



# Trends in U.S. Antidumping and Countervailing Duty Petition Filings and the Consequences of Rule Changes, 1993–2013

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## *Abstract*

This article examines trends in antidumping and countervailing duty investigation petition filings in the United States during the most recent 21-year period. Petitions were filed on a wide variety of goods, but most frequently on intermediate goods; the steel and chemical industries were the industries which sought antidumping and/or countervailing duty relief most often. Petitions are increasingly being filed as joint antidumping and countervailing duty investigations and the countries from which U.S. industries have most frequently sought duty relief were China, the Republic of Korea, India, and Japan. A number of trends were driven by petitions that included China, although that influence has been declining recently. Several patterns were visible with respect to the timing of petitions; most were filed in the middle of the week, late in the month, and late in the quarter, but not necessarily late in the year. Two rule changes during this time period affected some of these petition filing patterns.

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## INTRODUCTION

In the United States, a group seeking temporary relief from unfair trade practices may petition the federal government to impose import duties to remedy the situation. Antidumping and countervailing duty<sup>2</sup> petitions are filed with the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (USITC) on behalf of an industry that allegedly is materially injured, threatened with material injury, or materially retarded from being established by imports that are, or are likely to be dumped, or that are subsidized by the government of one or more countries.<sup>3</sup> The domestic industry covered by the petition is the one manufacturing a product that is like or most like the merchandise subject to the investigation, i.e., the specific imported product or products identified in the petition.<sup>4</sup> Commerce's International Trade Administration (ITA) determines whether there has been subsidization and/or dumping,<sup>5</sup> whereas the USITC determines whether the domestic industry is materially injured, threatened with injury, or being materially retarded due to those imports. Petitions can be filed at any time and by any producer or producers, union, coalition, or trade association involved in the industry selling that domestic product, provided there is sufficient support for the petition from the domestic industry.<sup>6</sup>

After the filing of a petition, Commerce must determine whether to initiate an investigation. If a petition does not meet the legal requirements for filing by the end of the initiation period, Commerce will not initiate an investigation.<sup>7</sup> In order to meet statutory deadlines, the USITC begins its investigation immediately upon the filing of the petition. Petitioners must follow agency rules regarding how, when, and where the petition is filed, identify which goods from which sources will be subject to investigation, and indicate whether antidumping and/or countervailing duties are sought.

Agencies operate subject to both laws and rules. Laws are broader in scope and generally lay out the tasks the agency is authorized to perform. Rules under which agencies such as the USITC and Commerce operate are typically not mandates passed into law by Congress, but rather policies and procedures used within the agencies and made available to those interacting with those agencies in order to ensure fair and efficient operation of that agency's statutory responsibilities.

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<sup>2</sup> Duties may be intended to remedy the sale of goods from abroad at less than fair value ("antidumping") or intended to offset subsidies given to foreign producers and/or exporters of an imported good ("countervailing").

<sup>3</sup> USITC, *Antidumping and Countervailing Duty Handbook*, December 2008, 1-3. Authority to investigate these matters was originally given by Title VII of the Tariff Act of 1930. Consequently, antidumping and countervailing duty activity is often referred to as "Title VII" activity.

<sup>4</sup> In antidumping and countervailing duty investigations, these countries are referred to as the "subject countries."

<sup>5</sup> If the ITA makes an affirmative determination, the extent of the dumping and/or subsidization is quantified via a margin calculation that, when added to a country's or firm's prices would make the imports sell at a fair price in the United States.

<sup>6</sup> Commerce may also self-initiate investigations, though the last investigation which it self-initiated was in 1985, and is outside the scope of this paper.

<sup>7</sup> If Commerce does not initiate an investigation, the USITC will halt its investigation.

Rules may involve substantive topics such as how an agency treats non-market economy data, or be procedural in nature such as specifying page limits for briefs, document formatting guidelines, and allowable times for document submission. Once promulgated, agencies may amend rules pursuant to the provisions of the Administrative Procedure Act, which often require advance public notice and comment.

Rule changes can have effects that may be predictable but are not stated expressly in the notices of proposed or final rulemaking. This paper examines a number of trends in antidumping and countervailing duty filings, and looks at how two rule changes in the past 10 years have affected these trends. First, it gives a brief history of research regarding antidumping and joint antidumping/ countervailing duty filings and trends. Next, it explains the data used. Lastly, it describes trends in filing, along with the ways that rule changes have affected them. The data make it possible to examine a number of related variables: the quantity of filings, the countries named in filings, the industries responsible for the filings, the timing of filings, and the length of the investigations triggered by those filings.

## PRIOR RESEARCH

Prior antidumping and countervailing duty research has focused on either the filing of petitions, the determinations of Title VII proceedings,<sup>8</sup> or the effects of antidumping and countervailing duties. A large number of these studies have focused on the United States. The seminal work on the incidence of trade remedy cases by Finger (1981) covered 1975–79, separating cases by industry, country, and level of development (developed, less developed, and Latin American (sic)). It also attempted to identify characteristics of industries which were granted relief. Since that time, a number of other studies have attempted to pinpoint patterns which might signal or trigger a filing. Feinberg (1989) analyzed the role of real exchange rates and other macroeconomic factors in shaping the pattern of petition filings in the United States. Continuing on these lines, Feinberg (2005) studied the effects of macroeconomic influences on antidumping filings (as well as enforcement), concluding that industries, particularly the U.S. steel industry, have “learned” that certain patterns in macroeconomic data may affect U.S. antidumping outcomes.

Irwin (2005) took a more historical approach, including U.S. antidumping filings that spanned a broader time horizon—from 1922 to 2002. He recognized that there is a distinction between the metrics of the quantity of petitions filed (which he termed “commodities”) and the number of antidumping investigations. In fact, he found that the increase in the number of antidumping cases since the early 1980s reflects the increase in multi-country cases, not an increase in the number of commodities. Irwin notes that this is at least in part due to a legal change in 1984 that allowed the imports from all petitions filed the same day on the same product to be

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<sup>8</sup> The authority to conduct antidumping and countervailing duty investigations is conferred by Title VII of the Tariff Act of 1930. These investigations are sometimes referred to jointly as “Title VII” investigations or proceedings.

cumulated, i.e., bundled together, to determine injury. He also looked at macroeconomic factors, and found that during this period, the unemployment rate (not GDP), exchange rates, and import penetration (the ratio of imports to GDP) helped to determine the number of cases filed. His paper is also one of the few in the literature that distinguishes among antidumping, countervailing duty, and joint determinations. Hansen and Prusa (1996) studied the effect of the 1984 law change regarding cumulation, but analyzed only how it affected determinations, not filings. Goldstein and Lenway (1989), along with Moore (1992) also looked at factors influencing USITC determinations.

Some studies have examined several other factors that might influence the decision to file a trade remedy case. Blonigen (2004) looked at whether having previously filed an antidumping petition could raise the likelihood that an industry would file another one, surmising that prior antidumping activity lowered the cost of filing a petition. He found that the likelihood a petition is filed in an industry (defined by 4-digit Standard Industrial Classification codes) would file a petition rose from 2 percent to 9 percent if it had prior antidumping experience. Using data from 1986-1992 in analyzing industries facing increasing consumption, Sabry (2000) found that the firm concentration level and import shares helped determine the decision to file. She examined influences upon the final outcome of the case as well. Hillberry and McCalman (2009) examined monthly U.S. import data broken down by industry and source country—the most disaggregated import data available—to learn what may trigger the filing of a petition regarding imports from a certain industry in a certain country. In looking at monthly data, this study emphasized that “timeliness is a key feature of an antidumping case.” In fact, since the day a petition is filed determines the time period for which data will be collected and analyzed in the investigation, timing decisions may be strategic in nature, and this is one of the trends that the present work explores.

An alternative construct that some researchers have used characterizes the filing of a petition as a discrete choice by an industry or firm. Cassing and To (2008) and Olson (2004) analyzed industries at the firm level regarding producers’ decisions whether to join antidumping petitions or not or even whether to support a petition.

Since industries may also decide to withdraw a petition after it is filed, not all filings end in a determination. Prusa (1992) studied the number of antidumping petitions that were withdrawn in 1980–1985. In that time period, 38 percent of petitions were withdrawn, though he points out that a withdrawal may indicate that the domestic industry came to a financial settlement with foreign producers, exporters, and/or importers of that good rather than a decision to stop the investigation based on information learned during the proceeding. Far fewer were withdrawn in 1993–2013, amounting to less than 5 percent of petitions filed.

Other antidumping and countervailing duty research looks at outcomes in multiple countries. Some have surveyed the incidence of trade remedy filings. Vandebussche and Zanardi (2010) and Bown (2010) demonstrated that an increasing number of countries, particularly developing countries, have been using trade remedies more frequently, and the rate of use increased during the global economic crisis of 2008–09.

A number of studies have also looked at the effect of macroeconomic factors on the filing or determinations of trade remedy investigations. In response to Feinberg's early (1989) study of exchange rates on filings, Knetter and Prusa (2003) looked at effects of factors such as appreciating real exchange rates and real GDP on filings in four countries. They found that both exchange rates and GDP have an effect, but that exchange rates have the opposite effect than what Feinberg found. Sadni-Jallab et al. (2006) compared the relative importance of macroeconomic factors in influencing antidumping petition filings in the United States compared with filings in the European Union in 1990–2002.

Prusa and Skeath (2002) studied the increasing number of worldwide antidumping filings in 1980–98, in order to identify national motivations for their increasing numbers (e.g., as retaliation or as part of a “club”), rather than solely macroeconomic trends. Feinberg and Reynolds (2006) also researched the role of retaliation as a motivation for filing antidumping petitions.

In contrast, the present study emphasizes trends in petition filings in a number of different ways, focusing on the characteristics of the petitions rather than the motivation for filing them. It is an academic presentation of the data, trends, and tendencies that is intended to let the reader draw her own conclusions.

## DATA ISSUES

The data analysis in this paper encompasses all filings of antidumping and countervailing duty petitions filed at the USITC and Commerce between January 1, 1993 and December 31, 2013 with the exception of one filing<sup>9</sup>.<sup>10</sup> Data are organized by calendar year. The dataset does not include data for certain relatively rare types of investigations, including section 201 import safeguard investigations, section 302 safeguard investigations related to the North American Free Trade Agreement, or section 421 safeguard investigations related to China's accession to the World Trade Organization.<sup>11</sup> In total, 266 petitions were filed with Commerce and the USITC in this 21-year period. It should be noted that the number of these filings is smaller than the number of investigations that were commenced. One reason for this is that a single petition may be filed on multiple countries, triggering multiple investigations. Another reason is that a single petition may pursue both antidumping and countervailing duties, which will result in two in-

<sup>9</sup> Voluntary Restraint Agreements (VRAs) on finished steel products ended in early 1992. (Blonigen, et al., 2013). Accordingly, this data set does not include petitions that were filed during the period in which VRAs were in force or the petitions that were filed in the months immediately after the VRAs were lifted.

<sup>10</sup> The petition for 731-TA-809-810, Live Cattle from Canada and Mexico, which was withdrawn and subsequently re-filed shortly thereafter, is not included. The re-filed petition is included in the dataset, however.

<sup>11</sup> These include 1 section 302 NAFTA safeguard petition (filed in 1996), 10 section 201 safeguard petitions (filed between 1995 and 2001), and 7 section 421 China safeguard investigations (filed between 2002 and 2009). More information about safeguard investigations can be found at [http://www.usitc.gov/press\\_room/us\\_safeguard.htm](http://www.usitc.gov/press_room/us_safeguard.htm). This paper does include two countervailing duty investigations involving countries that were non-signatories to the GATT Subsidies Agreement of 1979; these actions are known as section 303 investigations. Section 303 was repealed in the Uruguay Round Agreements Act of 1994, however, because it was no longer necessary.

vestigations but one filing. The sources of the data used in this study are the yearly USITC reports entitled *The Year in Trade: Operations of the Trade Agreements Program* for 1995 through 2013, various Federal Register notices, past USITC investigation staff reports, the USITC current import injury investigation website,<sup>12</sup> and USITC staff expertise.

Not all the petitions that are filed conclude with a determination by the USITC. Some investigations are terminated at Commerce, some are postponed due to a suspension agreement between parties, and others are withdrawn by the petitioner(s). As a result, data sets covering only determinations or duties in place do not capture the entire extent of petitions filed. USITC investigation numbers are issued sequentially; the current data set used encompasses antidumping duty investigation numbers 731-TA-641 through 731-TA-1247 and countervailing duty investigations 701-TA-355 through 701-TA-511 and 303-TA-24 and 303-TA-25.

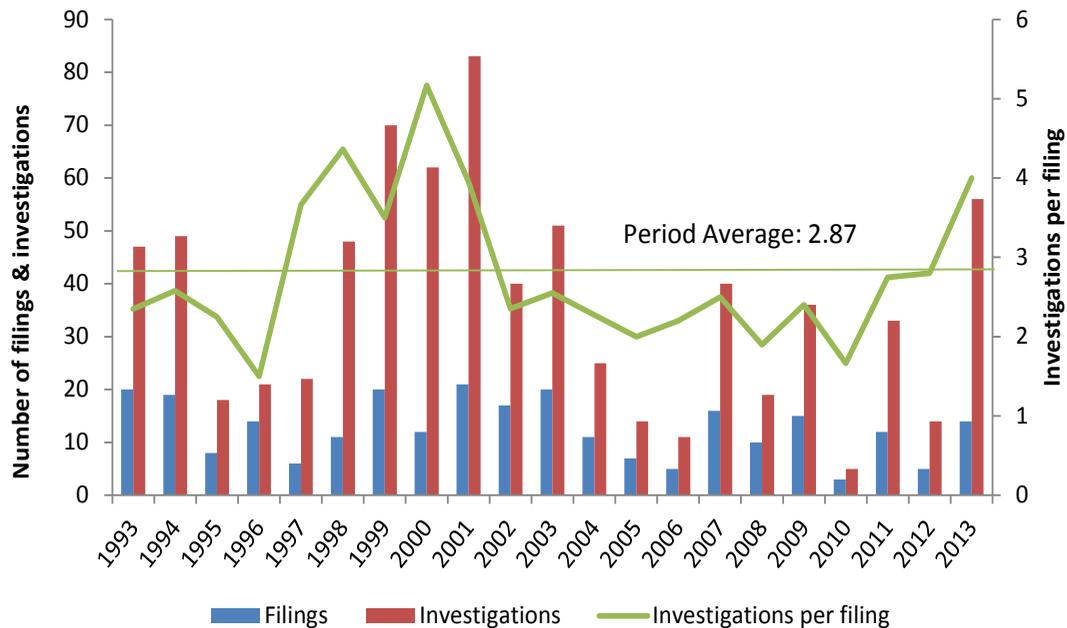
This study divides investigations into nine general industry classifications and also distinguishes whether the subject product was mainly an intermediate or a final good (or a mixture of both). One difficulty with classifying subject products as intermediate or final goods is the question of when a good should be considered to have been finally used. For instance, orange juice can be easily classed as a final good because most of it is consumed directly, while hot-rolled steel is plainly an intermediate good based on its many and varied downstream uses. Other products, however, are not easily classifiable. An example is steel wheels, which are sold both to commercial truck manufacturers and in the aftermarket directly to consumers. Consequently, some products are categorized in a third way—as both intermediate and final goods.

## THE QUANTITY OF FILINGS

As noted above, there are far more investigations than filings because of the possibility of multi-country and multi-remedy petitions. Figure 1 shows the number of antidumping and countervailing duty filings and investigations during 1993–2013. Overall, 266 petitions were filed and 764 investigations commenced. On average, 12.7 petitions were filed per year, with a standard deviation of 5.6, reflecting a somewhat broad variation in the number of filings per year.

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<sup>12</sup> [http://www.usitc.gov/trade\\_remedy/731\\_ad\\_701\\_cvd/investigations/completed/index.htm](http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/completed/index.htm).

**Figure 1:** Number of petitions filed and investigations commenced, by year, 1993–2013

Source: Author's calculations based on USITC data.

Figure 1 also demonstrates that the number of filings was highest in the earliest years of the period and around the turn of millennium: the years with the most petitions filed were 1993, 1994, 1999, 2001, and 2003, all of which with between 19 and 21 petitions filed.<sup>13</sup> On the other hand, four of the five years with the highest number of investigations begun were between 1999 and 2003; the remaining year was 2013.

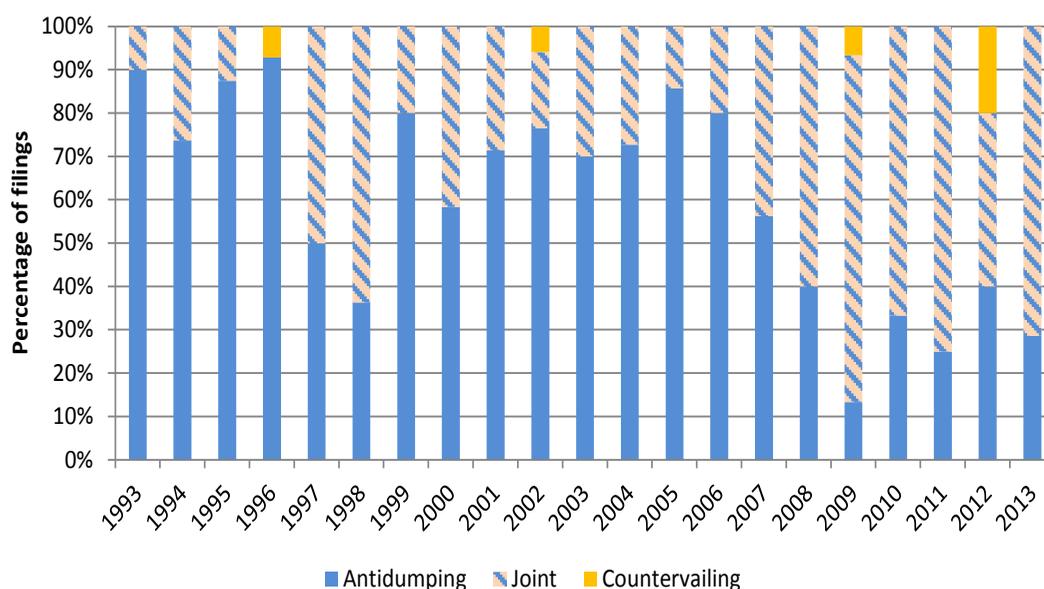
On average, 2.87 investigations were commenced for each petition filed. Whereas this measure was below average at the beginning of the period (1993–96), it was above average in 1997–2001 (peaking at 5.17 investigations in 2000), before beginning a sharp plunge. After nearly a decade of hovering in the low 2s or below, the number of investigations per filing began to rise once more in 2011 (2.75 per filing) and was again above average in 2013 (4.00 per filing).

By comparing the average number of investigations triggered by a petition to the number of countries included in that petition, we can determine how often a petition sought both antidumping and countervailing duty relief with respect to the industry in a certain country. Overall, in 1993–2013, this figure was 22.4 percent of the petitions filed. Though the data tend to vary on a year-by-year basis, this share has been higher in recent years than it was earlier in the period. In 2008–13, it was 43.0 percent, more than double the share (17.8 percent) for the period 1993–2007.

<sup>13</sup> The number of petitions filed in the years just before 1993 was also historically high. As in 1993 and 1994, the number of petitions filed between 1989 and 1992 averaged around 20 per year.

As noted, there are two reasons why the number of investigations started is larger than the number of petitions filed: the type(s) of investigation and the number of countries named in the petition. Each of these can be analyzed separately. First, a petition may involve allegations that the subject imports are either dumped, subsidized, or both dumped and subsidized. The majority of filings involve either dumping allegations calling for antidumping remedies (167 petitions) or joint dumping/subsidy allegations calling for joint antidumping/countervailing duty remedies (95 petitions).<sup>14</sup> Shares of antidumping, countervailing duty, and joint filings are shown in figure 2. Only four filings throughout the period involved solely countervailing duty investigations. Two of these filings involved one country, one involved two countries (Ni-resist piston inserts in 2009), and one involved seven countries (frozen warmwater shrimp in 2012).

**Figure 2:** Shares of antidumping, countervailing duty, and joint filings, 1993–2013

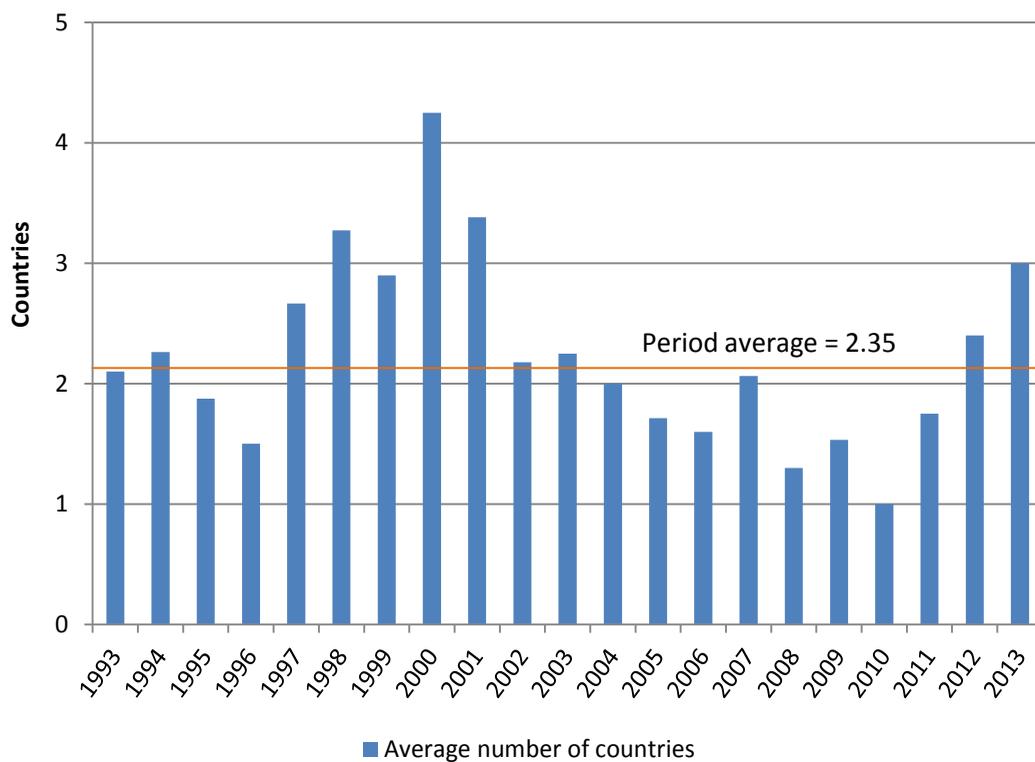


Source: Author’s calculations based on USITC data.

<sup>14</sup> The vast majority of joint filings are with respect to the same country. Only two filings (silicon metal from Brazil and South Africa in 2004, and chlorinated isocyanurates from China and Japan in 2013) had a joint antidumping and countervailing duty petition filed on different countries. Other joint petitions may name some countries only in the antidumping or the countervailing duty portion of the petition. In both cases, the petition is treated as a joint petition in this study.

Second, there may be multiple countries named in a single petition. The Tariff and Trade Act of 1984 requires the USITC to cumulate imports from multiple countries for petitions that are filed with respect to the same “like product” on the same day.<sup>15</sup> Overall, in 1993–2013, the average number of countries per petition filed was 2.35 (figure 3). This accounts for the majority of the variation in the number of investigations started per filing because there is no limit to the number of countries that can be included in a petition, subject to certain minimum import criteria. Just over 50 percent of all filings pertained to one country only. Two countries were the subject in almost 23 percent of filings, three countries in 9 percent of filings, four countries in 8 percent of filings, and just over 10 percent of the petitions filed pertained to five or more countries, with the largest petition involving 20 countries (cold-rolled steel, 2001). If a petition is filed with both an antidumping and a countervailing duty component on any single country, it would count only as two investigations. Therefore the number of countries has had a larger effect on the measurement of investigations per filing.

**Figure 3:** Average number of countries per filing, by year, 1993–2013

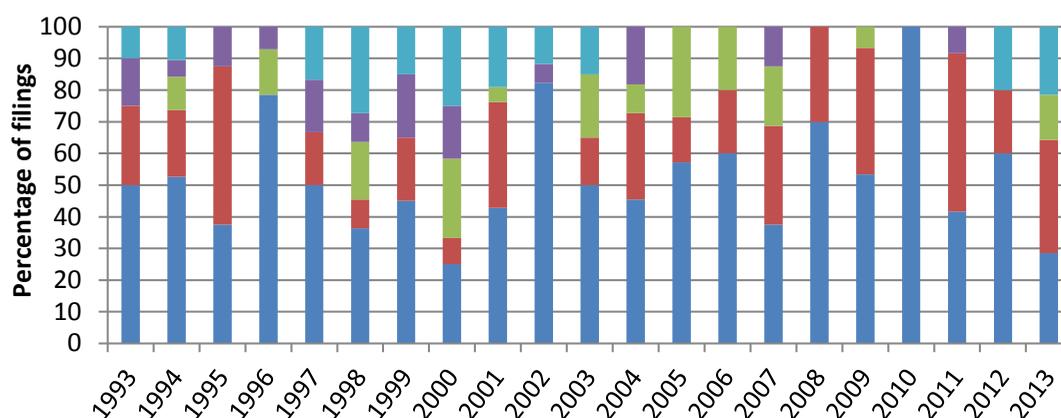


Source: Author’s calculations based on USITC data.

<sup>15</sup> A petition is filed on behalf of the industry producing the product that is “like” or most similar to the product that is allegedly being imported unfairly. For the purposes of this paper, the terms “filing” and “petition” will be used interchangeably.

The average number of countries per petition peaked in 1997–2001 (figure 4), when a number of large multi-country petitions were filed concerning a variety of steel products.<sup>16</sup> The last petition filed that included 10 or more countries involved oil country tubular goods in March 2002 (14 countries). In the rest of 2002–03, four more petitions were filed that sought relief from five or more countries, but three of these petitions were not steel-related, and the average number of countries involved was beginning to trend downward. Similar to the trend in the number of investigations started per filing, the number of countries per filing was below average in 2002–11 (1.69 countries). The number of countries per filing steadily increased during 2010–13, however. At the end of 2012, the first petition in nine years involving five or more countries was filed (frozen warmwater shrimp from seven countries), and three more were filed in 2013, all involving steel products.

**Figure 4:** Number of countries included in a filing, by year, 1993–2013



Source: Author's calculations based on USITC data.

## THE COUNTRIES NAMED IN FILINGS

Antidumping and/or countervailing duty investigations during this period were filed with respect to imports from 60 countries. As noted earlier, the 266 petitions filed started 764 investigations total, with 134 of the petitions filed with regard to a single country.<sup>17</sup> Only one country (Denmark) was included solely in single-country petitions, while 36 countries were

<sup>16</sup> In 2001, there was also a petition filed under section 201 of the Trade Act of 1974 by the steel industry seeking relief from an import surge. This safeguard provision provides relief without respect to the source of imports, but the industry must meet a higher threshold of injury and of the cause of that injury.

<sup>17</sup> There were 147 instances in which a country named in a petition was subject to a joint antidumping and countervailing duty investigation. If we define a "country investigation" to be an investigation that is started with respect to a country, whether it is a joint antidumping and countervailing duty investigation, or solely one or the other, there were 617 country investigations in this study's time period. Although country investigations may be an interesting statistic to examine in a future study, they constituted less than 18 percent of the investigations covered by this paper.

included only in multi-country petitions, and 22 were subject countries in both single-country and multi-country petitions.<sup>18</sup> Table 1 shows the frequency in which a country was the sole subject country in a petition. Among the 22 countries that were included in both single-country and multi-country petitions, Indonesia and Thailand were least frequently included in single-country petitions (this happened in 5 percent of the investigations in which they were subject countries). At the other extreme, Canada was the subject country most frequently named in single-country petitions (61 percent), followed by China (51 percent).

**Table 1:** Countries named in single-country and multi-country petitions, and the share of petitions in which a country named in both single- and multi-country petitions is named as the sole subject country, 1993–2013

Subject only in multi-country petitions		Country and share of petitions where country is named as sole subject country (in percent)		Subject only in single-country petitions
Argentina	Lithuania	Indonesia	5	Denmark
Australia	Luxembourg	Thailand	5	
Belarus	Macedonia	Brazil	6	
Belgium	Moldova	Taiwan	7	
Colombia	New Zealand	Korea	7	
Costa Rica	Oman	Ukraine	10	
Czech Republic	Philippines	Malaysia	11	
Ecuador	Poland	Mexico	11	
Egypt	Portugal	Vietnam	11	
Finland	Romania	India	17	
Germany	Saudi Arabia	Netherlands	17	
Greece	Singapore	South Africa	17	
Hungary	Slovakia	France	18	
Iraq	Spain	Turkey	18	
Ireland	Sweden	Austria	20	
Israel	Trinidad and Tobago	Russia	20	
Italy	United Kingdom	United Arab Emirates	25	
Latvia	Venezuela	Kazakhstan	33	
		Japan	35	
		Chile	50	
		China	51	
		Canada	61	

Source: Author's calculations based on USITC data.

The top 12 countries were subject to more than 20 investigations each, and together accounted for 68.5 percent of the total number of investigations started in the period. The shares

<sup>18</sup> These calculations use the “country investigation” approach to reduce double-counting.

attributable to each of these countries varied, however. Table 2 breaks down the 21-year period into four subperiods for these 12 countries and a category for the other 48 countries combined, while figure 5 presents the data for each year separately.

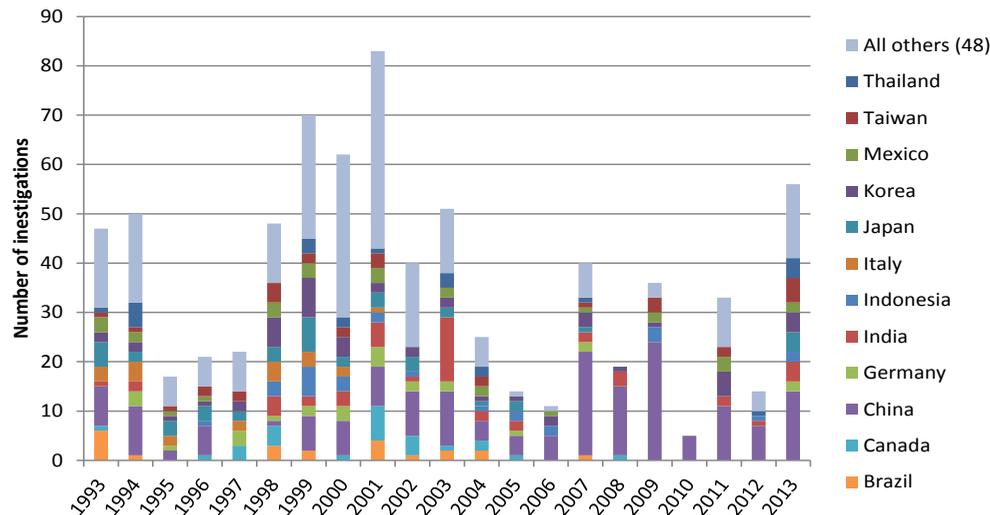
A few trends are readily apparent from these data. The first is a rise in the number of investigations started involving China between the earlier and later subperiods. To a lesser extent, there has also been an increase in the number of investigations started involving Taiwan.

**Table 2:** Number and share of investigations started, by country and subperiod, 1993–2013

Country	Number of investigations started				Share of investigations started (in percent)			
	1993–98	1999–2003	2004–08	2009–13	1993–98	1999–2003	2004–08	2009–13
Brazil	10	9	3	0	4.9	2.9	2.8	--
Canada	9	13	4	0	4.4	4.2	3.7	--
China	27	42	48	61	13.2	13.7	44.0	42.4
Germany	8	13	3	2	3.9	4.2	2.8	1.4
India	7	24	9	7	3.4	7.8	8.3	4.9
Indonesia	4	12	5	6	2.0	3.9	4.6	4.2
Italy	15	6	0	0	7.3	2.0	--	--
Japan	18	17	4	4	8.8	5.6	3.7	2.8
Korea	14	18	8	10	6.8	5.9	7.3	6.9
Mexico	10	8	4	7	4.9	2.6	3.7	4.9
Taiwan	11	7	3	10	5.4	2.3	2.8	6.9
Thailand	6	9	3	5	2.9	2.9	2.8	3.5
All others <sup>1</sup>	66	128	15	32	32.2	41.8	13.8	22.2
Total	205	306	109	144	100.0	100.0	100.0	100.0

<sup>1</sup> "All others" includes 48 countries.

Source: Author's calculations based on USITC data.

**Figure 5:** Number of investigations started, by country and year, 1993–2013

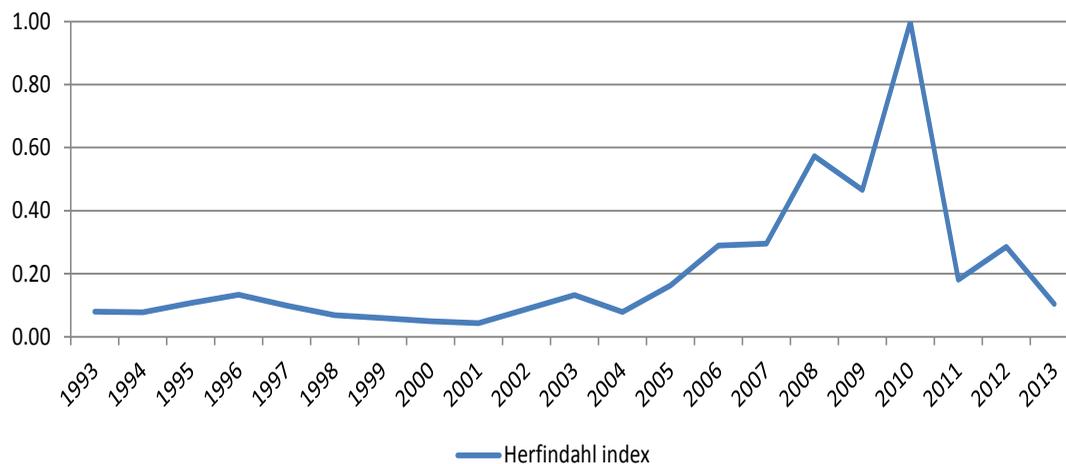
Source: Author's calculations based on USITC data.

Even though the percentage filed concerning Korea did not change much between the first and last subperiods, it rose from being the fourth most frequently named country in petitions to the second most frequently named country. On the other hand, investigations started which involved Japan and Italy have both decreased considerably. They were the second and third most frequently named countries in the first period, but had fallen to number 9 (Japan) or out of the rankings completely (Italy) in the most recent period. In fact, no investigations naming Italy were started in the last two subperiods. No petitions were filed with respect to Brazil or Canada in the last subperiod either.

A second trend apparent in table 2 is the increasing concentration of petitions filed with respect to certain countries. The Herfindahl index, a measure of market concentration scaled between 0 and 1, remained between 0.04 and 0.14 between 1993 and 2004, indicating that a broad number of countries were named in investigations.<sup>19</sup> Between 2004 and 2010, the concentration of subject countries increased, reaching 1.00 in 2010, as all five investigations filed in that year concerned China. Since that point, however, the Herfindahl index has declined irregularly, reaching pre-2005 levels for the first time in 2013. Yearly values in the Herfindahl index are presented in figure 6.

<sup>19</sup> A Herfindahl index below 0.15 indicates a low concentration; between 0.15 and 0.25, a moderate concentration; and above 0.25, a high concentration. Typically, a Herfindahl index measures the concentration of an industry's sales. However, it can also be used to measure other types of market concentration. In this context, it is measuring how concentrated filings are with respect to the countries named in filings. See, e.g., [http://www.amsweb.com/cgi-bin/awb\\_nav.pl?s=wpd&c=dsp&k=Herfindahl+index](http://www.amsweb.com/cgi-bin/awb_nav.pl?s=wpd&c=dsp&k=Herfindahl+index).

**Figure 6:** Herfindahl index of country concentration in antidumping and countervailing duty investigations, 1993–2013



Source: Author’s calculations based on USITC data.

Third, these data highlight a number of countries that were consistently named in filings. The top 10 countries referenced in petitions in each sub-period, presented in table 3, came repeatedly out of the top 12 countries for the entire period (table 2). Only four countries in table 3 do not appear in table 2: South Africa (tied for 5th) and France (9th) in 1999–2003 as well as Vietnam (4th) and Turkey (10th) in 2009–2013. Another point of consistency among filings is that China was the most-named country in each of the subperiods. Even though China ranked first in each subperiod, it did not rank first in each year (table 4). It did, however, rank first in 16 of the 21 years and each year since 2004.

**Table 3:** Top ten countries named in petition filings, by subperiod, 1993–2013

Ranking	1993–98	1999–2003	2004–08	2009–13
1	China	China	China	China
2	Japan	India	India	*Korea
3	Italy	Korea	Korea	*Taiwan
4	Korea	Japan	Indonesia	Vietnam
5	Taiwan	*Canada	Canada	*India
6	Mexico	*Germany	Japan	*Mexico
7	Brazil	*South Africa	Mexico	Indonesia
8	Canada	Indonesia	*Brazil	Thailand
9	Germany	France	*Germany	Japan
10	India	*Brazil	*Taiwan	Turkey
		*Thailand	*Thailand	
		*Venezuela		

Note: An asterisk indicates a tie in rankings.

Source: Author's calculations based on USITC data.

Given the frequency with which China is included in trade remedy investigations, it should be noted that there were no countervailing duty investigations with respect to China before 2006. A petition on coated free sheet paper was filed in the last quarter of 2006 seeking antidumping and countervailing duties on this product imported from China, Indonesia, and Korea. Commerce issued a preliminary affirmative countervailing duty determination in this investigation in April 2007, along with a memorandum justifying why the Chinese economy in 2005 differed from the nonmarket economies that were at issue in the 1986 Georgetown Steel proceeding in which Commerce determined that subsidies cannot be found in a nonmarket economy.<sup>20</sup> This rule change allowed future countervailing duty petitions to include China and other nonmarket economies. Consequently, the majority of joint antidumping and countervailing duty investigations in each year since 2007 sought joint relief from China, with China being included in 39 of 49 joint filings in 2006–13.<sup>21</sup> In fact, China was the only country named in joint petitions in 2006, 2007, 2010, and 2012. China was also one of the seven countries named in the seven-country countervailing duty petition filed with respect to frozen warmwater shrimp in 2013.

<sup>20</sup> Smith, "U.S. Trade Remedy Laws," January 31, 2013.

<sup>21</sup> This includes the 2013 chlorinated isocyanurates investigations wherein China was the only country for which countervailing duty relief was sought in the petition and Japan was the only country for which antidumping duty relief was sought.

**Table 4: Two most frequently named countries in petition filings, by year, 1993–2013**

Year	Ranking		Year	Ranking	
	<u>First</u>	<u>Second</u>		<u>First</u>	<u>Second</u>
1993	China	Brazil	2004	China	Brazil, Canada, India, Mexico, Taiwan, Thailand
1994	China	Thailand	2005	China	India, Indonesia, Japan
1995	Japan	China, Italy, Turkey, UK	2006	China	Indonesia, Korea
1996	China	Japan	2007	China	Korea
1997	*Canada	*Germany	2008	China	India
1998	Korea	Canada, India, Italy, Taiwan	2009	China	Indonesia, Taiwan
1999	Korea	China/Japan	2010	China	<sup>1</sup>
2000	China	Argentina, Korea, UK	2011	China	Korea, Vietnam
2001	China	Canada	2012	China	Austria, Ecuador, India, Indonesia, Malaysia, Thailand, Vietnam
2002	China	Canada			
2003	India	China	2013	China	Taiwan

<sup>1</sup> China was the only country named in a petition in 2010.

Note: An asterisk indicates a tie in rankings.

Source: Author's calculations based on USITC data.

The rule change from Commerce did not wholly account for the increase in the share of investigations started which involved China, as the share was already increasing in 2005. It continued to increase through 2010, but has fallen somewhat since then. China was named in one-third of investigations started in 2011, one-half in 2012, but only one-quarter in 2013. The proportions are smaller when looking at “country investigations” (i.e., the number of times a country is named in a petition, whether it is an antidumping, countervailing duty, or joint petition) since many of these petitions sought joint relief, triggering two investigations. China accounted for 29 percent of country investigations in 2011, 42 percent in 2012, and 17 percent in 2013.

## THE INDUSTRIES RESPONSIBLE FOR FILINGS

A large variety of industries have filed antidumping and countervailing duty petitions since 1993. They range from very large industries that encompass products that are broadly used (e.g., flat-rolled steel) to small industries producing products with very specific uses (aperture masks). Some products are very large (utility-scale wind towers), while others are tiny (paper clips), and the products can span the supply chain from start (softwood lumber) to finish (color television receivers).

For this paper, industries that filed petitions were classified into nine industry groups:<sup>22</sup> agricultural and food products (agriculture); chemicals, including plastics and rubber (chemicals); electrical machinery and technology products (machinery); ores, minerals, and metals other than steel (metals); steel and steel products (steel); textile products, including clothing, footwear, and luggage (textiles); vehicles and parts (vehicles); wood and paper products (wood); and miscellaneous manufactures (miscellaneous).

There are some slight differences between industry groups with respect to whether they file antidumping or joint antidumping/countervailing duty petitions. On average, 63.2 percent of petition filings were seeking antidumping relief without countervailing duty relief, while 35.3 percent sought both types of relief.<sup>23</sup> Industry groups that filed relatively more antidumping-only relief petitions included the metals (82.8 percent of this group's petitions), machinery (80.0 percent), and chemicals (72.0 percent) groups. By contrast, the wood and paper industry group sought higher-than-average joint antidumping and countervailing duty relief (64.3 percent), followed by the steel industry group (49.4 percent).

The steel industry group filed the largest number of petitions (79) during the 21-year period. This industry group can be broken down into three subgroups: mill products (e.g., cold-rolled steel), pipe products (e.g., welded stainless steel pipe), and other products (e.g., butt-weld pipe fittings or paper clips). Within the steel group, slightly more petitions were filed with respect to mill products (34) than pipe (21) or other steel products (24). Twenty-six of the 34 mill product petitions were filed in the first half of the period, and five more of the petitions were filed in 2013. Pipe and other steel product petitions were more evenly divided between the two decades, although one-third of the 21 pipe cases were filed between 2007 and 2009.

The chemicals industry group filed the second-highest number of petitions (50 in the 21-year period). Table 5 shows the total number of filings for each industry group and the number of years in which that industry group filed a petition. Details for all industries on a year-by-year basis are presented in figure 7. The steel industry group filed petitions in all years except 2006, 2010, and 2012 (the three years with the fewest filings in general), while the chemicals industry group did so in all years but 1997, 2006, and 2012 (three of the four years with the fewest filings)

<sup>22</sup> The parenthetical notation following each industry group description presents short-form names used to refer to the groups in the rest of the paper.

<sup>23</sup> The remainder, 1.5 percent, sought only countervailing duty relief.

Petitions regarding agricultural and food products were filed in each year between 1994 and 2004. After 2006, however, no agricultural or food product petitions were filed for five years. Recently, though, two were filed in 2012 (involving xanthan gum – used in almost as many food applications as oilfield applications—and frozen warmwater shrimp) and another in 2013 (monosodium glutamate). Although related to end uses of the product rather than the product itself, it is notable that 3 of the 12 petitions filed in 2011 were with respect to products related to the energy industry, as were 4 of the 14 petitions filed in 2013.<sup>24</sup>

The industry group whose petitions targeted the most countries was the steel group, which filed petitions with respect to 3.82 countries on average, nearly twice the 1.96 countries included in petitions filed by the next-highest group, chemicals. There were variations within the steel group as well. The mill products subgroup filed petitions involving 5.1 countries on average, compared with 3.5 countries for the pipe subgroup and 2.4 countries for the other steel products subgroup. The two industry groups with the fewest petitions filed, the textile and vehicle groups, were also the two groups with the fewest countries included in their petitions (table 5).

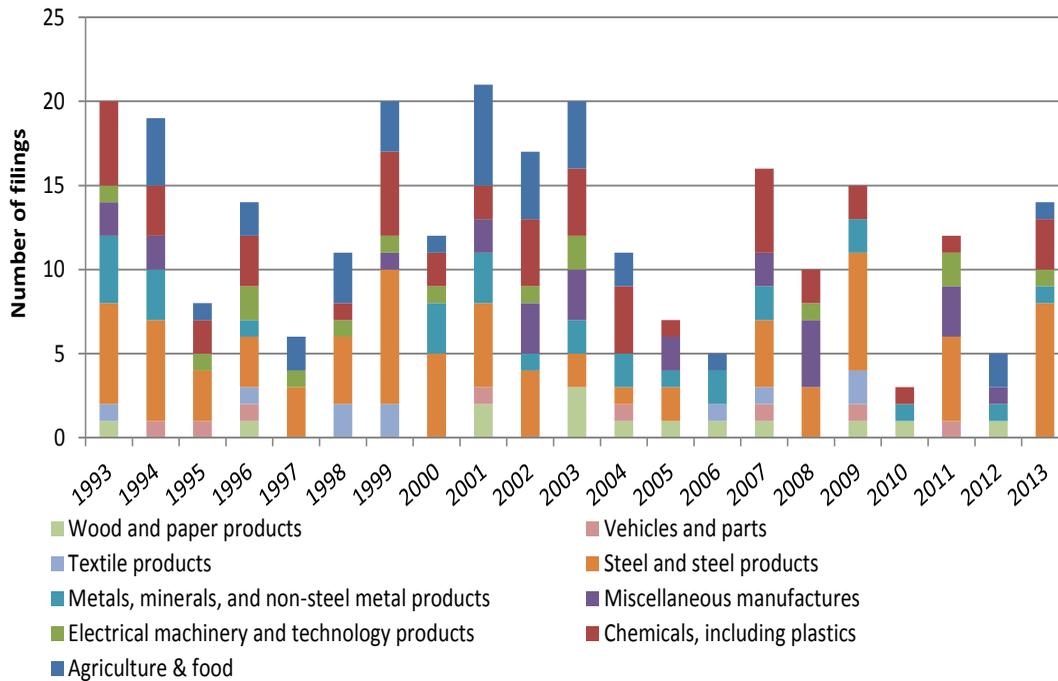
**Table 5:** Number of petitions filed and number of years with a petition filed, by industry group, 1993–2013

Industry group	Number of petitions	Years with a petition	Average number of countries per petition
Agriculture and food	36	14	1.72
Chemicals, including plastics	50	18	1.96
Electrical machinery and technology products	15	12	1.47
Miscellaneous manufactures	25	11	1.52
Ores, minerals, metals and non-steel metal products	29	15	1.86
Steel and steel products	79	18	3.82
Textile products	10	7	1.20
Vehicles and parts	8	8	1.25
Wood and paper products	14	11	1.86

Source: Author's calculations based on USITC data.

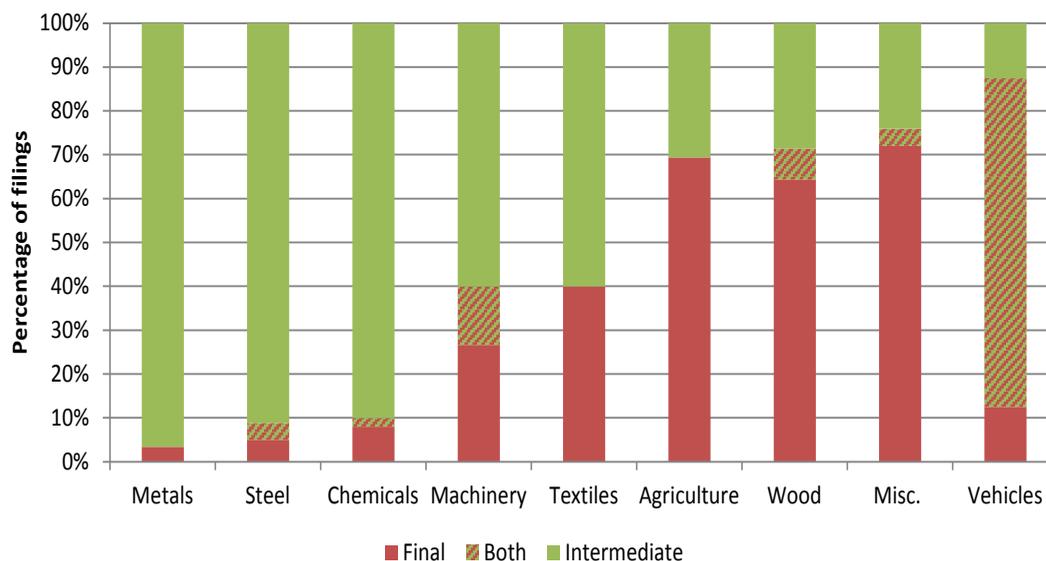
<sup>24</sup> These were large power transformers, wind towers, and concentrated solar photovoltaic (CSPV) cells and modules in 2011 and welded stainless steel pressure pipe, oil country tubular goods, grain-oriented electrical steel, and CSPV products in 2013.

**Figure 7:** Number of filings, by industry group and year, 1993–2013



Source: Author’s calculations based on USITC data.

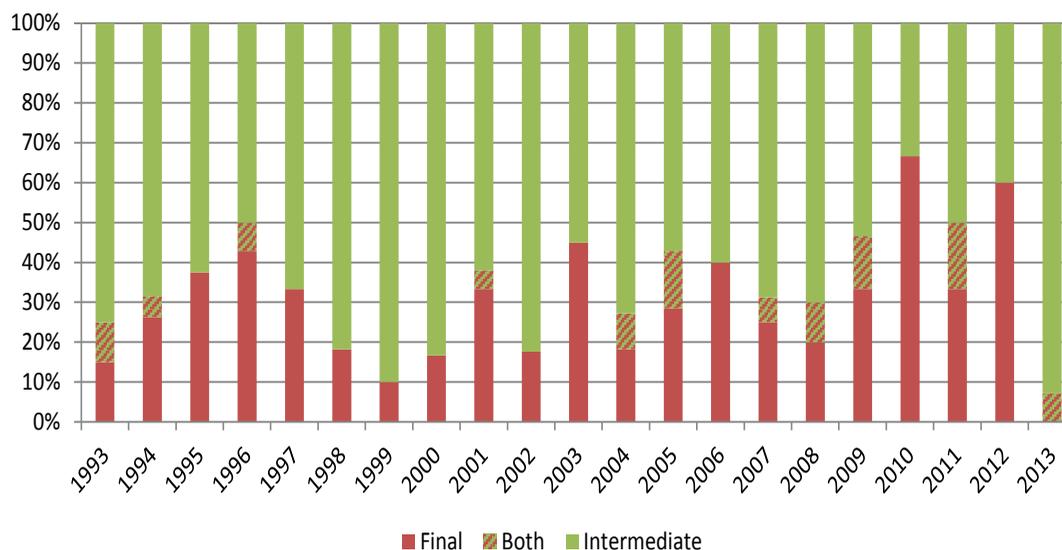
As seen with the above examples of agricultural and food products, goods in each category may contain products that are chiefly intermediate or final goods, or contain a varied mixture of both. Some industry groups tended to file petitions more often on goods classified as intermediate, while other groups filed more often with respect to goods classified as final goods. The industry groups associated most closely with intermediate goods were metals, steel, and chemicals. The industry groups associated closely with final goods were miscellaneous manufactures, wood and paper products, and agricultural and food products. The majority of the petitions pertaining to vehicles and parts were most often classified as both final and intermediate goods (figure 8).

**Figure 8:** Share of petitions filed regarding final and intermediate goods, by industry group

Source: Author's calculations based on USITC data.

In the period examined, the majority of petitions were filed with respect to industries producing intermediate goods. This is not surprising, as a final good typically consists of a number of input products. In all, 182 of the 266 petitions filed were with respect to intermediate goods industries, 70 were with respect to final goods industries, and 14 were with respect to industries producing goods that could be classified as both final and intermediate.

The share of filings by type of good has varied over time, but some trends have been apparent. The share of final goods cases was increasing in 1993–96, but began to decline in 1997. Around the turn of the millennium, the steel industry was most active in filing cases: four of the five years with the highest share of petitions filed with respect to intermediate goods were between 1998 and 2002, with most of the petitions filed by the steel industry. In fact, 90 percent of petitions filed in 1999 were with respect to intermediate goods. After a somewhat varied trend in the early- to mid-2000s, the share of filings pertaining to final goods began to grow again around the time of the Great Recession. In another reversal, however, no petitions were filed in 2013 with respect to final goods (figure 9).

**Figure 9:** Share of petitions filed regarding final and intermediate goods, by year, 1993–2013

Source: Author's calculations based on USITC data.

## THE TIMING OF FILINGS

Just as the decision to file a petition responds to changes in rules, the decision of when to file a petition can respond to rule changes as well. The time frame used for determining the extent of antidumping and/or countervailable subsidies, as well as injury, is defined by the time the petition is filed. At Commerce, the periods of investigation for antidumping and countervailing duty investigations are specified in the Code of Federal Regulations.<sup>25</sup> The time frame for an antidumping investigation at Commerce is normally the four most recently completed fiscal quarters (or two most recently completed fiscal quarters for nonmarket economies). For countervailing duty investigations, it is normally the most recently completed fiscal year for the government and exporters or producers.<sup>26</sup> Even in cases filed at the beginning of the quarter, such as in the 2013 investigation of oil country tubular goods from nine countries, Commerce will use the just-ended quarter as the end date for its period of investigation. The time frame for an investigation at the USITC is not mandated statutorily, but will generally be the three full calendar years preceding the filing of the petition plus any subsequent year-to-date period for the

<sup>25</sup> 19 CFR 351.204 (b).

<sup>26</sup> Commerce may use additional time or an alternate time frame if it is appropriate, e.g., if a country is experiencing extremely high inflation.

year in which the petition is filed—typically the most recently completed quarter.<sup>27</sup> Knowing these facts, petitioners and their counsel can time the filing of their petition to include the time period they feel is most likely to show sufficient data trends helpful to their case.<sup>28</sup>

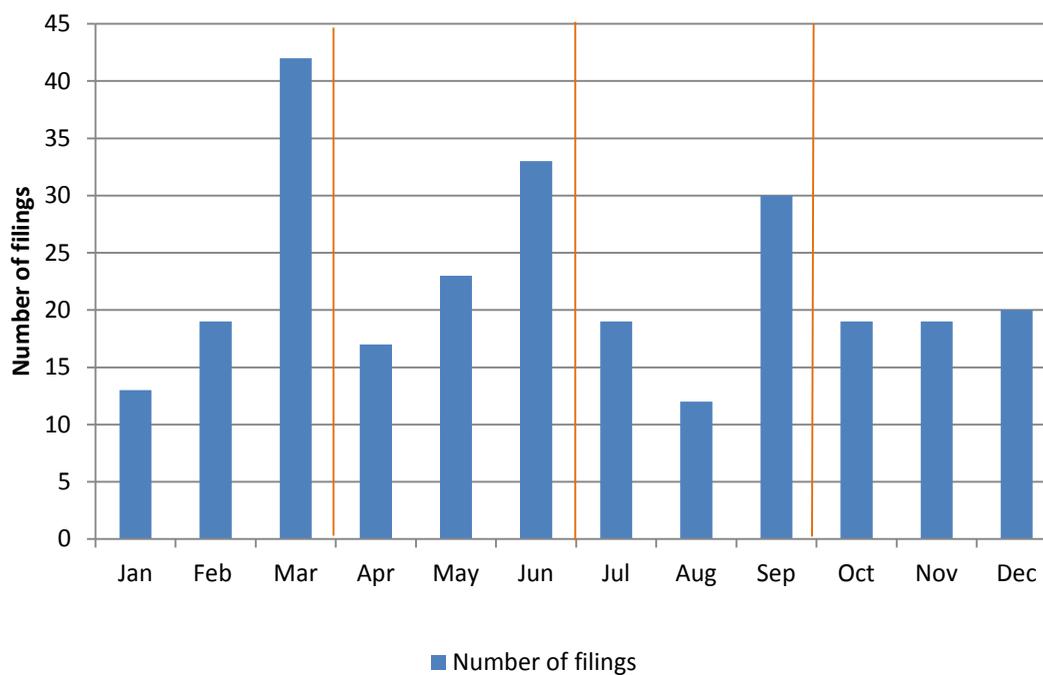
Waiting until the end of a quarter to file gives petitioners (and their counsel) a chance to gather more complete data and also allows for them the most time for trend analysis and petition preparation. It also can signify a break point in terms of what period will be used in the investigations at the USITC and Commerce. Consequently, the majority of petitions are filed in the final month of the quarter, with the exception of the fourth quarter, which sees only a slight increase in its number of final-month filings (figure 10). In fact, the timing of petition filings may be becoming more concentrated: filings in the final month of a quarter rose from 39 percent of filings in 1993–2003 to 60 percent of filings in 2004–13.

Overall, March led in the share of total petitions filed (15.8 percent of petitions), while June led in the share of investigations started, June had the highest share (15.1 percent). The month with the lowest share of filings was August (4.5 percent), a month typically associated with vacation, while the month with the lowest share of investigations starts was January (3.3 percent) (table 6). Another trend is that a higher proportion of multi-country or joint antidumping/countervailing duty cases are filed in June, September, and December. This is in contrast to seven of the nine remaining months, during which a higher proportion of single-country and/or non-joint petitions are filed.

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<sup>27</sup> USITC, *Handbook*, 2008, I-11. There is a lag, however, as monthly trade data are not typically available from sources such as the USITC's DataWeb until roughly 30 to 45 days after the end of a calendar month. Due to the short length of USITC preliminary investigations (45 days), an investigation arising out of a petition filed early in a quarter typically ends one quarter earlier than it otherwise would have ended. Some investigations, such as those that are filed with respect to industries that have seasonal demand or supply patterns, may use periods that differ from the standard calendar year/quarter investigational period.

<sup>28</sup> Though a limited number of cases have been filed *pro se*, petitions are typically filed by counsel outside of the petitioning firm. This counsel most often consists of law firms that have experience practicing before Commerce and the USITC.

**Figure 10:** Number of petitions filed, by month, 1993–2013

Source: Author's calculations based on USITC data.

**Table 6:** Number and percentage of petitions filed and investigations started, by month, 1993–2013

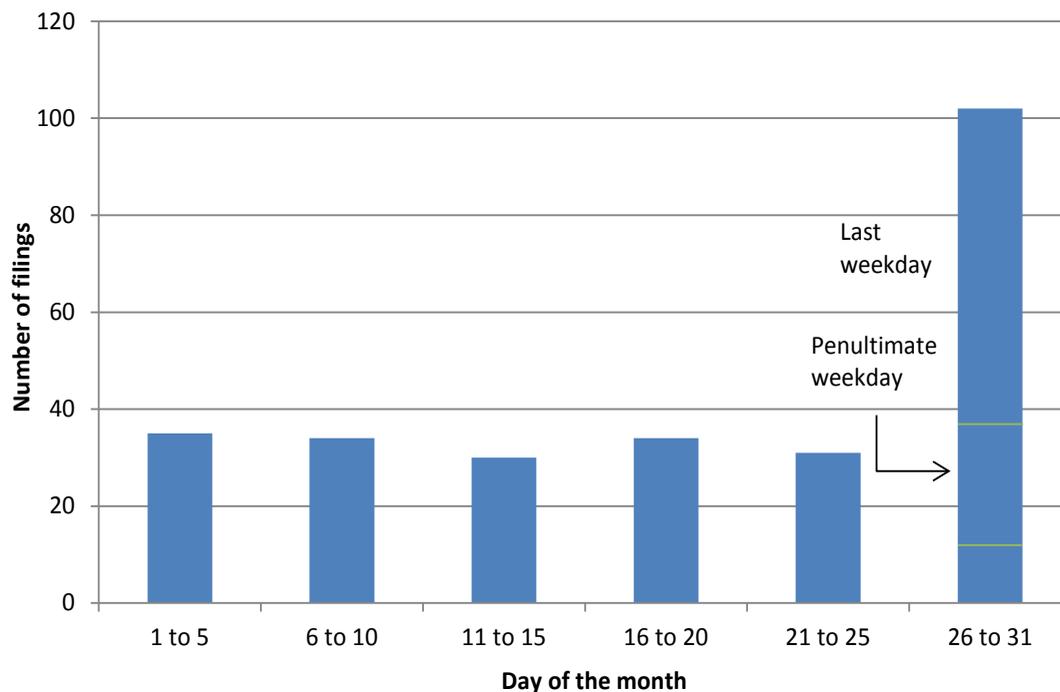
Month	Number of petitions filed	Number of investigations started	Percent of petitions filed	Percent of investigations started
January	13	25	4.9	3.3
February	19	57	7.1	7.5
March	42	106	15.8	13.9
April	17	37	6.4	4.8
May	23	58	8.6	7.6
June	33	115	12.4	15.1
July	19	53	7.1	6.9
August	12	39	4.5	5.1
September	30	110	11.3	14.4
October	19	46	7.1	6.0
November	19	54	7.1	7.1
December	20	64	7.5	8.4

Source: Author's calculations based on USITC investigation data.

Petition filings not only spiked late in the quarter; they also spiked late in the month. As shown in figure 11, the last six days of the month (days 26–31) accounted for a disproportionate share of filings (38.3 percent) in 1993–2013. In fact, there was a slight decline in the proportion of filings between the first days of the month and days 20–25 (from 13.2 percent to 11.7 percent, with the exception of a slight rise in days 15-20) just before the month-end spike.

Not only did petitions tend to be filed in the final few days of the month, they were often submitted on the last day of the month available to file. Nearly one-quarter of all petitions (22.9 percent) were filed on the last weekday of the month, with 15.0 percent filed on the last weekday of the quarter. Because some petitioners or their counsel may wish to file on the day before this last weekday in case something in the petition needs to be amended within a 24-hour window, a disproportionate share of filings would also be expected to occur on the penultimate weekday of the month and quarter. This also plays out in the data, with the proportion of petitions filed on the next-to-last weekday of the month accounting for an additional 9.4 percent of filings (7.9 percent for the next-to-last weekday of the quarter).

**Figure 11:** Number of petitions filed, by day of the month, 1993–2013



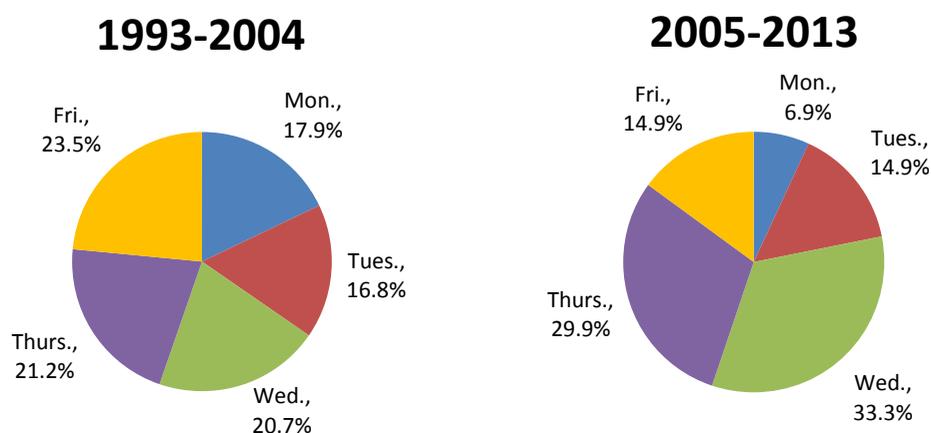
Source: Author’s calculations based on USITC investigation data.

Given this propensity to file petitions on the last or penultimate day of the month and/or quarter, it would seem logical that there would be a relatively weak pattern regarding which day of the week petitions were filed. Supposing there is a pattern, one would expect to see a slightly higher number of filings on Thursdays and Fridays if the last day of the month/quarter falls on a

weekend. This is mostly the case for filings made in 1993–2004. During this period, there was a slight preference toward filing late in the week. Though Friday was the most frequent day that a petition was filed, it only accounted for 23.5 percent of filings (figure 12).

After 2004, however, this pattern changed. In November 2004, the USITC modified its rules for filing a petition: the official cutoff time for filing a petition with the USITC changed from 5:15 P.M. to 12 noon. Any petition received after noon is not considered officially filed until the next business day.<sup>29</sup>

**Figure 12:** Share of petitions filed, by day of the week, 1993–2004 and 2005–2013



Source: Author's calculations based on USITC investigation data.

Consequently, after 2004,<sup>30</sup> the proportion of petitions filed changed considerably for nearly all days of the week. There were far fewer petitions filed on Mondays and somewhat fewer filed on Tuesdays, while many more were filed on Wednesdays and Thursdays. In fact, in 2005–13, fully one-third of petitions were filed on Wednesdays and nearly another 30 percent were filed on Thursdays. The share of petitions filed on Fridays shrank to less than 15 percent, or half of what was filed on Thursdays. Furthermore, one petition (concerning orange juice) was filed on a Monday shortly after the rule change,<sup>31</sup> but no others were filed on a Monday for 2½ years. The next petitions filed on Mondays were off-the-road tires, filed June 18, 2007, and two chemical petitions filed December 31, 2007. In order to be legally sufficient, a petition must adhere to a number of set requirements. An earlier Monday deadline may be more difficult for petitioners to meet than a later Monday deadline or a deadline later in the week if they wish to perform a final review or finalize preparation of their petition.

<sup>29</sup> 19 CFR 207.10(a).

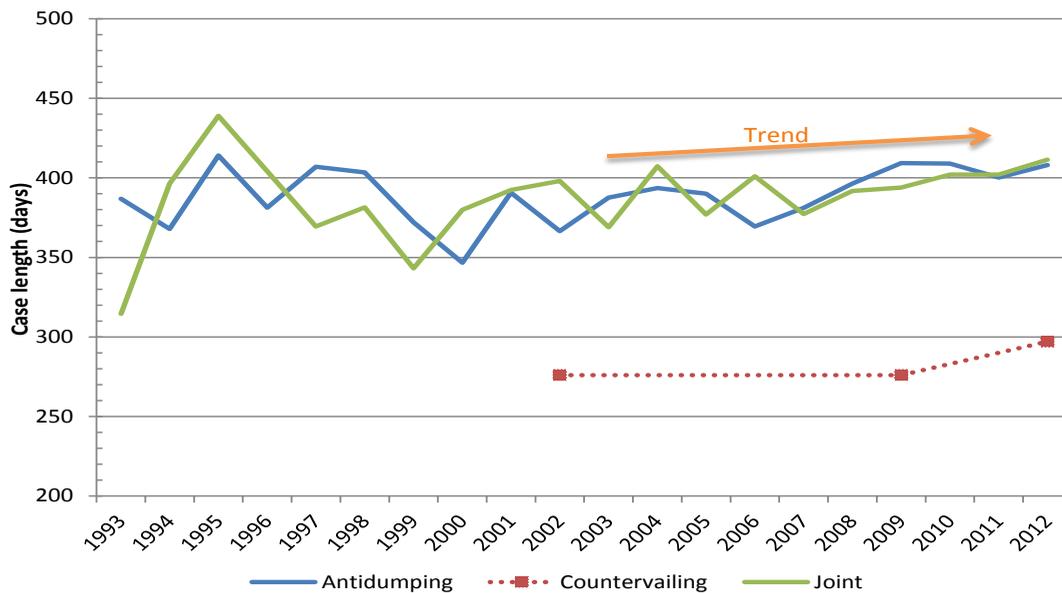
<sup>30</sup> Only one of the 19 petitions filed in 2004 came after the rule change went into effect (manganese sulfate). This petition was filed on a Wednesday.

<sup>31</sup> This petition was filed not long after the rule change went into effect: December 27, 2004, the first weekday after Christmas. The government holiday for Christmas 2004 was observed on Friday, December 24<sup>th</sup>, and the USITC and Commerce were closed that day. Scheduling around that holiday weekend may have altered the petitioner's plans for the filing date.

## LENGTH OF INVESTIGATION

Although the maximum number of days that an investigation can take starting from the petition date to the USITC’s final determination did not change during the period, the average number of days that an investigation actually spanned did change. As a matter of law, there are different statutory timelines depending on the complexity of an investigation, Commerce’s preliminary determination, and requests for extensions by parties to the investigation, among other factors.<sup>32</sup> The most common statutory length of time for an investigation that reaches the USITC for a final determination for an antidumping or a joint antidumping/countervailing duty investigation provided the two investigations’ schedules have been aligned, is 390 days.<sup>33</sup> For petitions filed between 1993 and 2012, the duration of investigations that were not terminated or withdrawn ranged between 250 and 441 days. Figure 13 presents the average length of investigation, by year of petition filing, for each petition filed that ended in an USITC final determination.

**Figure 13:** Length (in days) of antidumping, countervailing duty, and joint investigations, by year of petition filing, 1993–2012



Source: Author’s calculations based on USITC investigation data.

Figure 13 reveals a number of data trends. First, the antidumping and the joint data series’ average length are typically close. This reveals that most joint petitions have their antidumping and countervailing duty schedules aligned. Second, the shorter timelines for countervailing duty

<sup>32</sup> For a detailed explanation, see: [http://www.usitc.gov/trade\\_remedy/documents/timetable.pdf](http://www.usitc.gov/trade_remedy/documents/timetable.pdf).

<sup>33</sup> The duration of for similar countervailing duty investigations are typically shorter. Given the same factors influencing the timetable, the corresponding countervailing duty investigation would run 270 instead of 390 days.

cases is readily apparent. Third, the federal government shutdown of 27 days in 1995–96 increased the average number of days for all petitions filed in 1995, increasing the length of some investigations to more than 430 days.<sup>34</sup>

Table 7 shows the increase in average case length based on four subperiods. As can be seen, the average investigation length is higher in the first subperiod than in the second subperiod for both antidumping and joint filings. The 16-day federal government shutdown in October 2013 affected the last two investigations filed in 2012, increasing their length to over 420 days.<sup>35</sup> This will likely continue to affect other investigations started in 2013.

**Table 7:** Average investigation length (in days) from petition to final USITC determination, by subperiod and day of the week filed, 1993–2012

	Subperiod				
	1993–97	1998–2002	2003–07	2008–12	
<b>Antidumping</b>	391	376	384	405	
<b>Joint</b>	380	379	386	400	
	<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
<b>Antidumping</b>	380	387	389	382	377
<b>Joint</b>	378	379	382	387	390

Note: The first subperiod includes data from the 1995–96 federal shutdown, which affected all 1995 filings and partially affected one 1994 filing. Without the 1995 data, these averages decrease to 386 days for antidumping filings and 360 days for joint filings.

Source: Author's calculations based on USITC investigation data.

Next, figure 13 also shows that there has been an upward trend in the length of investigations for at least the past 10 years. This trend has pushed the average number of days past 390 days. Part of this protraction was due to the fact that official transmission of determinations from Commerce to the USITC via the Federal Register typically takes a week. This occurs twice in the schedule, for a total of approximately 14 additional days. Commerce may also extend the deadline up to 20 days at the start of an investigation in order to determine whether there is sufficient support for a petition in the industry. This occurred, for example, in a handful of investigations related to petitions filed in 2006–07.

The day upon which a petition is filed might have an effect as well: deadlines that fall on weekends roll until the next business day, which could add two days to the schedule (three days in the case of a Friday or Monday holiday). It would seem logical that petitions filed later in the week would be more likely to encounter this bump. Although this was true for joint investigations—the longest investigations stemmed from petitions filed later in the week—the longest investigations that were filed only as antidumping investigations occurred in the middle of the week, and the shortest were the ones filed on Fridays (table 5). Seemingly, no trend is apparent.

<sup>34</sup> Commerce has the authority to toll deadlines in the event of unforeseen events such as government shutdowns.

<sup>35</sup> This bump was not enough to affect the sub-period average substantially.

## CONCLUSIONS

This article has discussed a variety of trends in the filing of antidumping and countervailing duty petitions in the United States during 1993–2013, and has noted correlations with two rule changes from this period. The number of investigations started was highest in the years around the turn of the millennium, but this was mostly due to the larger-than-average number of countries included in each petition. The average number of petitions filed in the second half of the period was slightly lower than the number filed in 1993–94, but consistent with the average number filed in 1995–98. Although China consistently had the most petitions filed with respect to its industries over the study period, the concentration of China-based investigations increased, especially between 2004 and 2010, a trend that may have been bolstered by a 2007 rule change at the Department of Commerce allowing countervailing duty petitions to be filed with respect to nonmarket economies. As a consequence, the share of investigations involving a broad range of less frequently named countries decreased, though this tendency may have started to reverse. There also has been an increasing tendency to file joint antidumping and countervailing duty petitions rather than solely antidumping petitions, with this tendency being at least partly due to the 2007 rule change at Commerce.

A broad range of industries sought antidumping and countervailing duty relief, although some industries (e.g., steel and chemicals) filed petitions more frequently than others. While petitions filed by industries producing intermediate goods predominated throughout the period, an increasing proportion of investigations were filed by final goods industries, except for in 2013, when no such petitions were filed. Petitions are typically filed late in the week, late in the month, and late in the quarter. Since an USITC rule change, however, there has been an increasing share of filings in the middle of the week instead of on Friday, and an even larger decrease in the concentration of filings on Monday. Finally, the length of antidumping and joint antidumping/countervailing duty investigations has been increasing, but it has reached a point where it can likely grow no further without the intervention of outside factors such as a federal government shutdown.

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