

other respondents within the date specified for individually examined exporters or producers. If the number of exporters or producers who have submitted such information is so large that individual examinations would be unduly burdensome, Commerce is exempted from this requirement.⁴⁰

8.2 *De Minimis* Margins

In accordance with Article 5.8 of the Anti-Dumping Agreement, the Tariff Act of 1930 has been amended to provide that a dumping margin found to be less than 2% *ad valorem* will be considered to be *de minimis* and will be disregarded. Commerce, however, has interpreted Article 5.8 as applying only to original investigations. For reviews, until January 1, 2000, Commerce retained the practice of considering a margin to be *de minimis* only if it is below 0.5% *ad valorem*.⁴¹

9 ITC Injury Analysis

As noted above, the role of the ITC in anti-dumping investigations is to determine whether the U.S. domestic industry producing like products is materially injured or threatened with material injury, or whether the establishment of an industry in the United States is materially retarded by reason of the subject imports. The ITC is composed of six members appointed by the President, no more than three of whom can be from the same political party. Determinations are made on the basis of a majority vote. If the members split evenly in a vote on material injury or threat of injury, the ITC will be deemed to have made an affirmative determination.

The ITC determination of injury involves a two-pronged inquiry: first, with respect to the fact of material injury; and second, with respect to whether the dumping is a cause of material injury or threat thereof.

Material injury is defined as "harm which is not inconsequential, immaterial, or unimportant." In determining whether the domestic industry is materially injured by reason of the investigated imports, the ITC is directed by statute to consider:

- 1) the volume of imports and, more specifically, whether the volume of subject imports (either in absolute or relative terms) is significant;
- 2) the effect of imports on U.S. prices of like merchandise, including evidence of price underselling or price depression attributable to the imports; and
- 3) the effects that imports have on the U.S. facilities of domestic producers of like products, including but not limited to:

40 19 U.S.C. § 1673d (c) (5) (B) (1994).

41 19 U.S.C. § 1673b (b) (3), SAA at 174-75.