U.S. INTERNATIONAL TRADE COMMISSION

FY 2011 AT A GLANCE

OPERATION 1: Import Injury Investigations

WHAT WE DO

The USITC determines whether imports are injuring or threatening to injure U.S. industries under a number of trade laws. Import injury investigations at the USITC include antidumping and countervailing duty investigations and five-year (sunset) reviews under title VII of the Tariff Act of 1930; global safeguard (escape clause), China safeguard, and market disruption investigations under the Trade Act of 1974; bilateral safeguard investigations under section 302 of the North American Free Trade Agreement (NAFTA) Implementation Act of 1994; and investigations under section 22 of the Agricultural Adjustment Act.

The Commissioners base their determinations in import injury investigations on the requirements of the appropriate law and the factual record built in each investigation. The Commissioners publish their opinions in import injury investigations, which are subject to judicial review.

COMMISSIONERS BASE DETERMINATIONS IN IMPORT INJURY INVESTIGATIONS ON REQUIREMENTS OF APPROPRIATE LAW AND FACTUAL RECORD DEVELOPED.

HOW WE DO IT

In each investigation, the Commission and an investigative staff team (which includes a supervisory investigator, an investigator, an accountant/auditor, an economist, a commodity-industry analyst, an attorney, and a statistician) develop a thorough record of the conditions of competition within the domestic market of the industry under investigation. The Commissioners and the staff team employ a variety of fact-gathering techniques, which include (but are not limited to) industry-specific questionnaires, telephone interviews, plant visits, consultations with technical and marketing specialists, statements by the parties, public hearings, and reviews of industry and market literature.

The investigative team collects and analyzes the extensive data in each investigation, then presents an objective and comprehensive report to the Commission. Data presented in the staff's report include (but are not limited to) the industry's productive capacity, actual production, capacity utilization, domestic and export shipments, inventories, imports, domestic market shares held by U.S. and foreign suppliers, employment, hours worked, productivity, wages and total compensation paid, unit labor costs, pricing, distribution channels, and full financial data on the U.S. companies producing the product under investigation. Somewhat more limited information about the foreign industry producing the product under investigation is also collected and analyzed.

TITLE VII CASES

Antidumping:
8 cases filed, comprising
11 individual investigations

Countervailing Duty:
5 cases filed, comprising
5 individual investigations

PRODUCTS INVOLVED

- Multilayered wood flooring
- Stilbenic optical brightening agents
- High-pressure steel cylinders
- Large power transformers
- Galvanized wire
- Steel wheels
- Steel nails
- Bottom-mounted refrigerators

OTHER INVESTIGATIONS

Five-Year (Sunset) Reviews:
36 reviews instituted, covering 84 separate orders

Global Safeguard:
0 instituted

China Safeguard:
0 instituted

NAFTA Implementation Act:
0 instituted

UNDERSTANDING ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS

Under the Tariff Act of 1930, U.S. industries may petition the government for relief from imports that are sold in the United States at less than fair value ("dumped") or which benefit from subsidies provided through foreign government programs. Under the law, the U.S. Department of Commerce determines whether the dumping or subsidizing exists and, if so, the margin of dumping or amount of the subsidy. The USITC determines whether the dumped or subsidized imports materially injure or threaten to materially injure the U.S. industry.

The USITC conducts preliminary and final phase injury investigations. In its preliminary phase, the USITC determines, on the basis of the best information available to it at the time of the determination, (1) whether there is a "reasonable indication" that an industry is materially injured or is threatened with material injury, or (2) whether the establishment of an industry is materially retarded, by reason of the imports under investigation. If the USITC preliminary phase determination is affirmative, the Commerce Department continues its investigation of whether the alleged dumping or subsidizing exists. If the Commerce Department's final determination is affirmative, the USITC conducts a final phase injury investigation.

In its final phase investigation, the USITC determines (1) whether an industry in the United States is materially injured or threatened with material injury, or (2) whether the establishment of an industry in the United States is materially retarded, by reason of imports that the Department of Commerce has determined to be subsidized or sold in the United States at less than fair value. If the final phase USITC determination is affirmative, the Secretary of Commerce issues an antidumping duty order (in a dumping investigation) or a countervailing duty order (in a subsidy investigation), which is enforced by the U.S. Customs Service.

UNDERSTANDING FIVE-YEAR (SUNSET) REVIEWS

The USITC also conducts five-year (sunset) reviews of existing antidumping and countervailing duty orders and suspension agreements. The Uruguay Round Agreements Act, approved in late 1994, amended the antidumping and countervailing duty laws in several respects. The most significant change was a provision that requires the Department of Commerce to revoke an antidumping or countervailing duty order, or terminate a suspension agreement, after five years unless the Department of Commerce and the USITC determine that revoking the order or terminating the suspension agreement would be likely to lead to continuation or recurrence of dumping or subsidies (Commerce) and of material injury (USITC) within a reasonably foreseeable time. If the USITC's determination is affirmative, the order of suspension agreement remains in effect. If the USITC's determination is negative, the Secretary of Commerce revokes the order or terminates the suspension agreement.

UNDERSTANDING GLOBAL SAFEGUARD INVESTIGATIONS

Under section 201 of the Trade Act of 1974, domestic industries seriously injured or threatened with serious injury by increased imports may petition the USITC for import relief. The USITC determines whether an article is being imported in such increased quantities that it is a substantial cause of serious injury, or threat thereof, to the U.S. industry producing an article like or directly competitive with the imported article.

Section 201 does not require a finding of dumping, subsidization, or any other unfair trade practices; however, the injury requirement under this section is considered to be more difficult than those of the unfair trade statutes. If the USITC makes an affirmative determination, it recommends to the President relief that would remedy the injury and facilitate industry adjustment to import competition. The President makes the final decision whether to provide relief and the amount of relief. Such relief may be in the form of a tariff increase, quantitative restrictions, or orderly marketing agreements among other forms.

UNDERSTANDING CHINA SAFEGUARD INVESTIGATIONS

Section 421 was added to the Trade Act of 1974 by the U.S.-China Relations Act of 2000 and implements a transitional bilateral safeguard provision in the U.S.-China agreement relating to China's accession to the World Trade Organization. Domestic producers can obtain relief under this provision if the USITC finds that Chinese products are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. Similar to global safeguard investigations, if the Commission makes an affirmative determination, it also proposes a remedy to the President. The President makes the final decision concerning whether to provide relief to the U.S. industry and if so, the type and duration of relief.

This provision will expire on December 11, 2013.