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Some New Evidence About the Effects of U.S. Antidumping Orders and Their Administrative Reviews on the Prices of Covered Imports

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Some New Evidence About the Effects of U.S. Antidumping Orders and Their Administrative Reviews on the Prices of Covered Imports

William W. Nye¹

Abstract

U.S. antidumping duties are subject to administrative review—in which posted duties may be revised and final duties are determined. Reviews may occur annually for the life of the antidumping order. The level of antidumping duties is important not only as an index of the level of U.S. import protection, but for the inference these duties allow about the prices of the covered imports in the U.S. The present paper presents evidence from a sample of U.S. antidumping orders that are followed through as many as 15 administrative reviews. This evidence shows that the average level of final duties tends to decline over the course of successive reviews—suggesting a rise in U.S. price of covered imports, a result consistent with the predictions of both advocates and opponents of antidumping enforcement. Interestingly, the decline in average antidumping duties over successive reviews is entirely the result of firms with higher dumping duties disappearing from the review process (probably ceasing sales in the U.S.). For given firms surviving to be named in the next review, the antidumping duty increases from one review to the next. The paper is the first to report direct information about the unit value of covered imports contained in administrative review reports of the United States International Trade Commission. This fragmentary direct information about import price also suggests an increase in the price of covered imports over time. The paper is also the first to present information about the large number of firms—more than one third of those ever assigned a firm-specific duty-- that are named in administrative reviews, but not in original antidumping orders.

¹ Economist, Antitrust Division, U.S. Department of Justice. The Antitrust Division encourages independent research by its economists. The views expressed herein are entirely those of the author and are not purported to reflect those of the United States Department of Justice. Jessica Huffman provided excellent assistance, and Russell Pittman and Alex Raskovitch made helpful comments.

There is a voluminous literature concerning U.S. antidumping laws, but little previous work has dealt with the implications of the administrative review process. Exceptions are the work of James DeVault [DeVault, 1996], and of Bruce Blonigen and Jee-Hyong Park [Blonigen and Park, 2004]. Blonigen and Park develop a model for the pricing behavior that might be expected to result from the administrative review process. The NBER Database developed by Professors Blonigen, DeVault and others [Blonigen, et. al., 2004] is limited to the first administrative review of each antidumping order. The intriguing paper by James DeVault mentions work done by Professor DeVault in collecting information about the history of administrative reviews, but this information is only summarized in brief form.

Administrative Reviews and Sunset Reviews of U.S. Antidumping Orders

Foreign firms whose imports into the U.S. are subject to an antidumping order must post a bond when their goods enter the U.S. which corresponds to the duty prescribed in the order.² All U.S. antidumping orders are subject to administrative review each year on the anniversary of the order, if such a review is requested by any party (usually the importing firm or a U.S. rival). If no review of the order is requested, or if review confirms the original antidumping margin, the bond of the importing firm is liquidated and the duty continues. If, however, the administrative review finds that the firm has changed (or eliminated) its margin of dumping during the period of review, then the required duty may be changed, and a refund (or further assessment) of duty made. If an administrative review is conducted, the review determines the final duty.

Over time, the U.S. Tariff Act of 1930, interpreted in this way, led to a large number of old outstanding orders, some covering defunct products. This—and similar problems in other countries—became a subject of multi-lateral trade negotiations. In 1995, the Uruguay Round Agreements Act revised the U.S. Tariff Act to require that U.S. antidumping duties be reviewed at least every 5 years and

² The standard for imposition of a U.S. antidumping order is: A.) All imports of the relevant product, taken together, have caused material injury to the U.S. industry, and B.) The firm against which the duty is levied has sold the product in the United States at a price below 'normal value'. The foreign firm's 'normal' value is most often determined to be the price in the firm's home market. If this is not applicable, the firm's average cost of production (plus 8% profit) might be used. Alternatively, if the firm's home market is deemed not to be a market economy, a surrogate set of costs of production may be used. These determinations of normal value are made by the U.S. Department of Commerce.

terminated unless doing so would lead to a recurrence of dumping or injury to the domestic industry.³

The Sample of U.S. Antidumping Orders Examined

The present study is based on a sample of U.S. antidumping orders. Included in the study were all U.S. antidumping orders outstanding on September 10, 2008 that were entered before January 1, 2005. There were 190 such orders, which assigned firm-specific duties to 387 firms through the original order (and often assigned different duties to these firms at subsequent reviews). These 190 antidumping orders also eventually covered another 234 importing firms that were not identified in an original antidumping order. These 234 firms were first assigned a (possibly unique) duty during an administrative review. The history of each order was followed up to November, 2011. This captured 15 administrative reviews in some cases.

The sample has limitations. Potentially the most serious is the fact that some orders fall out of the sample, mostly by sunset review. By examining the history of the orders outstanding on September 10, 2008, the present study is studying a censored data set, from which revoked orders have been removed.⁴ There is some reason (discussed below) to think that this censoring might not seriously compromise the sort of results discussed in this paper.

Survivors and Dropouts: The Price Effect of Successive Administrative Reviews

The pricing behavior of foreign firms subject to U.S. antidumping duties is a complex topic, which has been the subject of a small theoretical literature [for

³ U.S. Department of Commerce Antidumping Manual, Chapter 25.

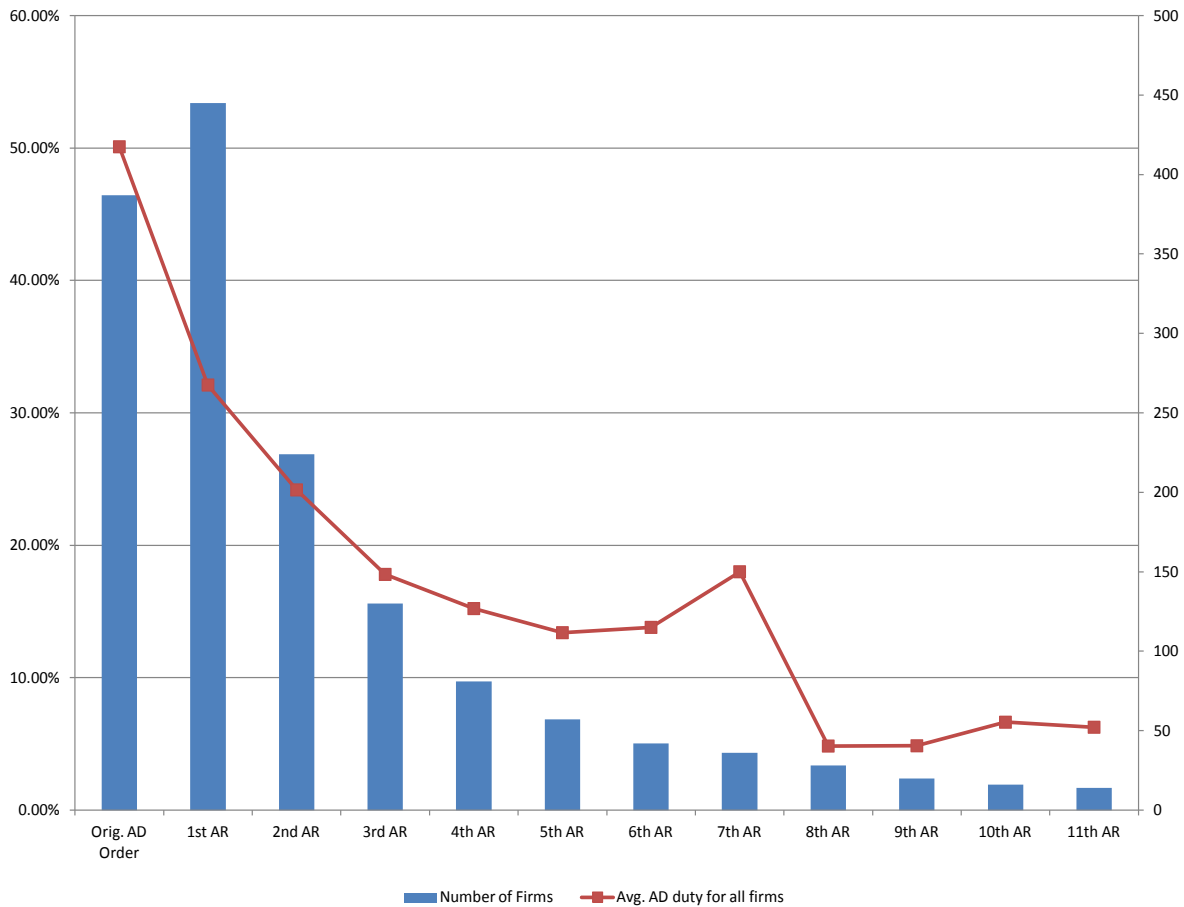
⁴ DeVault (2001) reported that in 1994, 32% of U.S. antidumping duties levied between 1980 and 1990 had been revoked. About 40% of these revoked duties involved steel products whose duty probably would not have been revoked, had the U.S. not negotiated voluntary restraint agreements with steel exporters. So, perhaps 20% of the non-steel duties would have been revoked had the VRA not been arranged. DeVault notes that the typical revoked duty was in effect for four years.

example, Blonigen and Park, 2004, Anderson, 1992, 1993], and an even smaller empirical literature [for example, DeVault, 1996, and Blonigen and Park, 2004].

In the sample of antidumping orders examined in the present investigation, the average antidumping duty at the time of each administrative review declines over the course of successive administrative reviews. Chart 1 shows that this decline is fairly dramatic, and is monotonic for the first 5 reviews.

Chart 1

Decline in Number of Identified Firms and in Average Antidumping Duty Over Successive Administrative Reviews



When an antidumping order is imposed, particular firms are generally assigned firm-specific antidumping duties corresponding to the normal value criteria described above. All firms from the relevant country that are exporting to the United States in significant quantities may be assigned a (potentially unique) duty at the time of the initial order. Firms exporting the product from the relevant country to the U.S. in very small quantities, or firms from that country that begin to export to the U.S. after the original order, may be first identified—and assigned a unique duty-- in an administrative review.⁵

⁵ Many antidumping orders, in addition to the enumeration of duties for identified firms, include a duty assigned to 'all other' exporting firms from the affected country. Firms not identified in the original order but which are

Chart 1 shows that the number of identified firms at first administrative review (445) exceeds the number of identified firms when the original antidumping order is imposed (387). This apparent anomaly occurs because a large number of firms (234) were identified for the first time in an administrative review. These ‘latecomer’ firms, together with the firms that were identified in an original antidumping order and which survived for at least one administrative reviews (211 ‘survivors’) comprise the 445 firms identified in a first administrative review.

The decline in average antidumping duties over the course of subsequent administrative reviews illustrated in Chart 1 probably corresponds to an average increase in U.S. price over the course of these reviews. Since the duty is a measure of the percent by which the affected foreign firms’ U.S. price is below its ‘normal value’—most commonly the price at which the good is sold in the exporter’s home market—it is possible that the decline in duty could be caused by a decrease in the home price for the relevant products. But it is not believed that the U.S. Department of Commerce routinely re-investigates the ‘normal value’ for each foreign firm at most administrative reviews. In any case, there is some evidence [e.g. Gallaway, Blonigen and Flynn, 1999] that changes in these margins are mostly caused by changes in U.S. price, and not by changes in home price (‘normal values’).

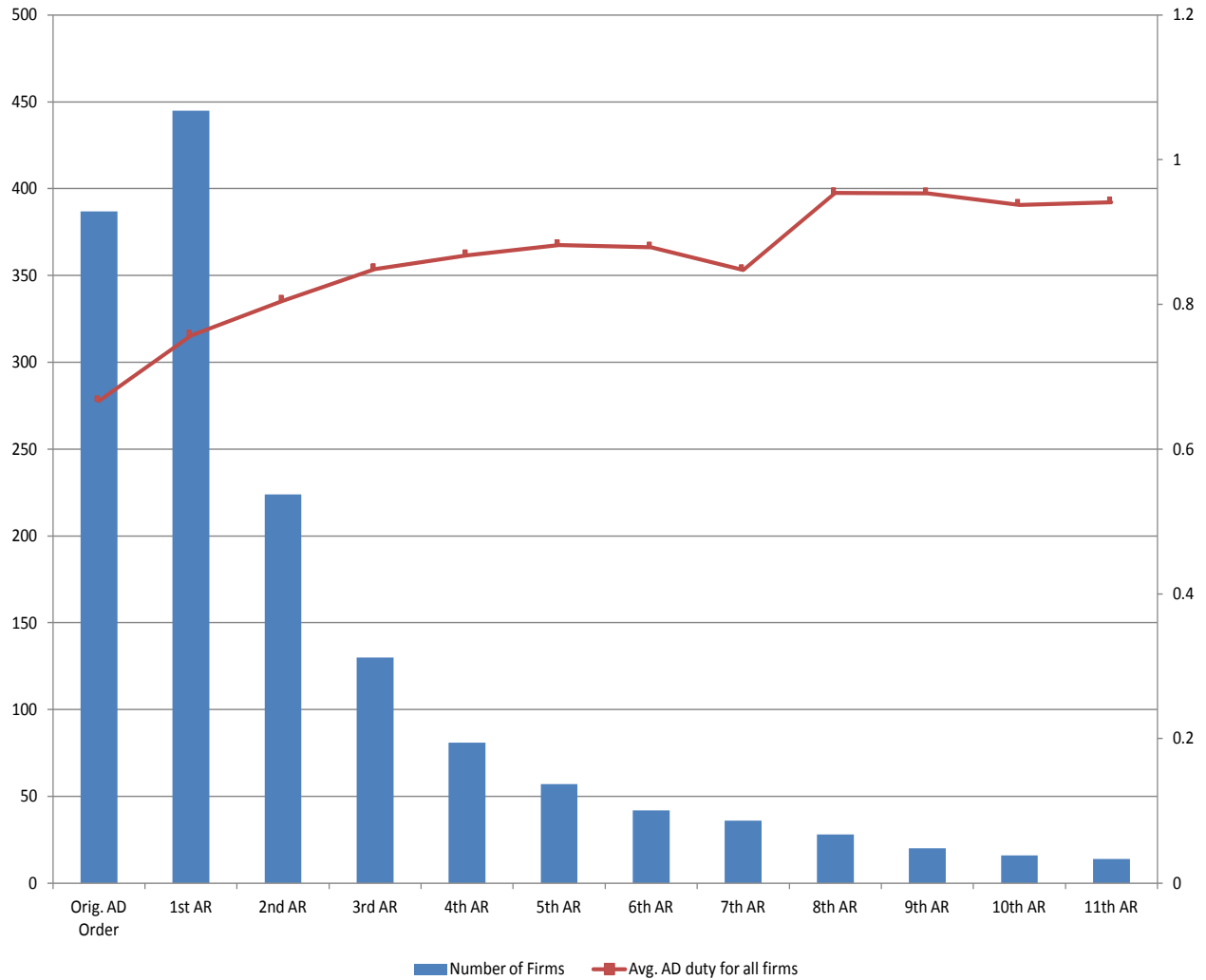
Chart 2 shows the same information as Chart 1, but with the antidumping duties in Chart 1 expressed as the corresponding price for the U.S. sales of the firms. In Chart 2, the U.S. price is shown as a fraction of the ‘normal value’ of each firm—which is interpreted as the firm’s home price.⁶ As expected, the U.S. prices of affected foreign firms rises over the course of successive antidumping administrative reviews.

exporting the relevant product to the U.S. from the relevant country at the time of the original order must pay the ‘all other’ duty unless it is replaced with a firm specific duty at an administrative review.

⁶ For example, a ‘price’ of 0.5 in Chart 2 implies that the U.S. price is one half the home price, which corresponds to an antidumping duty of 50% in Chart 1. Chart 2 assumes that all the change in the U.S. antidumping duty assigned to each firm is caused by change in the U.S. price of each firm’s exports, rather than by changes in the U.S. Department of Commerce’s determination of ‘normal value’ for each firm—generally the home country price.

Chart 2

Decline in Number of Identified Firms and Implied Rise in Average U.S. Price Over Successive Administrative Reviews



One of the most striking features of Charts 1 and 2 is the close association of the decrease in average antidumping duties over the course of successive administrative reviews and the reduction in the total number of firms in the sample with each subsequent administrative review. Chart 3 explores this 'dropout effect' by showing—at the point of each review--the number of firms named in the indicated review (or original order) that survive to be identified in the next review. The Chart also shows—again, at the point of each review--the

number of dropouts—i.e. firms that are named in the indicated review (or original order), and are then **not** mentioned in the subsequent review.

Chart 3

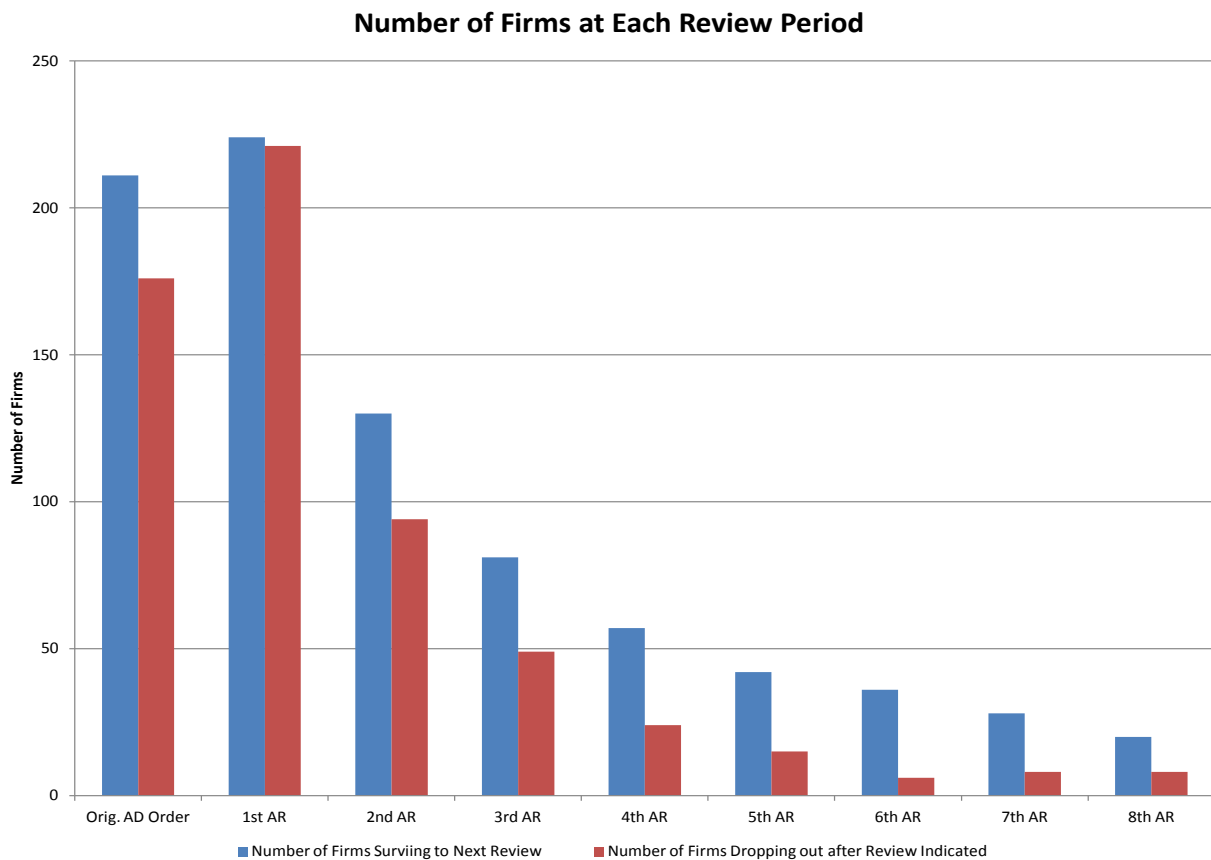
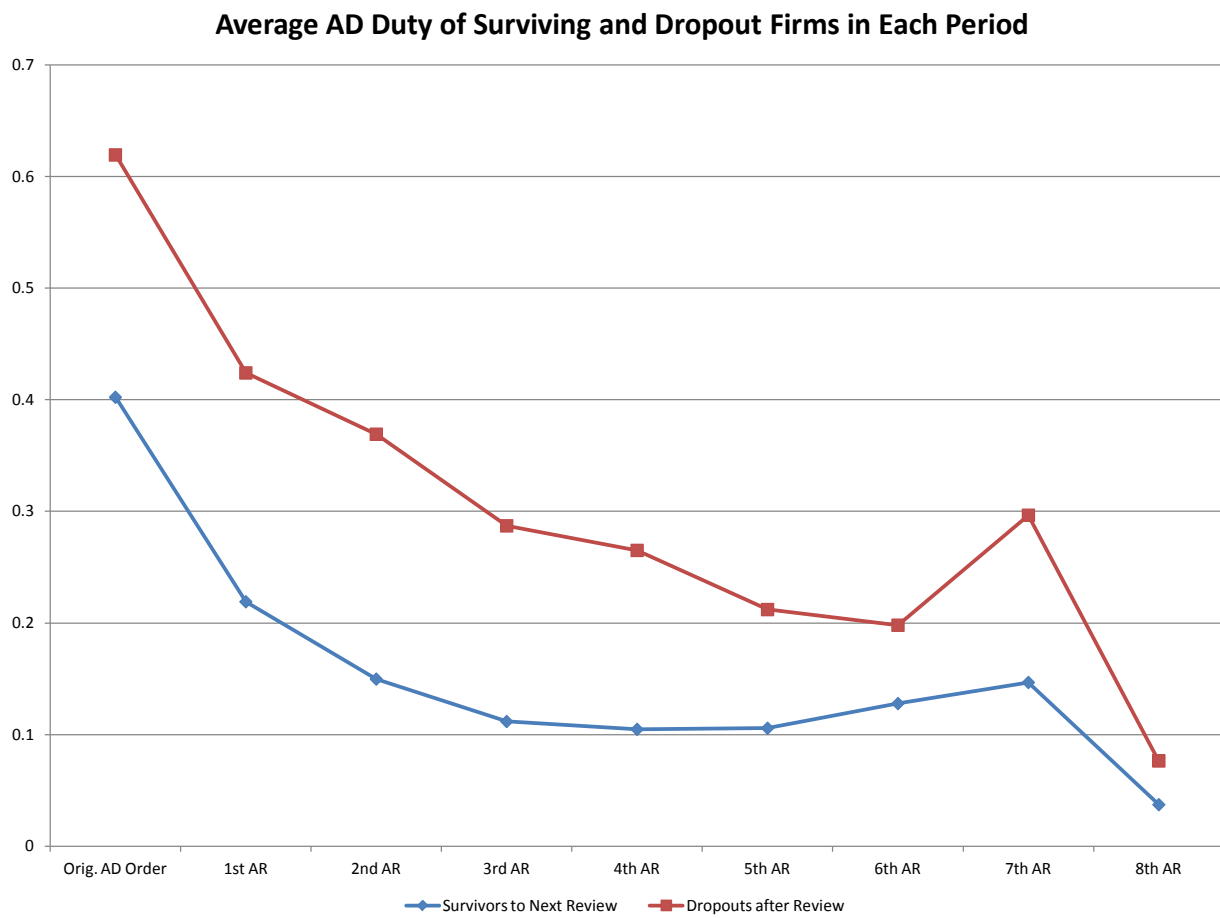


Chart 3 shows that the number of dropout firms (i.e. firms that do not survive to be identified in the next administrative review), is nearly as large as the number of survivor firms for early reviews, and continues to be significant through later reviews. A natural question prompted by this evidence is how the dropout firms differ from the survivor firms.

This question is addressed by the information in Chart 4, which shows separately the average antidumping duty at the stage of each administrative review for surviving firms and for dropout firms.

Chart 4



The information in Chart 4 shows that the average antidumping duty of both survivors and dropouts decreases over successive administrative reviews—thus implying that the average U.S. price of the firms rose over the course of reviews. But the average duty of survivors is substantially lower in each period than the duty assigned to dropout firms. This observation raises the question of the extent to which the decline in average antidumping duties over the course of successive administrative reviews (shown in Chart 1) may be due largely to the fact that firms with higher duties are dropping out, rather than to a drop in average duties assigned to survivor firms that were identified in subsequent reviews.

In fact, the observed decline in antidumping duties over the course of successive reviews is *entirely* due to the dropout phenomenon shown in Charts 1, 2 and 3. Chart 5 shows this surprising fact by illustrating the *change* in antidumping duty, from one review to the next, for firms that survived to be identified in the next review. (Chart 5 is, therefore, different from Chart 4, which shows the level of duty at each review of survivors to the next review. For example, Chart 4 shows that the average duty at fourth review of survivors to the fifth review is about 12%. Chart 5 shows that these survivors have average duty of about 15% at the fifth review.)

Chart 5

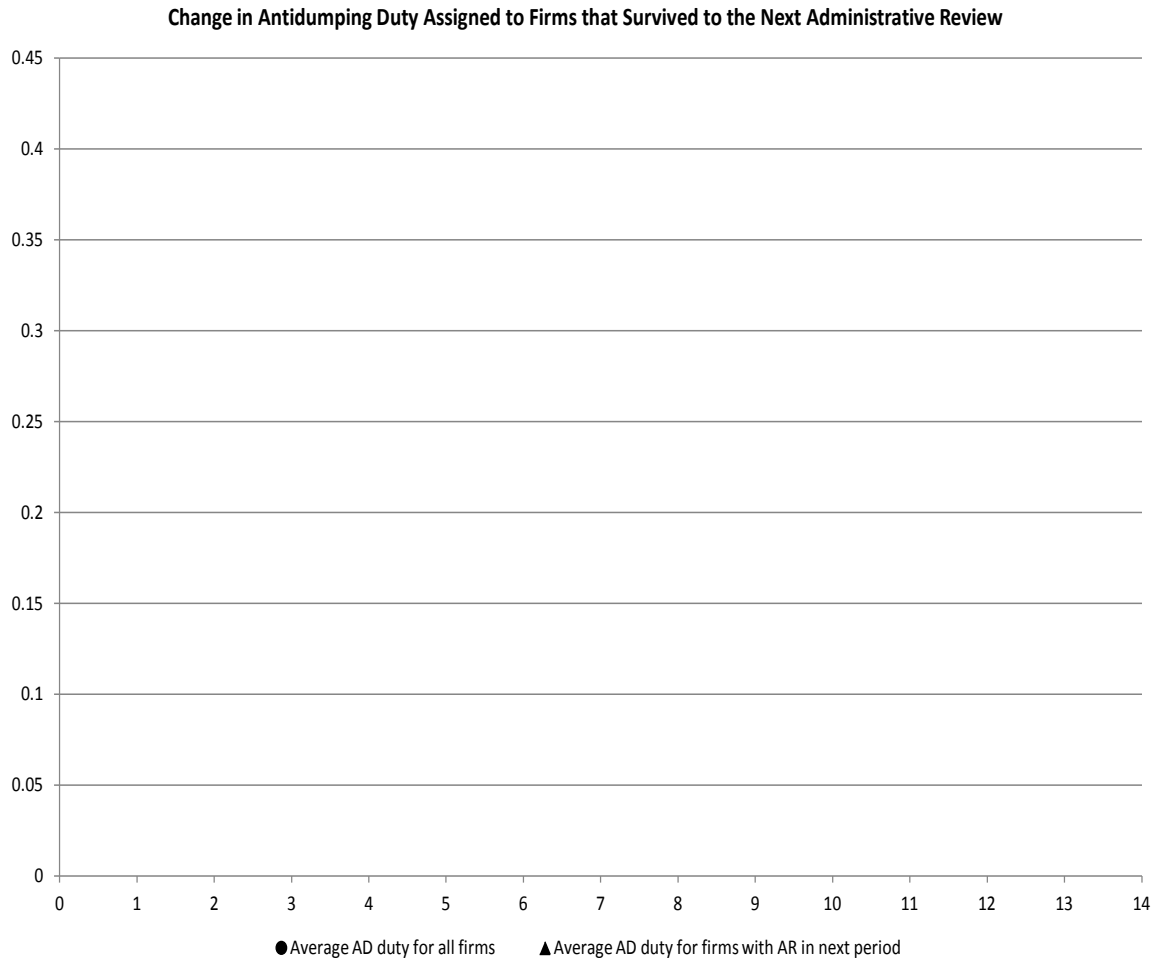


Chart 5 shows that during the first 12 administrative reviews, there are only two occasions—from the original order to the first review, and from the 7th review to the 8th—on which the average antidumping duty of the firms that would eventually survive to be identified in the next review had lower duties in the later review.⁷

This phenomenon—if confirmed by other studies—is intriguing, and seems important. It is intuitive that, as shown in Chart 4, firms with higher antidumping duties are more likely to disappear from the sample before the next administrative review. The higher antidumping duty poses a more serious burden on these firms, and exiting the U.S. market may be a more attractive option for these firms than it is for firms with lower duties. But why should the average duty facing surviving firms increase from one review to the next? This increase in duty probably corresponds to a drop in U.S. price over the period in question. The microeconomics of the dynamic pricing decision faced by surviving firms (or by dropouts, for that matter) is complex. Blonigen and Park [2004] show that in one model of firm behavior characterized by certain enforcement, foreign firms with a sufficiently high discount rate may see a non-decreasing antidumping duty over the course of reviews. The intuition is that the future costs of the higher (future) dumping duty caused by the drop in U.S. price is discounted in favor of current period profit. Perhaps this is part of the explanation for the results in Chart 5 and above.

How Seriously Has the Censoring of the Observations Affected These Results?

As noted above, revoked antidumping orders will not appear in the sample outstanding on September 10, 2008, and so the data presented are a censored sample. There is some reason to think that this problem might not seriously affect the results discussed above.

The standards used by the U.S. Department of Commerce to revoke antidumping orders are somewhat opaque. Generally, the requirement for revocation is that all exporters covered by the order have sold the merchandise in question in the U.S. for three consecutive years at not less than normal value, and

⁷ In fact, Chart 7 suggests that the observed decline in antidumping duties over the course of successive administrative reviews is *more than* entirely attributable to the dropout phenomenon.

that no firm covered by the order is likely to sell at less than fair value in the future.⁸ The second of these two standards is difficult to interpret.⁹

These standards for revocation have two implications: First, firms with revoked duties must have moved from a positive duty (when their order was put in place) to a zero duty at some administrative review (three years before the duty was revoked). So the general profile of the duties of these firms must have generally matched the profiles of both curves in Chart 4—a decreasing slope over the whole range. The overall slope of both curves in Chart 4 would, therefore, not be reversed by the inclusion of revoked antidumping orders. Second, the revocation requirement that censored firms must have a zero duty for the last three years of the duty's existence means—in terms of Chart 4—that the censored firm must have been a 'survivor' with a zero duty for the last three years of its existence. Inclusion of these observations in Chart 4 would, therefore, have lowered the 'survivor' curve further below the 'dropout' curve—not changing the relative position of the schedules. Of course, inclusion of information about the revoked orders for periods before the firms were assigned zero duties would probably change the levels and slopes of the two curves in Chart 4. But it seems unlikely that the general conclusions would be reversed.

Direct Evidence of the Effect of Successive Administrative Reviews on the Prices of Covered Imports

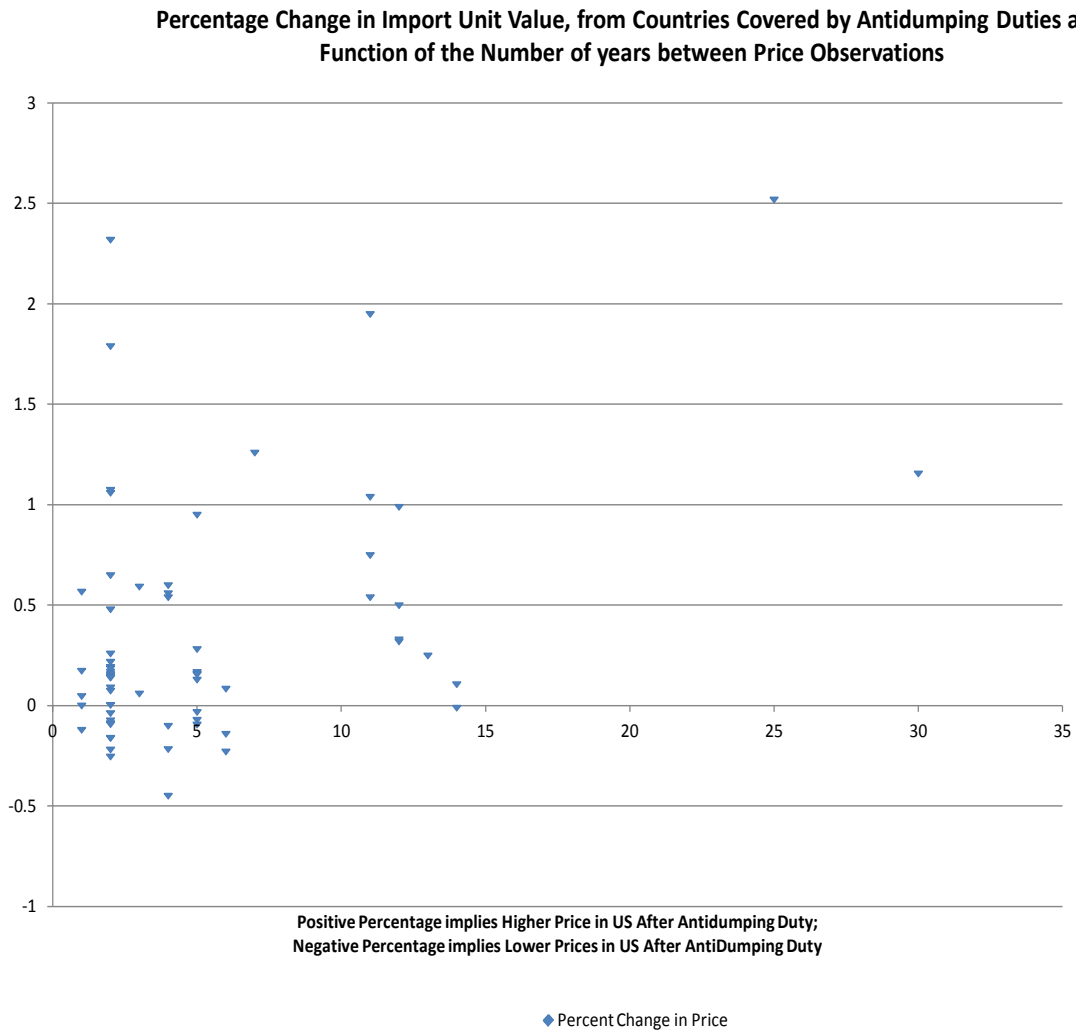
The discussion above is an indirect attempt to infer pricing behavior of firms covered by U.S. antidumping orders by examining the history of the relevant antidumping orders over the course of successive reviews. Some direct evidence about this question is available, however. For 68 of the 190 antidumping orders under discussion in this paper, International Trade Commission reports show import unit values for covered imports at the time of the original antidumping order, and at the point of at least one subsequent review, as well. This

⁸ U.S. Department of Commerce Antidumping Manual, 2009, Chapter 27.

⁹ Further clouding the murky state of affairs is the fact that the requirement that dumping be unlikely to recur may be interpreted differently between administrative reviews (possibly annual) and sunset reviews (every 5 years.) For sunset reviews, the USDOC must be satisfied that the antidumping duty is not the fact preventing the sale at less than normal value. If, for example, imports declined after the imposition of duties, this could be interpreted at a Sunset Review as evidence that the duty is the factor preventing dumping. Revocation, in that case, might not be deemed appropriate. (USDOC Antidumping Manual, Chapter 25.)

information, although very valuable, is decidedly a mixed bag. Chart 8 presents these data.

Chart 6



The limitations of these data are fairly obvious. Fully half of the observations in Chart 6 involve a change in import unit value between an original antidumping order and of an administrative review that were only one or two years apart. Such a short interval may be problematic for an inference about dynamic pricing behavior. Three-fourths of the observations involve observations of unit value separated by 5 years or less.

Still, the general pattern of the observations of changes in unit value in Chart 6 is consistent with the inferred pattern of these unit values in Chart 2 (derived from the pattern of antidumping duties). Both sources of information indicate a gradual increase in U.S. price over time (or over the course of successive administrative review).

Conclusion

Evidence from a sample of U.S. antidumping orders is consistent with the hypothesis that average dumping duties faced by covered foreign firms fall over the course of successive administrative reviews. This suggests a rise in the U.S. prices charged by these firms over the relevant period. Some direct evidence about change in unit values of covered imports is presented which is consistent with this notion. The observed decline in antidumping duties is entirely attributable to firms dropping out of the sample by ceasing to be identified at some point in the series of administrative reviews—probably because their U.S. sales declined to negligible levels. Foreign firms that survived to be identified at the next administrative review generally saw their antidumping duty rise over the interval—suggesting a drop in U.S. price over the period.

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