

merchandise. . . ."³⁹ There are two elements to an injury determination: the finding of injury itself and the finding that the injury was actually caused by the imports. In the U.S. countervailing duty statute, "material injury" is defined very broadly as "harm which is not inconsequential, immaterial, or unimportant."⁴⁰ The causation standard -- "by reason of" -- requires only that the imports be a contributing cause to material injury.⁴¹ In practice, the injury standard in the countervailing duty statute is relatively easy to meet.

Determinations of injury are made by the ITC, an independent agency.⁴² Although all of the decisions of the ITC cannot be predicted with absolute certainty, its discretion is limited by the relatively clear standards set forth in the law. The ITC's inquiries

³⁹ 19 U.S.C. § 1671(a)(2).

⁴⁰ Id. § 1677(7).

⁴¹ The U.S. Court of International Trade recently stated that the ITC, in applying this standard, "must rule in the affirmative [on injury] if it finds even slight contribution from imports to material injury, and . . . should not weigh that contribution against the effects associated with other factors" Gifford-Hill Cement Co. v. United States, No. 83-12-01737, slip op. 85-79 (July 31, 1985).

⁴² ITC Commissioners must be nominated by the President and confirmed by the Senate. By law, no more than three of the six Commissioners may belong to the same political party.