

U.S. Countervailing Duty Process

The U.S. countervailing duty process is quite strictly defined by the U.S. law and regulations and includes several key determinations.

The process begins with the filing of a petition by a U.S. domestic industry that alleges the industry is being injured by imports which benefit from countervailable subsidies. If the petition contains sufficient information, as specified in the law, the U.S. Commerce Department (Commerce) and the U.S. International Trade Commission (USITC) initiate countervailing duty investigations. In the lumber case, a petition was submitted by the U.S. "Coalition for Fair Lumber Imports" on May 19, 1986 and Commerce initiated an investigation on June 6, 1986.

The countervailing duty investigation includes the following key determinations which occur in the following order:

- 1) USITC preliminary injury determination.
- 2) Commerce preliminary subsidy determination.
- 3) Commerce final subsidy determination.
- 4) USITC final injury determination.
- 5) Commerce publication of a countervailing duty order (CVD order).

The USITC ruled on June 26, 1986, that there was a reasonable indication of injury caused by imports from Canada and issued an affirmative preliminary injury determination. The Commerce preliminary determination on subsidy is the second key decision in the process. However, before Commerce can issue a CVD order to impose a duty, there must be a final Commerce determination of subsidy and a final USITC determination of injury.

The October 16, 1986 preliminary determination by Commerce does not result in the imposition of a duty but does have several effects. The Commerce subsidy investigation continues to a final determination even if no subsidies (or de minimis subsidies) are found at the preliminary. However, if Commerce rules that countervailable subsidies are being provided, the preliminary determination must contain an estimated net subsidy. The liquidation (finalization) of customs entries is immediately suspended and surety bonds must be posted to cover the estimated subsidy in the event a duty is confirmed at the end of the process.