ECONOMIC ISSUES

QUANTIFYING CAUSES OF INJURY TO U.S. INDUSTRIES COMPETING WITH UNFAIRLY TRADED IMPORTS: 1989 to 1994

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CHAPTER 1

INTRODUCTION

The remarkable post World War II prosperity is attributable in part to the liberalization of barriers to international trade. Trade liberalization is especially noteworthy because it increases the scope for competition. Domestic firms that are initially sheltered from foreign competitors because of trade barriers, such as tariffs and quotas, are forced to compete with foreign firms when the barriers are lowered. The resulting increase in competition lowers prices and improves product quality; it can also spur efforts to improve production efficiency.[1] Over the past half century, comparing the 1950s to the 1990s, per capita U.S. income (real GNP in constant 2000 dollars) more than doubled, from $13,250 to $30,600, while the share of imports in aggregate U.S. income more than tripled, from 2.9 percent to 9.5 percent.[2] Comparing the same periods the average *ad valorem* tariff rate on U.S. imports declined by more than half, from 5.9 percent to 2.7 percent.[3] However, other trade barriers have resisted liberalization. These include nontariff barriers (NTBs) that apply

[1] Trade liberalization plays a positive role in increasing the level of income (static effect) as well as increasing the growth rate of income (dynamic effect). There is an extensive literature for both types of effects. With respect to the static effect see for example the surveys by Feenstra (1992) and the USITC (1999). With respect to the dynamic effect see for example Mankiw (1995). Also, the results of a recent empirical study by Lawrence (2000) suggest that total factor productivity of U.S. industries was stimulated by liberalization of imports. In addition, in an empirical study comparing productivity of U.S. and foreign firms Baily and Solow (1991) find that a domestic industry is forced to improve its productivity when it is exposed to "best practice" international competition. They measure international competition with an index that reflects (i) imports, (ii) transplants of foreign plants in the domestic economy, and (iii) head-to-head competition in third markets.

[2] Calculations based on data from the Bureau of Economic Analysis (U.S. Department of Commerce) and the U.S. International Trade Commission. However, an increase in the ratio of imports to income (or production) may not be a valid indicator of an increase in the importance of foreign suppliers in the domestic market. As emphasized by Steiner (1995), in certain industries (e.g., consumers goods industries such as toys) U.S. firms have increasingly obtained their physical products from foreign manufacturing plants in recent years and some of these plants are owned by the U.S. companies that purchase from them. Consequently, it is possible that the relative position of leading firms in the domestic market is unchanged over time even though the increase in reported imports would suggest otherwise.

[3] Based on data from the U.S. International Trade Commission (USITC). The reported tariff rate is the weighted average rate for all imports. The average tariff rate for dutiable imports fell from 12.2 percent in the 1950s to 5.0 percent in the 1990s.

to particular sectors, such as the import quotas on sugar and textiles. But perhaps the best known of the NTBs is the barrier consisting of the laws and regulations that restrict so-called unfairly traded imports, imports that are dumped by foreign firms or subsidized by foreign governments.[4]

The United States has considerable experience with administering the laws that restrict unfairly traded imports, laws that are permitted under the GATT/WTO system. The Countervailing Duty (CVD) law, which applies to subsidized imports, was enacted over a century ago, in 1897; the Antidumping Duty (AD) law, which applies to less than fair value (LTFV) imports, was enacted in 1921.[5] LTFV means either that (i) foreign firms sell in the U.S. at a price below the price they charge their home customers (international price discrimination and price dumping) or (ii) foreign firms sell in the U.S. at a price below cost (cost dumping). Unfairly traded imports are subject to special tariffs (i) if they are found to be dumped or subsidized and (ii) if such imports are found to cause "material injury" to domestic industry making a "like product".

Somewhat surprisingly, the number of AD and CVD petitions was relatively modest until 1980 when the U.S. Congress reorganized the administration of AD and CVD laws.[6] In addition, the

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[4] It should be noted that there is an alternative view about the effect of trade liberalization on competition. For example, in his compendium on the International Trade Organization, Wilcox (1949, p. 105) expressed concern that the benefits of reducing tariffs and eliminating quotas might be offset if international cartels created private barriers to trade. Similar views have been voiced subsequently by antitrust scholars, for example Fox (1994, p. 28). However, as far as we are aware there is no systematic empirical evidence to support this view.

[5] There is also an earlier AD law, enacted in 1916, but it has been rarely used. The 1916 law was found illegal under the GATT/WTO system in 2000 in part because it requires evidence of intent by foreign firms to injure U.S. firms and provides for such penalties as treble damages and prison sentences. The GATT/WTO system only requires an actual effects test of injury to domestic industry and only allows for special tariff rates on unfairly traded imports. The U.S. has not appealed the decision by the WTO panel. WTO (2000).

[6] Information about AD and CVD cases before 1980 is sketchy. However, according to Seavey (1970, p. 65), from the enactment of the AD law in 1921 through 1967, the vast majority of the 706 AD cases opened, 89.4 percent, were terminated with a finding of no injury. During much of this time the Department of the Treasury was responsible for both determining whether dumping or subsidy occurred and whether there was consequent injury to a domestic industry. In 1954 responsibility for injury determinations in AD cases was shifted from the Treasury Department to the USITC. A more important change occurred in 1980, when responsibility for calculating dumping margins in AD cases and subsidy margins in CVD cases was shifted from the Treasury Department to the Department of Commerce. These margins are the special tariff rates that can be imposed on imports found to be subsidized or dumped. R. E. Baldwin (1985), p. 117f.

number of cases was stimulated by changes in the AD and CVD laws that made it easier for U.S. firms to succeed in having AD or CVD duties imposed on cited imports.[7]

The increasing use of AD and CVD laws in recent years has been studied by economists with growing alarm.[8] Indeed, a variety of concerns have been raised about the AD and CVD laws and the way they are administered, including: the process lacks adequate transparency;[9] the laws are used excessively[10] or capriciously;[11] there is a systematic bias against exporters;[12] the laws have become captured by domestic interests and their enforcement made a part of corporate strategy;[13] they are used to harass foreign exporters;[14] and they lead to even more stringent restrictions on imports such as voluntary export restraints (VERs).[15] But perhaps the most serious concern is that the AD and

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[7] As discussed by Hansen and Prussa (1996) one of the most significant changes in U.S. law was the so-called cumulation requirement enacted in 1984. This requirement applies when a domestic petitioner alleges injury by imports from two or more countries. The revised law requires that the USITC assess the impact of cumulative imports from all cited countries as opposed to assessing the impact of imports from each country individually.

[8] Blonigen and Prusa (2001) provide a valuable survey of the literature, which has expanded considerably in the past dozen years. Two particularly noteworthy references are Boltuck and Litan (1991) and Lawrence (1998) as both are collections of papers on various aspects of AD and CVD laws and their administration. In addition, legal scholars have offered significant contributions to this literature, including Cass (in Cass and Boltuck, 1996) and Palmeter (1991a).

[9] Palmeter (1991b, p. 89) maintains that U.S. AD law is not even as good as a "dog law." A dog law is one where a person is notified that a certain act is illegal after doing the act: a dog is broken of a bad habit by beating him after he commits the act. (According the Palmeter the label "dog law" was used by Jeremy Bentham to characterize English common law.)

[10] Finger (1993), p. viii.

[11] Krueger (1999), p. 912.

[12] Scherer (1998, p. 201f.) notes the similarity between the Robinson-Patman Act and the AD law: both are concerned with price discrimination. However, he believes that enforcement of the RP Act has declined in response to criticism of scholars and the increasing use of cost-benefit analysis in the antitrust agencies. However, enforcement of the AD law has not declined. See Destler (1995, p. 242f.) for an description of how the ambiguities in the Uruguay Round Agreement were implemented in domestic legislation in favor of domestic industries prone to use the AD/CVD laws.

[13] Hindley and Messerlin (1996), p. 42f.

[14] Bhagwati (1988), p. 48.

[15] Rosendorff (1996). However, VERs were banned in 1995 consequent to the Uruguay Round.

CVD duties imposed on unfairly traded imports are significantly biased upward.[16] In short the AD and CVD laws are viewed as being overly protectionist.

Notwithstanding these concerns there are several reasons why the import restrictions under the AD and CVD laws have resisted the general post WWII movement to liberalize trade. These reasons are in addition to general sentiments in favor of sheltering domestic firms and workers from foreign competition and a general view that either increased imports or low-priced imports are in some sense unfair.[17] One is the belief that the AD and CVD laws provide a safety valve for special interest groups who would otherwise work to undermine or defeat broad liberalization efforts.[18] However, the AD and CVD laws are not the only alternative for such a safety valve: in a general sense the escape clause provision of U.S. trade law is also available to serve this role. Although there are significant differences in the statutory frameworks of the fair (escape clause) and unfair (AD/CVD) trade laws, commentators such as Jackson (1989, p. 217) have noted an increased blurring of the distinction between fair and unfair trade owing to disagreement about what constitutes unfair trade. Moreover, it has long been known that there are fundamental similarities in the way several administrators approach decision-making in fair and unfair import cases, and that for them AD/CVD cases are essentially a "weak" escape clause case.[19]

A second reason emphasizes the harm attributed to unfairly traded imports by various

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[16] Boltuck and Litan (1991), Cass and Boltuck (1996), pp. 365-8, Horlick (1989), and Palmeter (1991b).

[17] These sentiments fluctuate over time and in part are related to the business cycle. For example, Leidy (1997) found that the number of AD/CVD petitions filed over the period 1980 to 1995 was significantly related to the state of the U.S. macroeconomic activity (i.e., rate of unemployment and rate of capacity utilization).

[18] Cass and Boltuck (1996), p. 404; Finger, Ng, and Wangchuk (2000); Sykes (1998), p. 37f.

[19] Kaplan (1991). Moreover, some industries, notably steel, have used both the EC and AD/CVD laws to attempt to restrict imports.

domestic interests. It is hardly remarkable that someone somewhere in the U.S. economy will suffer in some way from unfairly traded imports – a loss of sales, a loss of income, perhaps a loss of employment. Many people – not just those directly affected - believe that this harm is inequitable and unjust: it is a type of competition that is not to be tolerated, particularly since foreign firms or governments are responsible. However, once again the AD and CVD laws are not the only policy option to alleviate domestic harm from imports; the escape clause might also be used instead.[20]

A third reason is the belief that foreign export firms benefit from arrangements/policies of their respective governments and set an export price to the United States that reflects either price discrimination or selling below cost of production. True price discrimination and pricing below cost may be deemed unfair in some sense. However, it is not clear from the evidence in actual AD investigations conducted by the DOC that many foreign firms actually price in either of these two ways. For example, a recent study by Lindsey (1999) carefully examines the methodologies used by DOC in AD cases between 1995 and 1998. He finds that there were only four instances out of 94 where the foreign firm operated in a market economy and set a lower price on U.S. exports than the price charged to the home market.[21] Somewhat more frequently, in 20 instances, he reported pricing below cost. However, this "cost", which is officially designated "constructed value", is calculated by DOC and generally expected to overstate the true cost to produce a particular product.[22] It is

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[20] However, it may be more difficult for a domestic industry to obtain relief in escape clause case versus an unfair import practices case. The statutory standard for injury to domestic industry in escape clause cases – "serious injury" – is generally regarded as more stringent than that in unfair import practice cases -- "material injury". See for example Jackson (1989), p. 236.

[21] This involved the methodology of exclusively comparing prices to prices – prices to the U.S. market and prices to home market – and was not affected by any adjustments for below cost sales on exports. Below cost sales are more problematic because of the difficulty of specifying and measuring average cost. As noted subsequently, DOC calculates a "constructed value" to measure cost. Finally, the numbers reported in the text only refer to dumping cases involving market economies because of the possible arbitrariness of prices (and costs) in non-market economies.

[22] The upward bias in constructed value has long been recognized by economists. See for example, Litan and Boltuck (1991).

therefore very likely that true price discrimination and pricing below cost are the exceptions rather than the rule in AD investigations.

A fourth reason is the belief that AD and CVD laws are in the long run interests of the overall economy and U.S. consumers. The economic rationale for such a belief must somehow overcome the notion that all that matters is that cheaper imports now are better for consumers and the economy as a whole. Here we must distinguish between the AD law and the CVD law. The CVD law is directed against foreign governments who subsidize exports or exporting industries. But absent some basis for believing that foreign government will subsequently raise export price, to make it higher than it would otherwise be absent the subsidy, there is little justification for believing there will be consumer or economy-wide harm in the importing country from the subsidized exports.[23]

In contrast to the CVD law there is an explicit economic rationale for the AD law. As Willig (1998) explains predatory dumping and strategic dumping can cause long term harm to the country's consumers and to the country generally. Since both involve actions by a foreign firm or foreign firms that enhance their market power there is, of course, an overlap of interest between AD law and antitrust law.[24]

Predatory and strategic dumping differ in the following ways. The distinctive feature of predation is that the foreign firm pursues actions that drive out or severely weaken domestic rivals, e.g., set export price below (marginal) cost. If successful the foreign predator becomes the

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[23] Snape (1991) argues that the principal economic problem with subsidies is the import restraints that accompany them. The challenge is that if the import restraints are removed the consequence would be enormous burden on the Government budget (in maintaining the subsidies). Also, Hufbauer and Shelton-Erb (1984, p. 8) argue that there is a multilateral rationale for CVD laws. However, no formal framework is provided to analyze the issue.

[24] In addition economists have constructed models in which the threat of AD enforcement is pro-competitive in the importing country. For example, Reitzes (1993) uses a strategic two-period duopoly model under both Cournot and Bertrand conjectures. Reitzes' paper is noteworthy because it constructs a two period model that allows him to capture some of the principal features of the U.S. regulatory approach in which AD duties are based on past period pricing. However, as far as we are aware there are no systematic empirical studies of this issue.

monopoly or dominant supplier to the domestic market and is able to set price high enough to recoup earlier losses. The distinctive feature of strategic dumping is the collaboration between foreign country government and native companies that enjoy economies of scale. The foreign country government raises import barriers (e.g., tariffs or quotas) to protect its own firms. Assuming the foreign market is large enough then foreign firms will have sufficiently higher outputs and gain a cost advantage over domestic rivals as a result of (assumed) scale economies.

Economists are typically skeptical about allegations of predatory pricing because the requirements for successful predation are severe.[25] This skepticism carries over to international predation.[26] However, until recently there was little systematic empirical evidence about international predation and its relationship to dumping.[27] An important contribution that helps redress this problem is the study by Willig and his collaborators (in Lawrence, 1998). This study provides an empirical assessment of the likely prevalence of predation and strategic dumping in major importing countries. The countries covered are Canada, the European Community, and the United States; the sectors

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[25] A classic reference for predatory pricing is the Standard Oil company's actions in the late nineteenth century. For many years after the Standard Oil antitrust decision in 1911 it was believed that the Standard Oil company achieved its commanding position in the oil refining business by buying up rivals after it had weakened them by a campaign of predatory price cutting. However, McGee's (1958) examination of the record of the case did not support the predation finding. However, McGee believed that Standard Oil had significant monopoly power but did not satisfactorily explain the source of this power; the principal challenge for such an explanation is that barriers to entry into petroleum refining were apparently very low). More recently, Granitz and Klein (1996) overcome this problem by arguing that Standard's monopoly power arose from the role it played in policing a collusive arrangement by railroads in transporting crude oil and kerosene. Because of its size (eventually with 90 percent of the refining capacity) Standard would be able to substantially control petroleum shipments for the three colluding railroads. As reward for its policing efforts Standard was given favorable transport rates, rates which disadvantaged its rivals ("raising rivals costs") and encouraged them to sell out to Standard. For historical background on Rockefeller's and Standard's activities during the 1870s see Chernow (1999), chapters 6 and 8. For elaboration on "raising rivals costs" strategies see Salop and Scheffman (1987).

[26] The principal case of alleged international predation involved Japanese companies exporting color TVs to the United States. Elzinga (1999) explains that predation was not reasonable behavior by Japanese companies. It was unlikely they would have been able to recoup the losses incurred during the period of predation. The U.S. Supreme Court found against predation. *Matsushita Electric Industrial Corp. Ltd., et al. v. Zenith Radio Corp. et al.*, 475 U.S. 574 (1986).

[27] There are various suggestions that predation generally is not appropriately characterized as irrational behavior, as McGee (1958) and others have suggested. For example, extending the asymmetric information game theoretic framework of Milgrom and Roberts (1982), Bolton et. al (2000) argue that predation can be successful and a perfectly rational business policy. However, although particular examples of aggressive business behavior may be suggestive of predation the key issue, as emphasized by Spector (2001), is that to qualify as predatory the behavior needs to be harmful for consumer and social welfare.

studied are electronic products and semiconductors.[28] In her examination of U.S. antidumping investigations during the 1980s Shin (1998) finds that at most 10 percent of them were likely to involve predatory dumping.[29] She did not, however, have sufficient data to complete her study of all cases. If she had been able to do so the reported likelihood of predation would have been even smaller.[30] The overall results of the studies by Willig and his collaborators suggest that predatory dumping and strategic dumping are relatively rare.[31]

Our previous report, Morkre and Kelly (1994), also provides information relevant to predatory dumping. We found that at least 85 percent of the AD investigations from 1980 to 1988 involved injury to domestic industry that was less than 10 percent. We measured injury by percent loss of domestic industry revenue. Although some domestic competitors may have suffered significant harm from dumping it is unlikely that domestic competition was much affected, and if domestic competition was not significantly affected by dumped imports then the dumping could not be predatory.

This evidence suggests that dumped imports are not generally anticompetitive. However, regardless of the appropriate default position for AD investigations the more important issue is that

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[28] The country study of Canada was done by Dutz (1998), the United States by Shin (1998), and the European Community by Bourgeois and Messerlin (1998); the sector study of electronic products was by Messerlin and Naguchi (1988) and semiconductors by Irwin (1998).

[29] Shin (1998, pp. 85, 94) found that of 451 investigations completed by the USITC in the 1980s at most 39 would have involved predatory or strategic dumping.

[30] Shin applied a series of increasingly more demanding (in terms of data requirements) screens or criteria to actual dumping investigations in order to eliminate those unlikely to involve predation. For example, one screen is to delete cases where there are many foreign firms engaged in dumping because of the likelihood of coordination/collusion (necessary for predation) is lower when there are many foreign firms. For similar reasons, another screen deleted investigations where dumped firms were in several countries.

[31] Moreover, unless predatory or strategic dumping is involved it is not necessary to consider separately the questions of whether international price discrimination dumping or foreign underselling harm consumers and the economy generally. Note that the general view of economists on price discrimination (e.g., Klein in FTC (2001, p. 81), Varian (1989)) is that it is pervasive but does not generally signify competitive problems. Similarly, underselling by foreign firms is also pervasive in AD and CVD cases and, as explained by Suomela (1993, pp. 60-68), there are several reasons to be wary of comparing prices of domestic and imported products in actual AD and CVD investigations (e.g., quality differences, non-physical differences between products, list versus transaction prices and spot versus contract prices).

there is a precise coincidence of interest between AD and antitrust with respect to the economic foundation of the AD law. AD laws are not necessary to address predatory dumping: the antitrust laws can be used instead.[32]

Whichever of these four reasons – safety valve, inequitable injury, truly unfair pricing, anticompetitive – is believed to provide the strongest defense for the AD and CVD laws is an open question. However, available evidence suggests that the perception that there is an economic foundation for the AD law may be misplaced. In addition, recent developments point to a reorientation in the relationship between AD and antitrust. Instead of AD laws being required to address competitive problems it is possible that the existence of such laws lead to antitrust problems.

There is a growing recognition that domestic firms may use the AD law to create or support cartels or collusive arrangements. Economists have long conjectured that AD laws might facilitate collusion. One of the earliest efforts to provide a formal analysis is by Staiger and Wolak (1989). However, with but few exceptions the link between collusion and AD laws has been well concealed.[33] Recently evidence has been uncovered about cartels spawned by U.S. AD law. Perhaps the clearest case involves ferrosilicon. As reviewed by Pierce (2000), domestic producers of ferrosilicon used the AD law to attempt to protect a cartel involving firms in the United States and Europe. Another case involves musical instruments. Taylor (2001) cites an Italian maker of musical instruments who alleged that its U.S. competitor threatened AD action unless it agreed to a collusive arrangement. In

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[32] This is demonstrated by the prosecution of 23 international cartels in the 1990s by the Department of Justice. See International Competition Policy Advisory Committee (2000), chapter 4, and Evenett et al. (2001).

[33] Since our focus here is with the effects of U.S. AD law we have not explored the effects of the AD laws of foreign countries. However, it is important to note that there is a significant study by Messerlin (1990) about the anticompetitive consequences of the EC AD law. Messerlin presents evidence showing that firms in the EC used the AD law to support domestic cartels in the early 1980s. The cases involve the chemical industry, which has been one of the major users of the EC AD law.

addition to supporting domestic cartels U.S. AD law may create or support foreign cartels. Perhaps the most important case is that of semiconductors. According to Flamm (1996, p. 149f.) Japanese producers were jawboned in early 1982 by U.S. trade officials to boost prices on their 64K DRAM exports to the United States. This apparently led to the formation or strengthening of a cartel in Japan, one that was supported by MITI, that cut U.S. exports and raised prices.[34] Another case of this type involves thermal fax paper. A U.S. District Court recently found that a Japanese producer directed its U.S. subsidiary to coordinate with other U.S. producers to threaten to file an AD petition against Japanese exporters.[35] This would encourage Japanese firms to get together to form a cartel.[36] In sum, even though the evidence to date is relatively modest it does not appear inappropriate to suggest that anticompetitive abuses of AD laws may be a problem that warrants increased attention.[37]

The filing of AD or CVD complaints could be viewed as anticompetitive actions through governmental processes.[38] While such actions can be quite effective at limiting or even blocking foreign rivals in the domestic market, such activity is typically not actionable under the antitrust laws

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[34] This led to an investigation by the U.S. Justice Department about Japanese cartel behavior. Flamm (1996, p. 151) concludes that "...the whole sequence of events left the Japanese somewhat confused." The DOJ investigation apparently closed within a year. The challenge of Japanese DRAMs in the U.S. market ultimately led to the Semiconductor Trade Arrangement with Japan in 1986, which was in part an elaborate type of voluntary export restraint (VER). Flamm (1996, chap. 4); Irwin (1998).

[35] United States v. Nippon Paper Indus., 62 F. Supp. 2d 173, 180 (D. Mass. 1999), esp. fn. 12.

[36] Another recent court case concerns a world-wide price-fixing cartel in rubber thread involving producers in Malaysia, Indonesia, and Thailand that began in December 1991. In this case Malaysian producers initiated efforts to form a cartel after an AD investigation was opened. The AD petition was filed on August 19, 1991. Dee-K Enterprises, Inc v. Heveafil Sdn et al, USCA4, July 30, 2002.

[37] In other recent cases, involving for example citric acid and vitamins, the relationship between cartelization and antidumping is less clear. See Evenett et al. (2001). The possibility that multinational firms based in the US and the EC cooperate in using antidumping laws against smaller rivals has also been explored by Maur (1998). Maur mentions as a possible example the successive AD filings in 1991 in the EU and then three months later in the US by the same three multinational firms (Dupont, Hoechst, and ICI) against Korean exporters of PET film. Maur also cites possible cooperation between the sole US producer of potassium permanganate (Carus) and the sole European producer (Asturquimica) where the latter filed an AD petition against a Chinese competitor; the alleged cooperation took the form of Carus agreeing to act as surrogate firm for Chinese producers. According to Maur, firms are normally reluctant to serve as surrogates for reasons of confidentiality.

[38] For example, Bork (1978, chap. 18) has characterized such behavior as "predation through governmental processes". In the situation at hand the possible consequence is a governmental action to impose in special tax on rivals, in effect a form of "raising rivals costs".

because, absent evidence of abuse, it is protected by the first amendment guarantee of the right to petition the government.[39] One possible example of this behavior is a case involving aluminum rod from Venezuela.[40] A U.S. firm, Southwire, filed AD and CVD petitions against its former Joint Venture partner, Sural, and other Venezuela exporters in July 1987. The USITC majority found that domestic industry was threatened with injury and voted to impose AD duties in August 1988. The case was appealed to the reviewing courts. Thus began a legal saga lasting six and one-half years, until February 1995, during which time Venezuelan exporters faced supernumerary taxes in the form of an AD duty of 5.8 percent. Eventually the Court of International Trade rejected the injury claim of the domestic petitioner and ordered the AD to be revoked. The Court concluded that:

> "It is plain from the facts of this case that Southwire has brought this petition not to protect its own operation from injury ... but to erect barriers to potential competitors as established companies leave the industry."[41]

Finally, a general concern about the use of AD and CVD in recent years led to an agreement among Trade Ministers at the 2001 WTO Ministerial at Doha to put them on the agenda for the next round of multilateral trade negotiations.[42] Further information about the effects of AD and CVD investigations can help inform the forthcoming negotiations.[43]

The foregoing perspectives suggest that there is a menu of issues and questions about AD and

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[39] The key cases in this area are *Eastern Railroad Presidents Conference v. Noerr*, 365 U.S. 127 (1961) and *United Mine Workers v. Pennington*, 381 U.S. 657 (1965).

[40] See the USITC report *Certain Electrical Conductor Aluminum Redraw Rod from Venezuela*, Pub. 2103, August 1988.

[41] *Suramerica v. U.S.*, 818 F. Supp. 348 at 366 (CIT 1993). The USITC and Southwire appeal of the CIT decision to the CAFC was denied in February 1995 (60 FR 20478).

[42] World Trade Organization (2001).

[43] Moreover, there have been several proposals in recent years to either repeal AD altogether (McGee, 1993) or to reform it, in part drawing on competition policy precepts (Hoekman and Mavroidis, 1996, Lipstein, 2000, and Messerlin, 1994).

CVD laws and procedures that can be addressed in further empirical efforts. However, our aim in the present study is relatively limited. In our previous report, Morkre and Kelly (1994), we provided estimates of the magnitude of injury to domestic industries caused by dumped and subsidized imports during the nine year period 1980 to 1988. The present study extends this work in three ways. First, six additional years of cases are investigated, covering 1989 to 1994. Second, we now also estimate the effects of unfairly traded imports on consumers and workers. Third, the effects of unfairly traded imports on domestic industry are compared with the effects of changes in demand and supply. It is not surprising that in virtually every AD and CVD investigation one can find several factors, in addition to unfairly traded imports, that are causing problems for domestic producers and workers. What we attempt to do here is to quantify the magnitude of the adverse effects of some of these factors and then compare them with the magnitude of the adverse effect of unfairly traded imports.

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