

LAW OFFICES OF NITHYA NAGARAJAN, LLC
INTERNATIONAL TRADE LAW AND CONSULTING

DEFENSE OF AN INJURY INVESTIGATION

The ITC's task is to establish the existence of injury to the U.S. industry caused by the imports of the product into the United States. The essential issues in the ITC's investigation are whether the U.S. industry is materially injured (or threatened with material injury) and whether the allegedly dumped imports are a cause of that injury. The ITC performs its investigation in two stages: a preliminary stage, which begins immediately after a case is initiated, and a final stage, which takes place after the DOC has done its investigation.

Participation in the ITC's investigation is optional; often the foreign respondent combines their resources to engage a single representative or to present a unified position. Smaller companies can sometimes rely on the efforts of larger companies to carry the day, since each country's impact is considered together. If the ITC finds that the imports complained of do not cause injury to the U.S. industry, the entire investigation is dismissed.

The central tasks to be performed by a foreign company's legal counsel in this phase of the proceeding include the following:

- Collect data on the U.S. market for the subject product and the levels of domestic production, consumption, and imports;
- Develop theories of the case to refute petitioners' allegations that the U.S. industry is materially injured and that imports are a cause of injury, including consultations with the foreign manufacturer, its U.S. importers, and its customers;
- Help shape the kinds of questions the ITC will ask of U.S. importers and producers in consultation with ITC staff in order to ensure that the questionnaire will elicit information that will support a favorable view of the evidence;
- Assist the foreign producer and its importers to respond to ITC questionnaires;
- Evaluate data submitted by U.S. producers and compare their responses with foreign producers' data to further develop and support theories of case;
- Prepare presentation for ITC hearings, including coordinating with other respondents' counsel, working with economists, and preparing witnesses to support theories; participate in the ITC hearings;
- Draft and file post-hearing briefs to the ITC, which may require preparation of affidavits of company officials, importers, and/or customers.