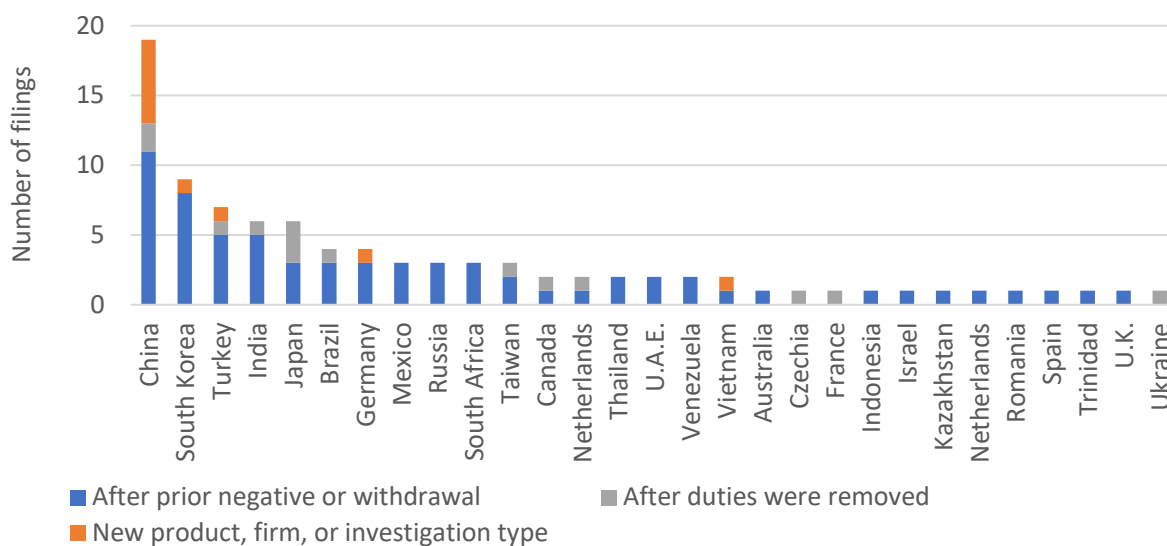
¹ “Boomerang” is meant as a neutral term chosen by the author to label the trend observed.

² See the [first](#), [second](#), and [third](#) EBOTs in this series, which focus on filing frequency and timing, import sources, and which industries have filed for antidumping or countervailing duty relief multiple times, respectively.

³ In addition, the Department of Commerce may self-initiate investigations, as it did with respect to the common alloy aluminum sheet industry.

⁴ A “filing” is a collective term for a petition, or a set of petitions, filed on the same day on the same product.

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Figure 1. Number of subsequent boomerang filings on the same source, by source and condition of filing

Source: USITC

The most common type of same-source boomerang filing, and second most common type overall, occurs when a petition is filed with respect to a country for which the Commission had previously arrived at a negative injury determination (including those based on negligibility), for which petitioners withdrew a filed petition, or for which Commerce determined that a source's margin of dumping or subsidization was less than or near zero (i.e., *de minimis*). At least one source met one of these conditions in 33 of the 76 subsequent filings.⁵ In total, boomerang petitions of this type were filed with respect to 68 import sources: 61 with respect to sources which had a prior negative determination and 7 had petitions withdrawn in an earlier filing.

The second type of same-source boomerang filings (third type overall) involves an industry filing a petition(s) on a product for which duties had been previously applied but have been removed. According to U.S. statutes, AD/CVD duties will remain in place on a source until they are removed. Removal could occur due to a negative determination in a sunset (i.e., five-year) review, a reversal of an affirmative determination stemming from a court remand, a change in industry circumstance such as a country no longer having any productive capacity to manufacture the good,⁶ or removal by Commerce due to non-participation by any domestic interested party producing that good during the sunset phase, among other reasons. Nine of the 76 subsequent filings involved countries for which the orders had been removed and involved 15 import sources.

The final type of boomerang filing covers industries that seek to expand coverage on products imported from sources which already had some AD or CVD duties in place. This could occur if there was at least one source or type of product that was not included in the original duties, or if the petition was filed seeking countervailing duties in addition to antidumping duties that were already in place, or vice versa. This occurred in 10 of the 76 subsequent filings and involved 11 import sources.

Sources: Various USITC preliminary, final, and review phase Title VII reports.

⁵ The number of filings is not additive across categories, as several subsequent filings involved multiple import sources which fell into more than one category of filing conditions, but the number of petitions is additive.

⁶ A changed circumstance could trigger a review of the duties, which may cause a new, negative, determination.

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