

countervailing duty, in addition to any other duty imposed, equal to the amount of the net subsidy [emphasis added].⁶

The proceedings can be initiated by private petition or by the IIA. After a petition is filed, the ITC has 45 days to make a preliminary determination of injury or threat of injury. If its determination is negative, the investigation ceases. The IIA, meanwhile, has 85 days after the petition is filed to make a preliminary determination concerning the provision of a subsidy. If the IIA's preliminary determination is affirmative, all entries of the merchandise are halted at the border and suspended in warehouses, and the exporter must post a bond in the amount of the "net subsidy" on all imports of the merchandise into the United States.⁷ "Net subsidy" means the gross subsidy adjusted for deferral of receipts from, or special charges by, the foreign government.

Within 75 days of the date of its preliminary determination — after holding public hearings and giving all interested parties an opportunity to be heard — the IIA must make a final determination of whether a subsidy is being provided. Similarly, the ITC has 120 days after its preliminary determination — or 45 days after the IIA's final determination — to conduct hearings, investigate, and make a final determination of material injury.⁸ If the IIA and ITC both make affirmative final determinations, the IIA then orders customs officials to assess countervailing duties equal to the net subsidy provided on the imported merchandise.⁹

Current U.S. countervailing duty laws are administered as a time-limited, mandatory, quasi-judicial system. Judicial review of the decisions of the IIA and ITC has been available to private citizens since the Trade Act of 1974. There is no room for discretion or intervention by the executive branch in the process. These procedures, however, while providing predictability, freedom from corruption, certainty, and fairness in the