

University of Bath



**PHD**

**Prosecuting antidumping and countervailing duty cases in the United States of America**

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**Prosecuting Antidumping and Countervailing Duty Cases  
in the United States of America**

Johan Paul Lindeque

A Thesis Submitted for the Degree of Doctor of Philosophy

University of Bath

School of Management

May 2008

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To S.M.

My constant source of support and encouragement.



# **1 Abstract**

This thesis takes a corporate political strategy perspective of antidumping and countervailing duty cases to understand why some firms are more successful at the prosecution of these trade remedy measures. Trade remedy measures are long standing tools of US trade policy and their use has continued to grow globally amongst member countries of the World Trade Organisation. Between 1980 and 2007 a total of 1606 of these trade remedy cases were investigated by the Department of Commerce and International Trade Commission, an average of 41 antidumping and 17 countervailing duty cases a year, with a value of around US\$ 63 billion or 0.3% of all US imports. Thirty-seven percent of the cases by number and 54% by value resulted in duties being imposed on the subject imports. This study uses archival material for five recent trade remedy investigations and forty-five semistructured interviews with business interests, trade attorneys and economic consultants that have experience of prosecuting these cases to understand why some firms may be more successful than others at achieving their preferred policy outcome.

The imposition of duties is found to be only the simplest measure of success for US firms that file a case and does not capture the range of potential outcomes for foreign firms that face the duties. Successful prosecution of a trade case has been found to be firm specific, as the DOC determination of individual firm duty rates significantly affects what the outcome of case means for each firm in the US and foreign industries. The successful prosecution of US trade remedy cases is argued to be an informational corporate political strategy that is affected by statutory and administrative biases in the execution of the agency investigations, and creates the potential for indirect rent-seeking bias in the outcomes of cases. This informational corporate political strategy is based on three capabilities that firms need to develop, the capability to gather information, the capability to build and shape the administrative record at the agencies to reflect a firm's policy preferences and the capability to align business practices with the US trade remedy institutions. These three capabilities are enabled by the bundling of corporate political expertise resources, organisational resources, financial resources and reputational resources. Some of these resources are internal to the firms, including staff, money and information, while other resources are external, such as the trade attorneys and economic consultants.



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All errors and omissions are of course the responsibility of the author.





### **3 Table of Contents**

<b>1</b>	<b>Abstract.....</b>	<b>iii</b>
<b>2</b>	<b>Acknowledgements.....</b>	<b>v</b>
<b>3</b>	<b>Table of Contents .....</b>	<b>vii</b>
<b>4</b>	<b>Lists of Tables, Figures and Abbreviations .....</b>	<b>xiii</b>
4.1	List of Tables.....	xiii
4.2	List of Figures .....	xx
4.3	List of Abbreviations.....	xxii
<b>5</b>	<b>Introduction .....</b>	<b>1</b>
5.1	Rent Seeking and the Regulation of Business and International Trade .....	7
5.2	Introduction to Antidumping and Countervailing Duty Measures .....	8
5.3	Research Question.....	10
5.4	Selecting the United States as an Appropriate Research Setting .....	10
5.5	Nonmarket Strategy and Corporate Political Activity .....	12
5.6	Research Strategy.....	13
5.7	The Prosecution of US Antidumping and Countervailing Duty Cases.....	13
5.8	Conclusion.....	14

<b>6</b>	<b>Use of Antidumping and Countervailing Duty Measures .....</b>	<b>15</b>
6.1	US Antidumping and Countervailing Duty Activity within the Context of the WTO Multilateral Trade Regime.....	16
6.2	Comparison of WTO Member Antidumping and Countervailing Duty Activity.....	17
6.3	Antidumping and Countervailing Duty Literature.....	25
6.4	US Antidumping and Countervailing Duty Investigations between 1980 and 2006.....	27
6.5	The Institutions of US Antidumping and Countervailing Duty Procedures.....	31
6.6	The US Antidumping and Countervailing Duty Process .....	33
6.7	The DOC and ITC as Institutional Actors .....	49
6.8	Introduction to Selected Cases.....	52
6.9	Conclusion .....	61
<b>7</b>	<b>Conceptual Background .....</b>	<b>63</b>
7.1	Selecting the Appropriate Literature.....	63
7.2	Developing the Conceptual Model .....	64
7.3	The Literature on Trade Remedy Measures.....	65
7.4	Domestic Political Economy of Administered Protection in the United States of America.....	67

7.5	Developing a Firm Perspective of the Administrative Protection Process .....	70
7.6	Conceptualising Corporate Political Activity .....	71
7.7	A Resource-based View of Corporate Political Activity .....	78
7.8	Model of Corporate Political Activity in US Trade Remedy Cases .....	88
7.9	Conclusion.....	91
<b>8</b>	<b>Research Strategy and Design for Study .....</b>	<b>93</b>
8.1	The Research Question .....	94
8.2	Adoption of an Interpretivist Inquiry Paradigm.....	94
8.3	Previous Research Approaches in Related Fields.....	99
8.4	Selection of the Multiple-Case Study Research Strategy .....	101
8.5	The Research Design Adopted for the Study.....	105
8.6	Data Collection and Preparation for Analysis.....	110
8.7	Data Analysis .....	117
8.8	Conclusion.....	118
<b>9</b>	<b>Prosecution of US Trade Remedy Cases.....</b>	<b>119</b>
9.1	Petitioners' Perspective.....	119
9.2	Respondents' Perspective.....	125
9.3	Firm Experience and Trade Cases.....	130

9.4	Conclusion .....	130
<b>10</b>	<b>Pre-petition Phase .....</b>	<b>133</b>
10.1	Case Experience .....	134
10.2	Corporate Political Strategy .....	157
10.3	Resource-based View .....	170
10.4	Potential Bias in the United States Investigation Process .....	179
10.5	Conclusion .....	179
<b>11</b>	<b>Original Investigation Phase .....</b>	<b>181</b>
11.1	Case Experience .....	186
11.2	Corporate Political Strategy .....	218
11.3	Resource-based View .....	228
11.4	Potential Bias in the United States Investigation Process .....	238
11.5	Conclusion .....	241
<b>12</b>	<b>Review Phase .....</b>	<b>243</b>
12.1	Case Experience .....	244
12.2	Corporate Political Strategy .....	264
12.3	Resource-based View .....	267
12.4	Potential Bias in the United States Investigation Process .....	272

12.5	Conclusion.....	272
<b>13</b>	<b>Conclusion.....</b>	<b>275</b>
13.1	Potential for Bias in US Trade Remedy Cases.....	276
13.2	Generic Corporate Political Activity Strategies for Prosecuting Trade Cases .....	278
13.3	Clarifying What It Means to Successfully Prosecute a Trade Case.....	279
13.4	The Nature of Corporate Political Activity in Trade Cases .....	280
13.5	A Need for Integrated Strategy in Trade Cases .....	281
13.6	Corporate Political Resources and Capabilities in the Prosecution of Trade Cases .....	282
13.7	Contribution of Study.....	287
13.8	Opportunities for Future Research.....	289
13.9	Recommendations for Firms .....	295
13.10	Conclusion.....	297
<b>14</b>	<b>References .....</b>	<b>I</b>
<b>15</b>	<b>Appendixes.....</b>	<b>XIII</b>
15.1	Appendix A: List of Interviews.....	XIII
15.2	Appendix B: Case Summaries for Each of the Five Cases .....	XVII
15.3	Appendix C: Participation of Firms in the Prosecution of the Five Cases.....	CXXXV

15.4	Appendix D: Import Statistics for General US Trade and Case Specific HTS Categories 1996 - 2006.....	CLXXXVI
15.5	Appendix E: Extracts from the Harmonized Tariff Schedule of the United States Showing the Classification of Imported Merchandise Headings for Cases.....	CLXXXVIII
15.6	Appendix F: Scope of Investigation for Five Cases .....	CXC
15.7	Appendix G: Interview Protocol Used in Fieldwork .....	CXCIX

## **4 Lists of Tables, Figures and Abbreviations**

### **4.1 List of Tables**

Table 1: Introduction to Five Cases in Study.....	2
Table 2: Antidumping and Countervailing Duty Investigations Reported to WTO between 01/01/95 to 30/06/06.....	17
Table 3: Antidumping Activity on the Part of WTO Members 01/01/95 - 30/06/06 .....	19
Table 4: Countervailing Duty Activity on the Part of WTO Members 01/01/95 - 30/06/06 .....	20
Table 5: Number of Countries Reporting and Subject to Measures .....	21
Table 6: Sectorial Breakdown of WTO Member Cases 01/01/95-30/06/06.....	23
Table 7: WTO Dispute Settlement Cases Addressing Member Use 01/01/95- 04/03/07 .....	24
Table 8: Sectorial Breakdown of US Cases 1980-2007.....	30
Table 9: DOC and ITC Documents Providing Guidance on the Prosecution of Trade Remedy Cases in the United States of America .....	34
Table 10: Firm Engagement with DOC and ITC During the Original Investigation .....	42
Table 11: Summary of US Trade Remedy Cases for Subject Merchandise .....	60
Table 12: Comparison of Cases for Pre-petition and Original Investigation Phases.....	61
Table 13: Perspectives in the Literature.....	65
Table 14: Feaver & Wilson (2004b) Administrative Protection Decision-making Bias Typology .....	66



Table 15: Feaver and Wilson’s (2004) Taxonomy of Variable Types in Previous Literature.....	69
Table 16: Hillman and Hitt’s (1999) Taxonomy of Corporate Political Strategies .....	77
Table 17: Contributions of a Resource-based View of Corporate Political Activity.....	83
Table 18: Nicolas Dahan’s (2005) Typology of Political Resources.....	85
Table 19: Comparing the Positivist and Interpretivist Criteria for Evaluating Research.....	98
Table 20: Relevant Situations for Different Research Strategies .....	102
Table 21: Number of Cases in Research Design for this Study.....	107
Table 22: Matrix Relating Interview Questions to the Working Propositions for the Study .....	113
Table 23: Classification of Main Prosecuting Firms by Support for Case and Prior Experience of Trade Cases.....	131
Table 24: Aspects of Petitions for which the DOC Required Clarification.....	136
Table 25: Petitioners Approaches to Defining Scope of Investigation.....	140
Table 26: Key Dates in Selected Cases.....	144
Table 27: Countervailable Subsidies Alleged by Micron in DRAMs Petition.....	147
Table 28: Example of Statistics used by AMCFLT to Show Injury.....	152
Table 29: Trade Remedy Cases Prosecuted by US Semiconductor Industry between 1980 - 2006.....	160

Table 30: CPA Strategies of Petitioning Firms in Selected Cases.....	164
Table 31: Information Used in Petitions .....	173
Table 32: Key Aspects of Petitions Filed for Selected Cases .....	174
Table 33: Resource-based View of Capabilities to Acquire Market and Nonmarket Intelligence.....	176
Table 34: Potential for Feaver & Wilson’s (2004b) Decision-making Bias in Original Investigation Phase .....	179
Table 35: DOC Selection of Mandatory Respondents and Respondent Types .....	184
Table 36: Duty Rates for Five Cases.....	185
Table 37: Antidumping and Countervailing Duty Original Investigation Summary Timelines.....	192
Table 38: Original Investigation Phases and the Associated Stages for Each Phase....	194
Table 39: Firm Engagement with DOC and ITC During the Original Investigation ...	196
Table 40: Prosecution of Original Investigation by Selected Firms / Interests in the DRAMs & PET Resin Cases .....	221
Table 41: Prosecution of Original Investigation by Selected Firms / Interests in the Wooden Bedroom Furniture Case.....	223
Table 42: Prosecution of Original Investigation by Selected Firms / Interests in the Hand Trucks and Outboard Engines Cases.....	226
Table 43: Perceived Outcome of Original Investigation and Firm Strategies for Five Cases .....	227

Table 44: Firm Representation by Attorneys and Consultants .....	232
Table 45: Resource-based View of Capability to Build and Shape the Administrative Record .....	235
Table 46: Potential for Feaver & Wilson’s (2004b) Decision-making Bias in Original Investigation Phase .....	240
Table 47: Firm Use of DOC Reviews and Alternative Strategies During Review Phase .....	247
Table 48: Selected Firm Duty Rates for Original Investigation and Administrative Reviews .....	251
Table 49: New Shipper Reviews in Three Cases in this Study with Duty Orders.....	254
Table 50: Scope Reviews Requested in Three Cases in this Study with Duty Orders.....	257
Table 51: DOC Changed Circumstances Reviews in Three Cases with Duty Orders.....	259
Table 52: Appeals to US Court of International Trade in Three Cases with a Duty Order .....	262
Table 53: Resource-based View of Capability to Align Business Practice with Trade Remedy Institutions .....	271
Table 54: Potential for Feaver & Wilson’s (2004b) Decision-making Bias in Review Phase .....	272
Table 55: Summary of Potential for Feaver & Wilson’s (2004b) Decision-making Bias Typology in US Trade Cases .....	277

Table 56: Resource-based View of Petitioners Prosecution of Trade Remedy Cases .....	284
Table 57: Resource-based View of Respondents Prosecution of Trade Remedy Cases .....	285
Table 58: Dynamic Capabilities and the Prosecution of a Trade Remedy Case.....	291
Table 59: List of Interviews for PhD .....	XVI
Table 60: Case Summary for DRAMs from Korea .....	XXXVI
Table 61: Case Summary for Bottle-Grade Polyethylene Terephthalate (PET) Resin from India.....	L
Table 62: Detailed Timeline for Wooden Bedroom Furniture from China .....	XCVI
Table 63: Case Summary for Hand Trucks and Certain Parts Thereof from China .	CXVI
Table 64: Case Summary for Outboard Engines From Japan.....	CXXXIV
Table 65: US Producers of DRAMs.....	CXXXVII
Table 66: US Importers of DRAMs.....	CXXXVIII
Table 67: US Purchasers of DRAMs .....	CXXXIX
Table 68: Korean Producers of DRAMs and Their Original Duty Margins.....	CXL
Table 69: US Producers of PET Resin.....	CXLI
Table 70: US Importers of PET Resin .....	CXLIII
Table 71: US Purchasers of PET Resin.....	CXLIV

Table 72: Foreign Producers of PET Resin and Their Original Duty Margins .....	CXLVI
Table 73: US Producers of Hand Trucks .....	CL
Table 74: US Importers of Hand Trucks.....	CLIII
Table 75: US Purchasers of Hand Trucks .....	CLIV
Table 76: Chinese Producers of Hand Trucks and Their Original Duty Margins .....	CLVI
Table 77: US Producers of Wooden Bedroom Furniture.....	CLXI
Table 78: U.S. Wooden Bedroom Furniture Producers, Locations of Corporate Headquarters, Positions Taken with Respect to the Petition .....	CLXIV
Table 79: US Importers of Wooden Bedroom Furniture .....	CLXX
Table 80: US Retailers (Purchasers) of Wooden Bedroom Furniture Commenting on Case.....	CLXXIII
Table 81: Example of Template Furniture Retailer Letter Distributed by Vaughan Bassett .....	CLXXIV
Table 82: Chinese Producers of Wooden Bedroom Furniture and Their Original Duty Margins .....	CLXXX
Table 83: US Producers of Outboard Engines .....	CLXXXI
Table 84: US Importers of Outboard Engines .....	CLXXXII
Table 85: Purchasers of Outboard Engines.....	CLXXXIII
Table 86: Japanese Producers and Exporters of Outboard Engines and Their Original Duty Margins .....	CLXXXV

Table 87: Import Statistics for Case Specific General US Trade HTS Categories  
1996 – 2006.....CLXXXVI

## 4.2 List of Figures

Figure 1: Number of US Antidumping and Countervailing Duty Investigations Between 1980 and 2006.....	27
Figure 2: Breakdown of US Antidumping Investigations by Outcome.....	29
Figure 3: Breakdown of US Countervailing Duty Investigations by Outcome .....	29
Figure 4: Basic Trade Remedy Case Timeline, Administrative Reviews and Duty Rates.....	44
Figure 5: Revised Model of a Firm Perspective of Trade Remedy Cases in the US .....	48
Figure 6: Subfields of Strategic Management.....	70
Figure 7: Baron’s Four I’s.....	71
Figure 8: Hillman, Keim and Schuler’s (2004) Integrative Model of CPA Literature.....	74
Figure 9: Barney’s (1991) Model of the Resource-based View Approach to Sustained Competitive Advantage .....	81
Figure 10: Conceptual Model of Resource-based View of Corporate Political Activity to Influence the Administrative Protection Process in the United States of America.....	89
Figure 11: Screen Shot of Top Level Tree Nodes for PhD in NVivo 7.....	116
Figure 12: Screen Shot of Petitioner and Respondent Perspective Tree Nodes for PhD in NVivo 7 .....	116
Figure 13: Explanation of Dumping Calculations .....	150

Figure 14: Petitioner and Respondent Strategic Choices During the Pre-petition Phase .....	158
Figure 15: Standardised Firm Strategic Choices During the Pre-petition Phase .....	162
Figure 16: Firm Strategic Choices for Original Investigation Phase .....	220
Figure 17: Breaker Hammer Accessory Cart With Toe Plate .....	258
Figure 18: Breaker Hammer Accessory Cart Without Toe Plate .....	258
Figure 19: Vertex International Deluxe Garden Cart .....	263
Figure 20: Example of a Hand Truck Produced by Gleason .....	263
Figure 21: Firm Strategic Choices for Review Phase .....	265
Figure 22: Firm Capabilities and the Phases of a US Trade Remedy Case .....	283
Figure 23: Key Relationships in the Prosecution of US Trade Cases .....	294



### 4.3 List of Abbreviations

<b>Abbreviation</b>	<b>Description</b>
AD	Antidumping Duty (Trade Remedy Measure)
AD/CVD	Antidumping and / or Countervailing Duty (See AD or CVD)
APO	Administrative Protective Order (DOC and ITC Administrative Rule)
BPI	Business Proprietary Information
CEO	Chief Executive Officer (Senior Firm Employee)
CIT	United States Court of International Trade (US Federal Court)
CPA	Corporate Political Activity / Action (Theoretical Concept)
CVD	Countervailing Duty (Trade Remedy Measure)
DOC	United States Department of Commerce (US Government Agency)
DRAM	Dynamic Random Access Memory (Product in a Selected Case)
DSB	WTO Dispute Settlement Body (Part of the WTO)
DSP	WTO Dispute Settlement Process (Activity of WTO DSB)
EC	European Communities (Name for European Union at WTO)
GATT	General Agreement on Tariffs and Trade (WTO Agreement)
GDP	Gross Domestic Product (Economic Indicator)
IT	Information Technology (General Term)
ITA	International Trade Administration (DOC Department)
ITC	United States International Trade Commission (US Gov. Agency)
MCI	Microwave Communications Inc. (Company)
NAFTA	North American Free Trade Agreement (North American Trade Bloc)
PET	Polyethylene Terephthalate (Chemical Compound)
POI	Period of Investigation (DOC and ITC Administrative Rule)
POR	Period of Review (DOC and ITC Administrative Rule)
RBV	Resource-based View (Theoretical Concept)
SCA	Sustained Competitive Advantage (Theoretical Concept)
SG	Safeguard (Trade Remedy Measure)
URA	Uruguay Round Agreements (Agreements Establishing the WTO)
URAA	Uruguay Round Agreements Act (US Legislation)
US	United States of America (Country)
WTO	World Trade Organization (International Organisation)

## 5 Introduction

*“Why are some firms able to more successfully prosecute antidumping and countervailing duty cases in the United States of America?”*

*(Thesis Primary Research Question, see p.94)*

Firms in the United States of America (US) filed a total of 1606 antidumping and countervailing duty cases with the United States Department of Commerce (DOC) and International Trade Commission (ITC) between 1980 and 2007 (USITC, 2008a)<sup>1</sup>. An annual average of 41 antidumping (AD) and 17 countervailing duty (CVD) cases (USITC, 2008a), accounting for around 0.30% of imports into the United States of America (US) between 1980 and 2006, with a value of US\$ 63 billion (USITC, 2008a). These cases offer firms representing an US industry the opportunity to address import competition they believe has an ‘unfair’ advantage in the US marketplace due to dumping or subsidisation. In approximately 37% or 580 cases between 1980 and 2006 US firms were able to show the DOC that dumping, or subsidisation, had taken place and convince the ITC that the imports that benefit from the resulting ‘unfair’ advantage had caused or threatened to cause injury to the US industry (USITC, 2008a) and duties were imposed by the DOC on the subject imports. This success rate of 37% however seems quite low for such a potentially political type of trade remedy investigation and further analysis shows that when the successful cases are measured by their value, they account for approximately 54% of the value of imports investigated (USITC, 2008a). Additionally, when US firms do prove their case, the resulting duty orders can remain in place for significant periods of time and as of October 2007 the ITC reported 270 of the 587 duty orders put in place between 1980 and 2006 were still in place against firms in 40 different countries (USITC, 2007d).

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<sup>1</sup> Antidumping and countervailing duty cases are trade remedy measures provided for under Section A and B of Title VII of the Tariff Act of 1930, as added by the Trade Agreements Act of 1979 and subsequently amended (USITC 1998). Safeguard measures are a third major trade remedy measure and are provided under Section 201 and 204 of the Trade Act of 1974 (19 U.S.C. §§2251 and 2254). For the purposes of this thesis, the phrases “trade remedy measure”, “trade remedy investigation”, “trade remedy case” or “trade case” will be used to refer to antidumping and countervailing duty measures / cases only, unless otherwise specified.

		Name of Case				
		Countervailing Duty Cases		Antidumping Cases		
		DRAMs and DRAM Modules from Korea	Bottle Grade PET Resin from India	Wooden Bedroom Furniture from China	Hand Trucks and Parts Thereof from China	Outboard Engines from Japan
<b>Industry Experienced in Prosecuting Cases<sup>6</sup></b>	<b>Foreign</b>	Yes	No	No	No	No
	<b>US</b>	Yes	No	No	No	No
<b>Outcome</b>		Duties	No Duties	Duties	Duties	No Duties
<b>Total Number of US Producers in Year the Case was Brought</b>		6 <sup>2</sup>	7 <sup>2</sup>	152 <sup>2,3</sup>	21 <sup>2</sup>	2 <sup>2</sup>
<b>Number of Petitioning US Firms</b>		1	4	25 <sup>5</sup>	1	1
<b>Number of Firms Supporting the Case</b>		1	2	13	4	1
<b>Value of Imports Subject to Original Investigation (US\$)</b>		BPI <sup>1</sup>	BPI <sup>1</sup>	1.4 bn <sup>2</sup>	21.4 m <sup>2</sup>	650 m <sup>2</sup>
<b>Number of Mandatory Responding Firms</b>		2	4	6	4	1
<b>Number of Other Responding Firms<sup>4</sup></b>		0	0	115	2	4

**Table 1: Introduction to Five Cases in Study**

**Sources:** See Table 11, Appendix B, C and E

**Notes:**

- 1) This information is not available due to DOC and ITC rules regarding the disclosure of business proprietary information (BPI). “Business proprietary information, or confidential business information, is information of commercial value, the disclosure of which is likely to have the effect of either impairing the Commission’s ability to obtain such information as is necessary to perform its statutory functions, or causing substantial harm to the competitive position of the firm or other organization from which the information was obtained” (USITC, 2007a).
- 2) This data is sourced from the news releases of the ITC for the final phase of its investigation, which can be found for each of the five cases in this study at:  
[http://www.usitc.gov/trade\\_remedy/731\\_ad\\_701\\_cvd/investigations/completed/index.htm](http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/completed/index.htm)
- 3) This is the total number of US wooden bedroom furniture producers who expressed an opinion about the case or were listed in the petition filed with the agencies, there are however likely to be unaccounted for producers of the product in the US.
- 4) The number of other responding firms represents those firms which can be accounted for from the official record for the individual cases, there could however be a number of other firms in the foreign industry which chose not to take part in the case and therefore cannot be identified.
- 5) Originally 27 firms petitioned the DOC and ITC. Two firms, Cresent and Hooker, however withdrew from the petitioning coalition during the investigation phase of the case.

A success rate of 37% by number of cases and at best 55% by the value of imports suggests that US firms prosecuting trade remedy cases they brought to domestic US government agencies have at best even odds of success. This raises the central question of this study, why are some firms, domestic and foreign, able to more successfully prosecuting antidumping and countervailing duty cases in the United States of America? To answer this question data were collected for five cases and interviews were conducted with trade attorneys, economists, business people and other specialists with experience of prosecuting trade remedy cases in the US.

The five cases in this study directly affected at least 326 firms (see Table 1); the Wooden Bedroom Furniture from China case alone addressed imports with a value of US\$1.4bn and affected 273 firms. The next biggest case was the DRAMs and DRAM Modules from Korea, which involved only 4 firms directly, but was brought by an industry which saw imports of the subject merchandise totalling US\$1.9bn in 2002, the year the case was filed (see Table 87). The Bottle Grade PET Resin from India and Hand Trucks and Parts Thereof from China cases are two of the smaller cases in this study. The PET Resin case had imports valued at US\$12.0m and US\$32.8m during the two years prior to the case being filed (see Table 87) and the Hand Trucks case investigated imports to the value of US\$21.4m. The Outboard Engines from Japan case investigated imports to the value of US\$650m. The only case in which either the domestic US firms or the foreign firms had direct prior experience of prosecuting a trade case was in the DRAMs case.

Interestingly we see that both the larger cases by value were successful in having duties imposed on the imports being investigated, while the success of the US industry was more mixed in the other cases. As the data in Table 1 shows, the cases selected for this study would therefore seem to fit the broader outcomes for US trade remedy cases, with larger cases appearing to be successful more often than smaller ones. It does not however bring us any closer to understanding why the firms in one industry may be more successful at achieving their preferred policy outcome versus the firms in another industry. Why were the US firms in the DRAM, Wooden Bedroom Furniture and Hand Truck cases able to get duties imposed on imports, while the foreign producers of the imports investigated in the PET Resin and Outboard Engines cases were able to prevent duties being imposed? What did firms in the relatively similar Hand Trucks and PET

Resin cases do differently that resulted in US firms gaining protection in the former case and not the later? Before we can understand why some firms are more successful at prosecuting a case than others, we need to understand what firms are trying to achieve by prosecuting a trade case and when an individual firm may consider itself to have successfully prosecuted a case. The starting point for both these discussions is the outcome of the original investigation of a case and whether the DOC issues a duty order placing a tariff on the imports subject to investigation.

Trade remedy cases which result in a duty being put in place on imports change the competitive position of firms in the US market for the goods subject to the case. By making imports more expensive relative to domestically produced goods, domestic firms can reasonably expect to increase the income they earn from domestic sales. This additional income can be described as a rent. A rent is “that part of the payment to an owner of resources over and above that which those resources could command in any alternative use. Rent is receipt in excess of opportunity cost” (Buchanan, 1980; p.2). When firms invest “in something that will not actually improve productivity or will actually lower it, but that does raise [their] income because it gives [them] some special position or monopoly power, [they are] ‘rent seeking’” (Tullock, 1980; p.17). The prosecution of trade remedy cases by firms in an US industry in favour of duties being put in place is a rent seeking activity. The prosecution of a trade case by firms in foreign industries seeking to avoid a duty being put in place is an example of rent avoidance. Rent avoidance is an attempt by individuals or firms to minimise the total rents that would be imposed on them by “direct bribe solicitation by higher [government] officials and / or unfortunate administrative decision” (Tullock, 1980; p.30).

Analysis of general interviews on US procedures and documentary archives for five US trade remedy cases shows that the prosecution of cases is a nuanced process and that the outcomes of cases are not necessarily as simple as “good” for US firms and “bad” for foreign firms. How a firm or individual is affected by a trade remedy case will depend on what role they play in the production, sourcing, sale and consumption of the product subject to a case. Some firms / individuals will benefit from the imposition of a duty, while others will not. To discuss how the imposition of a duty will impact firms it is necessary to be able to describe them in terms of their location geographically and their role in the value chain for the subject merchandise. While the description of a firm’s

functions is in keeping with common business language, the language used to describe their location for trade cases is specific and has the potential to be confusing. Three words / phrases are used in very specific ways in the language of trade cases, these are 'domestic', 'foreign' and 'home market'. Domestic is used to refer to firms located in the country where an antidumping and / or countervailing duty (AD/CVD) petition has been filed. Foreign firms are located in the country(s) which have been identified as the source(s) of the goods alleged to be dumped or subsidised. The phrase 'home market' is used to indicate the marketplace of foreign firms in the country where the imports originate. Eight types of firm / interests with a stake in US trade remedy cases can be identified, five are domestic firms / interests and three are foreign. The five domestic US firms / interests include domestic producers, domestic suppliers, domestic importers, domestic customers and domestic consumers. Foreign firms / interests include foreign producers, foreign exporters and foreign suppliers. Both the US and foreign governments also have an interest in the outcome of trade remedy cases, this is especially true for countervailing duty cases, where the foreign government's domestic subsidisation policies are the foundation for the case. The language used to describe the product / goods subject to a trade remedy case is also particular. The imported goods that are subject to the investigation are called the 'subject merchandise'. The product produced by the domestic producers, which is most similar to the subject merchandise and competes with the subject merchandise in the domestic market, is called the 'domestic like product'. This clear distinction in the products is central to the decision making processes at the US government agencies which investigate antidumping and countervailing duty cases.

Domestic producers will earn a rent when duties are placed on goods being imported into the US, as the duty will raise the price for the good in the US market or give domestically produced products an improved competitive position relative to imports. When domestic producers also import the subject goods, the firms will both benefit and suffer injury due to the imposition of a duty. The degree to which imports are part of a US producer's business and the specific nature of the subject goods they import will determine the overall impact of the duties on a firm. Firms for which imports make up a large percentage of their US sales will be more negatively impacted. The segment of the US market which the domestic producers serve with imports will also determine the

impact of the duties. Some segments will be more heavily served by US producers. Suppliers to domestic producers will also gain due to the improved competitive position of their clients. As the domestic producers sell more merchandise, their supplier can expect more business. Domestic producers and suppliers could therefore reasonably be expected to be rent seekers in trade cases as long as they do not also import the subject merchandise as part of their product offering in the US market.

US importers of the subject merchandise will be negatively impacted by any duties which are put in place as their costs rise, they face greater uncertainty and the imports' competitive position in the US market deteriorates. Foreign producers will be negatively impacted as they lose sales in the US marketplace, the increased cost of importing the goods and therefore the imports' sales price will most likely lead to a fall in demand for the subject merchandise from US importers. Foreign exporters of the goods subject to a trade remedy duty will similarly also lose sales. Foreign suppliers will potentially face lower sales to the foreign producers, unless the producers are able to export their products to an alternative export market. Customers of the domestic producers, which will differ depending on the nature of the good being produced, will have to sell the more expensive imports or the domestically produced products, once duties have been put in place. This will potentially affect their sales volumes and / or profit margins. US consumers are however the ultimate losers in trade cases, as they face higher prices for both domestic and imported products as a result of the duties.

Additionally not all foreign producers will be subject to the same duty in a case that imposes a duty order; the DOC identifies a number of different classifications of respondents. The manner in which duty rates are calculated for individual responding firms will also differ depending on the type of economy of their home market. Responding firms in countries classified as market economies will either be assigned mandatory respondent status and receive an individual duty rate or receive an all others duty rate, which is the weighted average of the mandatory respondents' duty rates. In countries which the DOC believes are nonmarket economies, firms fall into three groups, they can be classified as mandatory respondents and receive their own duty rate, they can prove that they are not subject to government control and receive a 'section A' duty rate, which is a weighted average of the mandatory respondents duty rates, or they can receive an all others rate, which is typically very high and almost certainly prohibits

continued exports to the US. The duty rate a firm receives during the DOC original investigation of a trade case therefore determines the competitive position of US firms versus the foreign firms, but also has the potential to affect the competitive position between foreign producers. If the mandatory respondents receive very low rates and duties are put in place, a petitioning firm would probably consider the case to have been ‘unsuccessful’ even though a duty order was issued by the DOC. A mandatory respondent that is able to prosecute a case more successfully than the other responding firms, and receive a much lower duty rate, will probably consider the case to have been successfully prosecuted, even though a duty order was issued.

The degree and nature of the effect of a successful trade remedy case are therefore nuanced matters, and as has been noted they are not always ‘good’ for domestic producers / firms and ‘bad’ for foreign producers / firms. Two interest groups therefore form around a trade case, those in favour of a trade remedy measure being put in place and those against any duties. Those firms in favour of a duty in trade cases will be referred to as petitioning firms / interests and those who are opposed to the implementation of any measures will be called responding firms / interests. Domestic producers will not always be part of the petitioning interests and as the prosecution of a trade case progresses, foreign producers often find themselves with their interests more aligned with petitioners than respondents, due to the individual duty rates firms receive in the US system. It should be noted that the word ‘petitioner(s)’ in a more specific use refers to the firm(s) who filed a trade remedy case with the two US government agencies which administer the investigation.

### **5.1 Rent Seeking and the Regulation of Business and International Trade**

Trade remedy cases are an instance of governments regulating international trade. The regulation of business activity by governments can have a significant effect on the competitive position of a firm or industry (Mitnick, 1981) and “[i]n many market-oriented economies, government restrictions upon economic activity are pervasive facts of life” (Krueger, 1974; p.291). Government regulations can be used to improve or worsen the competitive position of firms in a given marketplace, even act as a barrier to entry into some markets. The use of regulation to raise rivals costs and create a cost advantage for a given firm has also been noted in the literature (McWilliams, Fleet, &



Cory, 2002). The imposition of tariffs or local content requirements are examples of attempts to protect domestic industry by raising the costs of international rivals through the regulation of trade. “These [types of] restrictions give rise to rents of a variety of forms, and people often compete for the rents. Sometimes, such competition is perfectly legal. In other instances, rent seeking takes other forms, such as bribery, corruption, smuggling, and black markets” (Krueger, 1974; p.291).

The literature on rent seeking is dated back to Gordon Tullock (1967) and Anne O. Krueger (1974), who is credited with introducing the term “rent seeking”. With rent seeking individual efforts to maximise value generate social “waste”, unlike the social “surplus” argued to follow from profit seeking (Buchanan, 1980). An underlying difference between rent and profit seeking lies in the institutions of the exchange, as institutions move away from “ordered markets toward the near chaos of direct political allocation, rent seeking [emerges] as a significant social phenomenon” (Buchanan, 1980; p.4). Current institutional arrangements for US trade remedy measures are often argued to be designed to prevent a return to arrangements dominated by politics, which led to the Smoot-Hawley tariff in 1930, which was the last “general tariff law ever enacted by the United States Congress” (Destler, 2005; p.12), and is argued to have significantly contributed to the deepening of the Great Depression (Destler, 2005). “The idea is that either the imports are or are not ‘fairly traded’ according to well-established statutory standards. Impartial government agencies make the decisions, and the consequences are automatic” (Boltuck & Litan, 1992; p.1). But while administration of trade remedy measures in the US are designed to be politically neutral and decided on the ‘facts’, the process still affects the competitive position of firms in the marketplace through government regulation and the argued political neutrality of the process has attracted significant attention from policy and academic circles.

## **5.2 Introduction to Antidumping and Countervailing Duty Measures**

Antidumping and countervailing duty measures are used by governments to address import competition in their domestic markets, when the competitive advantage of the imports is perceived to be as a result of dumping by foreign producers or subsidisation of foreign producers by their government, respectively. Dumping is defined as selling goods at less than their home market price or at less than their cost of production

(Jameson, 1988, USITC, 2005g). Countervailing duty measures address instances of goods being sold at dumped prices after firms in a foreign industry have benefited from government subsidies (Jameson, 1988, USITC, 2005g). It is possible, and indeed common, for a domestic industry to file an antidumping case in addition to any countervailing duty petition in the US for this reason. “[Subsidisation] occurs when a foreign government provides financial assistance to benefit the production, manufacture, or exportation of a good” (USITC, 2005g). These trade remedy cases provide a clear opportunity for firms as a competitive strategy (de Lima-Campos & Vito, 2004; p.39) as they enable firms to influence an aspect of international trade over which governments have complete control, the tariff placed on a specific imported good. Successful prosecution of a trade remedy case by domestic firms raises the cost of importing a good and improves the competitive position of domestic manufacturers. While trade remedy policies and procedures in a number of countries have received significant attention in the academic and policy literatures, the roles played by domestic producers, importers and purchasers and the foreign producers and exporters of the goods subject to investigation remain understudied.

Research to date has primarily addressed trade remedy policies, procedures and the effect of duties on trade flows. The potential for bias in trade remedy policy and procedures has received particular attention; this is especially true for cases in the US. Authors have investigated the degree to which statutory standards are followed (Anderson, 1993, Finger, Hall, & Nelson, 1982, Moore, 1992b), the degree of political influence in investigations (Anderson, 1993, DeVault, 2002, Finger, Hall, & Nelson, 1982, Goldstein & Lenway, 1989, Moore, 1992) and to what extent petitioning industries file trade remedy petitions as rent seeking activities (Feinberg & Hirsch, 1989, Hansen & Prusa, 1997) and are able to influence the outcome of an investigation. The roles of macroeconomic variables have also received attention (Lee & Mah, 2003, Mah, 2000b). But while attempts to identify potential bias in US trade remedy procedures have taken account of the potential for industry influence; few studies have asked how firms actually prosecute trade cases and why some firms might be more successful compared to others.

### **5.3 Research Question**

Duties are imposed in as little as 31% to as many as 67% of cases from one year to another (USITC, 2008a), this statistic provides a broad background to the research question adopted for this study;

Why are some firms able to more successfully prosecuting antidumping and countervailing duty cases in the United States of America?

### **5.4 Selecting the United States as an Appropriate Research Setting**

The US is the most active member of the WTO when it comes to using trade remedy measures, with the highest number of active duties and investigations. Therefore it provides a promising context within which to conduct this study. The high degree of activity and questioning of the political neutrality of the agency investigations means that there is a substantial literature on past and present US practice and a well established administrative process to study.

This study seeks to understand the role of firms in the prosecution of cases in the US. A business strategy perspective of firm prosecution of US trade remedy cases is adopted and seeks to identify the resources and capabilities used by firms during the prosecution of a case. How a firm's resources and capabilities could influence the strategic choices available to the firm is also considered. By understanding the resources and capabilities required to pursue a given strategy, firms will be able to maximise the effectiveness of their participation in a case, for achieving a given policy outcome. Trade remedy cases are fundamentally about determining whether to apply a duty to a given imported good. How US investigations are conducted, and duties are determined for individual foreign producers, results in a range of possible competitive outcomes for individual domestic and foreign firms. An example could be a case where a foreign producer is assigned a duty margin which it can absorb as a cost of business, while other foreign producers are not able to do the same with the margins they receive. This foreign producer will be at a competitive advantage relative to the other foreign producers in the US market if an affirmative determination is made in a trade remedy investigation.

Previous studies have almost exclusively addressed the process of prosecuting trade cases from the perspective of the domestic industry and the potential biases<sup>2</sup> in the process. Typically the literature does not consider the pre-petition or post investigation phases of a case, preferring to instead focus on the original investigation at the ITC and to a limited degree the DOC. Exceptions are Taylor's (2004) discussion of the effects of case termination in the US, Blonigen and Bown's (2003) consideration of retaliation threats and DeVault's (1996) paper on administrative reviews. The emphasis is more typically on whether a duty is put in place, what might have influenced the decision in favour of imposing a duty on imports and what the duty's effect will be on market shares and trade flows. In contrast, this study seeks to address the role of both domestic and foreign firms in the prosecution of trade cases across the lifetime of a US trade remedy case. Focusing on how firms engage with US institutional procedures, showing the nuances in the prosecution of antidumping and countervailing duty cases and the strategic opportunities they create for both domestic and foreign firms.

The US uses a bifurcated institutional arrangement for administering trade remedy investigations, with the DOC responsible for calculating the appropriate antidumping and countervailing duty margins and the ITC determining whether the domestic US industry has been injured by the alleged dumping or subsidisation. The rules based approach of US investigations and reviews presents both US and foreign firms with a number of strategic choices. Firms have the option to take part in the process of prosecuting a trade remedy case or to avoid the process. Firms which decide that their interests are best served by prosecuting a case, as part of their industry, still have a number of options with regard to how they take part in the process. Both US and foreign firms will best serve their interests by selecting which parts of the administrative process to commit resources to over the lifetime of a case. The fact that respondents receive individual duty margins leads to firms having unique outcomes in terms of their competitive position in the US market for the goods subject to a case.

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<sup>2</sup> At the heart of a trade case decision is the future of a domestic petitioning industry. Understanding the CPA of firms prosecuting a case will allow future research to more accurately account for industry influence in cases. To successfully prosecute a trade case requires organization and political organization has been described as "the mobilization of bias" (Schattschneider, 1975, p.69). Bias in antidumping and countervailing duty decisions refers to the outcome of a petition reflecting the preferences of a given interest group.

Chapter 6 discusses the development and implementation of trade remedy policies in the US. The chapter begins by placing US activity within the context of the multilateral WTO trade regime and then compares the use of trade remedy measures of a number of WTO members, including the US. This is followed by a review of US trade remedy cases since 1980. Next the institutional arrangements for conducting the required investigations are explained and key decisions in the process are discussed. The trade remedy literature on policy and practice internationally and specifically in the US is then drawn on to critically examine the US process and show the current understanding of trade remedy measures. The chapter ends by developing a firm perspective of prosecuting cases in the US. The process of prosecuting cases in the US is modelled as having three phases and three perspectives. A case begins with a pre-petitioning phase, followed by the original investigation or investigation phase and finally the review phase. Each of these phases can be understood from an institutional perspective, petitioner perspective and respondent perspective for the purposes of this thesis.

### **5.5 Nonmarket Strategy and Corporate Political Activity**

Firm prosecution of these cases can be thought of as an example of nonmarket strategy and specifically a type of corporate political activity. There is a need for greater understanding of how firms' corporate political activity (CPA) influences the outcomes of antidumping and countervailing duty cases. Empirical studies of the propensity for firms to petition for a trade remedy measure and the potential for industry demand bias in antidumping and countervailing duty decisions have used aggregated proxies such as firm size and industry concentration and more specific measures like chief executive officer (CEO) testimony and industry location to account for corporate political influence (Hansen, 1990, Herander & Pupp, 1991, Rehbein & Lenway, 1994). The capability of a firm to engage in CPA is a more complex phenomenon than these measures would suggest. How the different CPA resources and capabilities influence the decision to grant a domestic industry protection needs to be understood, this includes the activity on the part of foreign firms exporting the subject merchandise. The explanation of successful prosecution of a case also needs to include a more nuanced understanding of what it means to successfully prosecute a case.

While the cases are decided by two government agencies and the institutions for the process are designed to be free of political influence, the process is still an example of a business-government relationship. Firm participation in these cases is understood using a number of models and typologies taken from the CPA literature. A conceptual model of firm CPA in US trade cases is developed in chapter 7 to analyse firm participation in each of the three phases in the model of firm prosecution of trade remedy cases developed in chapter 6. This model draws on the trade remedy literature, the nonmarket strategy literature, the CPA literature and the resource-based view of the firm. The approach of the study can be described as a business strategy perspective of CPA for analysing firm participation in US trade cases.

## **5.6 Research Strategy**

The research strategy for this study was to adopt a multiple-case study approach to understand how firms prosecute cases in the US. The reasons for choosing this approach and the research design adopted to answer the study's research question are explained in chapter 8. The chapter begins with a discussion of why the multiple-case study approach was adopted. This is followed by a discussion of the interpretivist inquiry paradigm, including the ontology, epistemology and methodology. The interpretivist approach emphasises understanding and explaining the meanings attached to and interpretations of the phenomenon as experienced by actors. When adopting an interpretivist perspective, there is a need for the researcher to engage with the actors involved in the phenomena being studied, enabling the researcher to study the distinctive character of the context within which actors form their interpretations of the phenomena (Nandhakumar & Jones, 1997). Chapter 8 also explains how the research was conducted and the data were analysed to identify the resources and capabilities used by firms to prosecute cases in the US and understand the institutional context of the cases. The data used in this study was collected between November 2005 and July 2006 using forty-five semi-structured interviews and the DOC and ITC official records for three antidumping and two countervailing duty cases.

## **5.7 The Prosecution of US Antidumping and Countervailing Duty Cases**

The prosecution of trade cases is argued to be primarily an informational CPA strategy. Money is used indirectly to enable the prosecution of a case and firms need to adopt a

constituency-building strategy to facilitate certain aspects of a case, but primarily it was found that it is the information available to firms, their ability to gather it, use it and present it that is at the heart of prosecuting an US trade case. Successful prosecution of this informational CPA strategy for both petitioning and responding firms relies on (1) the capability to gather information, (2) their capability to build and shape the administrative record at the DOC and ITC and finally (3) the capability to align business practices with the US trade remedy institutions. Each of these capabilities is dependent on a combination of both internal and external resources. Firms need to think strategically about their market focused strategies and evaluate the strength of their resources and capabilities with respect to the demands of prosecuting a case. Firms will be most effective when they match their resource and capability portfolios to those strategic opportunities presented by the US trade remedy institutions that they best fit. The process of prosecuting a case creates opportunities for firms to engage in indirect rent seeking through the intensive information dependence of the agency investigations. The statutes and regulations for trade remedy investigations and their application in the administrative process for investigating a case also influence the outcome of a case. The prosecution of a case is argued to be predominantly an attempt to exploit the potential for indirect rent seeking, which is influenced by the administrative and statutory biases that are part of the institutional environment for US trade cases.

## **5.8 Conclusion**

Showing the resources and capabilities and the strategies used by both domestic and foreign firms to prosecute US cases will enable firms to be more effective in prosecuting future cases. The study adds to current trade remedy, corporate political activity and the resource-based view literatures by expanding the understanding of the firm level in prosecuting trade cases in the US. Future policy decisions regarding trade remedy measures will be able to better take account of firm participation in these cases and so enable better regulation of trade.

## 6 Use of Antidumping and Countervailing Duty Measures

*“Subtitle A of title VII of the Tariff Act of 1930, as added by the Trade Agreements Act of 1979 (19 U.S.C. § 1671 et seq.) and subsequently amended, provides that countervailing duties will be imposed when two conditions are met: (a) the U.S. Department of Commerce (Commerce) determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of the subject merchandise that is imported or sold (or likely to be sold) for importation into the United States and (b), in the case of merchandise imported from a Subsidies Agreement country, the U.S. International Trade Commission (Commission) determines that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise.*

...

*Subtitle B of title VII of the Tariff Act of 1930, as added by the Trade Agreements Act of 1979 (19 U.S.C. § 1673 et seq.) and subsequently amended, provides that antidumping duties will be imposed when two conditions are met: (a) Commerce determines that the foreign subject merchandise is being, or is likely to be, sold in the United States at less than fair value, and (b) the Commission determines that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise.”*

(USITC, 1998; p1-2)

The US has a long history of using trade remedy measures to protect domestic industries from import competition. Congress passed the first US countervailing duty law in 1897 and the first US antidumping legislation passed was the Antidumping Act of 1916 (USITC, 2005a; p.IV-3-7). The aim of this chapter is to contextualise US practice and explain US procedures for administering trade cases. The chapter opens with an introduction to the WTO agreements disciplining member governments’ trade remedy activity. Next a comparison of US use of the measures compared to other major users amongst WTO member countries between 01 January 1995 and mid 2006 is provided. This is followed by a more in depth description and analysis of US cases between 1980 and 2006, which considers factors such as the number of cases, the outcomes of cases and the industries involved. Having situated US practice within the broader international use of trade remedy measures and then exploring the US



experience in greater depth, the chapter moves on to explain the institutional context for prosecuting cases in the US. This review of the US trade remedy institutions covers issues such as the implementing legislation, the influence of WTO agreements on US practice and the institutional arrangements for administering the trade remedy laws. The current body of research into AD/CVD measures internationally and specifically with respect to the US is used to highlight the issues of concern with using these measures and procedures for administering the laws. Drawing on these prior sections and data from the study's field work, a conceptual model of the process of prosecuting cases in the US from a firm perspective is then developed. The chapter concludes by linking the conceptual model to Chapter 7 in which a theoretical model of firm prosecution of trade cases will be developed to analyse firm participation.

## **6.1 US Antidumping and Countervailing Duty Activity within the Context of the WTO Multilateral Trade Regime**

As a member of the WTO, the US has to administer its policies in compliance with WTO guidance on their implementation in the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (WTO, 1995a), often referred to as the Antidumping Agreement (WTO, 2005b), and the Agreement on Subsidies and Countervailing Measures (WTO, 1995b), the SCM Agreement, respectively. The WTO does not pass judgement on whether dumping or subsidization is unfair or not. Rather the Antidumping Agreement seeks to provide guidance on how member countries may respond to dumping, while the SCM Agreement “addresses two separate but closely related topics: multilateral disciplines regulating the provision of subsidies, and the use of countervailing measures to offset injury caused by subsidized imports” (WTO, 2006). Companies do not have standing in the activities of the WTO as it is comprised of member governments and only WTO members have standing. “Therefore the Anti-Dumping Agreement only concerns the actions governments may take against dumping. With subsidies, governments act on both sides: they subsidize and they act against each others' subsidies. Therefore the subsidies agreement disciplines both the subsidies and the reactions” (WTO, 2005b). The original WTO agreements leave some scope for interpretation, by member countries, with regard to domestic implementation (Niels & Kate, 2004). Allowing for both prospective and retrospective approaches to implementation of the agreements for example, as well as allowing for various domestic

institutional arrangements for making the appropriate duty and injury determinations. WTO dispute panels have however been seeking to limit this scope for interpretation and are expected to continue to do so in future trade dispute cases. An important and useful requirement of the WTO agreements is that member countries provide regular updates on trade remedy investigations to the WTO Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures.

## **6.2 Comparison of WTO Member Antidumping and Countervailing Duty Activity**

This section uses data collected by the WTO Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures between 1995 and 2006 (WTO, 2005a, 2007a), to give an overview of investigations internationally.

<b>Year</b>	<b>No. Investigations Initiated</b>		<b>No. Measures Implemented</b>	
	<b>AD</b>	<b>CVD</b>	<b>AD</b>	<b>CVD</b>
<b>1995</b>	157	10	119	19
<b>1996</b>	225	7	92	5
<b>1997</b>	243	16	125	3
<b>1998</b>	257	25	170	6
<b>1999</b>	355	41	185	14
<b>2000</b>	292	18	227	19
<b>2001</b>	364	27	167	14
<b>2002</b>	312	9	216	14
<b>2003</b>	232	15	221	6
<b>2004</b>	213	8	151	8
<b>2005</b>	201	6	131	4
<b>H1 2006</b>	87	1	71	1
<b>Totals:</b>	<b>2938</b>	<b>183</b>	<b>1875</b>	<b>113</b>

**Table 2: Antidumping and Countervailing Duty Investigations Reported to WTO between 01/01/95 to 30/06/06**

**Source: WTO Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures**

It should be noted that the data collected by the WTO relies on submissions from member countries and does not always reconcile completely with domestic statistics, such as those published by the ITC, on an annual basis. None the less the data provides the most accurate account of global trade remedy activity on the part of WTO member countries.

Table 2 shows that WTO member countries initiated a total of 2938 antidumping and 183 countervailing duty cases between 01 January 1995 and 30 June 2006. With a total of 1875 antidumping and 113 countervailing duty measures being reported to the WTO as being put in place for the same period of time. The period of 1999 to 2002 has some of the highest levels of antidumping investigation initiations by WTO members, while countervailing duty initiations surge between 1998 and 2001, with 1999 being a particularly active year for countervailing duty initiations. The number of antidumping initiations would seem to have stabilised between 200 and 230 per annum since the establishment of the WTO in 1995. While countervailing duty initiations appear to decline after the surge in the late 1990s.

WTO “[m]embers are required to notify the Committee twice a year about all anti-dumping investigations, measures, and actions taken” (WTO, 2007c). WTO members are also required to notify the Committee on Subsidies and Countervailing Measures (SCM Committee), of the subsidisation programmes they have in place, as well as the “all countervailing actions they have taken, as well as a list of all countervailing measures in force, twice a year” (WTO, 2007b). Table 3 and Table 4 provide summaries of the antidumping and countervailing duty activities on the part of WTO members between 01 January 1995 and 30 June 2006 using this data. A comparison of WTO data and ITC statistics reveals that it is not possible to directly compare the number of initiations and the number of duty measures in place the next year. This is due to the biannual reporting of data, which does not always seem to result in initiations and implementation of measures being recorded in the same way by the WTO and the ITC. The data is however very useful for comparing WTO member activity in general, thereby contextualising US practices.

Exporting Country	Reporting Member													Totals 01/01/95 – 30/06/2006			
	India	United States	European Community	Argentina	South Africa	Australia	Canada	China, P.R.	Brazil	Turkey	Mexico	Rep of Korea	Indonesia		Peru	Egypt	Other Countries ...
China, P.R.	94 (70)	61 (51)	65 (42)	47 (34)	26 (14)	24 (8)	18 (11)	-	17 (12)	41 (36)	20 (15)	16 (11)	7 (4)	18 (14)	6 (3)	40 (28)	500 (353)
Rep of Korea	32 (22)	24 (11)	26 (11)	11 (10)	15 (15)	21 (11)	8 (4)	23 (17)	4 (1)	7 (7)	2 (1)	-	10 (3)	1 (0)	3 (3)	36 (16)	223 (132)
United States	23 (16)	-	10 (5)	11 (5)	8 (5)	7 (4)	16 (10)	20 (14)	23 (8)	1 (1)	25 (19)	8 (5)	2 (1)	0 (0)	0 (0)	15 (7)	169 (100)
Chinese Taipei	35 (24)	18 (12)	20 (10)	11 (11)	10 (5)	10 (2)	8 (4)	10 (5)	4 (1)	9 (9)	5 (4)	4 (2)	5 (1)	3 (3)	2 (2)	13 (8)	167 (103)
Japan	21 (17)	32 (21)	9 (7)	2 (4)	1 (1)	5 (2)	2 (2)	24 (17)	2 (1)	2 (0)	1 (2)	13 (10)	3 (1)	0 (0)	3 (3)	9 (6)	129 (94)
India	-	19 (10)	27 (16)	6 (3)	20 (11)	4 (0)	5 (3)	4 (2)	3 (3)	8 (6)	0 (1)	3 (2)	11 (6)	1 (1)	5 (2)	8 (3)	124 (69)
Indonesia	18 (12)	15 (8)	12 (11)	4 (2)	9 (3)	17 (4)	3 (2)	3 (1)	1 (0)	4 (2)	1 (1)	5 (2)	-	1 (1)	4 (2)	26 (15)	123 (66)
Thailand	20 (11)	9 (8)	17 (15)	3 (2)	5 (4)	16 (7)	2 (1)	1 (1)	2 (1)	9 (7)	0 (0)	2 (0)	4 (1)	0 (0)	3 (2)	24 (12)	117 (72)
Russia	14 (13)	11 (8)	17 (15)	4 (2)	2 (2)	1 (1)	4 (3)	8 (6)	3 (2)	3 (5)	6 (6)	2 (2)	3 (2)	3 (3)	2 (0)	16 (14)	99 (84)
Brazil	7 (8)	9 (8)	3 (4)	36 (29)	8 (3)	2 (0)	5 (3)	0 (0)	-	1 (1)	5 (9)	0 (0)	0 (0)	5 (3)	1 (0)	5 (1)	87 (69)
Germany	9 (6)	14 (4)	0 (0)	5 (2)	11 (8)	9 (1)	4 (2)	4 (3)	3 (2)	1 (1)	1 (1)	4 (2)	0 (0)	0 (0)	0 (0)	12 (4)	77 (36)
Malaysia	11 (6)	5 (3)	15 (10)	2 (1)	7 (2)	10 (4)	2 (0)	3 (2)	0 (0)	3 (3)	0 (0)	3 (1)	2 (2)	0 (0)	1 (1)	8 (6)	72 (41)
European Community	36 (28)	0 (0)	-	1 (0)	0 (0)	0 (0)	0 (0)	8 (4)	4 (2)	1 (0)	1 (1)	0 (0)	2 (1)	0 (0)	4 (3)	4 (3)	61 (42)
Ukraine	9 (4)	7 (0)	11 (10)	2 (2)	1 (1)	0 (0)	3 (3)	1 (1)	1 (1)	2 (4)	5 (6)	0 (0)	1 (1)	2 (1)	1 (1)	11 (8)	57 (49)
South Africa	6 (5)	15 (8)	3 (3)	10 (6)	-	4 (2)	5 (3)	1 (0)	3 (2)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	5 (5)	52 (34)
Other Countries...	113 (81)	127 (78)	110 (65)	54 (36)	76 (42)	58 (23)	53 (33)	16 (10)	55 (30)	14 (15)	17 (16)	22 (10)	15 (5)	28 (17)	17 (15)	106 (55)	881 (531)
Totals	448 (323)	366 (236)	345 (224)	209 (149)	199 (116)	188 (69)	138 (84)	126 (83)	125 (66)	106 (97)	89 (82)	82 (47)	65 (28)	62 (43)	52 (37)	338 (191)	2938 (1875)

**Key: Number of AD Investigation Initiations Reported (Number of AD Measures Reported)**

**Table 3: Antidumping Activity on the Part of WTO Members 01/01/95 - 30/06/06**

**Source: WTO Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures**



		Reporting Members	Exporting Countries
Antidumping	Initiations	42	98
	Measures	38	90
Countervailing Duty	Initiations	17	40
	Measures	14	32

**Table 5: Number of Countries Reporting and Subject to Measures**

**Source: WTO Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures**

Table 5 shows that a total of 42 of the current 150 WTO members have reported initiating antidumping investigations against 98 different exporters, between 01 January 1995 and June 2006. Thirty-eight of these members reported measures being put in place against exporting industries in 90 countries. Seventeen WTO members initiated countervailing duty procedures against 40 countries and 14 of these members reported countervailing duty measures against a total of 32 members' exports during the same period. This activity will now be discussed in greater detail for key WTO members using the data in Table 3 and Table 4.

The top 6 members reporting initiations of antidumping investigations account for 59.7% of all initiations for the period, while the five most targeted exporting countries accounted for 40.4% of initiations. China alone was the target of 17% of all the antidumping initiations, more than twice the next most targeted country, the Republic of Korea. India reported initiating 94 antidumping investigations, compared to 61 for the US and 65 for the EC. Argentina was the next most active initiator of cases, followed by South Africa and Australia. After Korea the United States and Chinese Taipei were subject to the most investigation initiations. India, the US and EC are by far the most active users of antidumping measures. While China, Korea, the US and Chinese Taipei are most heavily targeted in terms of the number of investigations they are subject to and the number of members reporting initiations against them. While China is as expected the primary target of antidumping activity globally, Korea is the second most targeted member and subject to investigation far more than the US and Chinese Taipei. The number of initiations which result in measures against an exporting country is broadly above 50% for most reporting members. Although the absolute number of

investigations between two members may influence this average. It would however seem that most global antidumping activity is concentrated between 10 to 15 countries, 6 reporting members and 5 to 8 exporting members being targeted regularly. The US is the only country which features prominently as both a reporting member and exporting country, initiating 366 investigations and being subject to a total of 169 investigations.

The four WTO members reporting the most countervailing duty initiations accounted for 80% of all member initiations, see Table 4. The US and EC are by far the most active initiators of countervailing duty investigations, accounting for 64% of all countervailing duty investigation initiations. India is the most heavily targeted WTO member, being the responding country in 23% of all countervailing duty initiations, with the five most targeted countries accounting for 50% of initiations. Key countries initiating countervailing duty cases also include Canada, South Africa, Australia and New Zealand. WTO members who have most actively been targeted in countervailing duty cases include India, the Republic of Korea, Italy, the EC, Indonesia, Thailand, Canada, Chinese Taipei, Brazil, France and South Africa. Roughly 62% of initiations result in a countervailing duty measure being put in place, although this varies between members. Countervailing duty measures are used far less frequently than antidumping measures.

The WTO has developed twenty-one sectorial categories in its 'harmonized system section headings' for cases and Table 6 provides a summary of the sectorial breakdown of WTO member activity between 01 January 1995 and 30 June 2006. Antidumping cases are found in all but two of the categories, but seven categories are particularly active, these are categories VI, VII, X, XI, XIII, XV and XVI. The three most active categories are 'Base Metals and Articles of Base Metal', 'Products of Chemical or Allied Industries' and 'Plastics and Articles Thereof, Rubber and Articles Thereof'.

The industrial sectors attracting countervailing duty cases are more concentrated than for antidumping cases. 'Base Metals and Articles of Base Metal' is again the most active sector, followed by 'Prepared Foodstuffs; Beverages, Spirits and Vinegar; Tobacco and Manufactured Tobacco Substitutes' and 'Plastics and Articles Thereof, Rubber and Articles Thereof'.

Category	Investigation Initiations					Measures Reported				
	AD	%	CVD	%		AD	%	CVD	%	
I	47	1.60	11	6.01		26	1.39	4	3.54	
II	45	1.53	7	3.83		27	1.44	8	7.08	
III	11	0.37	7	3.83		2	0.11	4	3.54	
IV	43	1.46	23	12.57		23	1.23	12	10.62	
V	63	2.14	4	2.19		42	2.24	4	3.54	
VI	578	19.67	10	5.46		381	20.32	4	3.54	
VII	389	13.24	19	10.38		240	12.80	7	6.19	
VIII	5	0.17	0	0.00		1	0.05	0	0.00	
IX	50	1.70	3	1.64		24	1.28	2	1.77	
X	126	4.29	2	1.09		76	4.05	0	0.00	
XI	209	7.11	11	6.01		144	7.68	5	4.42	
XII	27	0.92	1	0.55		17	0.91	0	0.00	
XIII	104	3.54	2	1.09		49	2.61	0	0.00	
XIV	1	0.03	0	0.00		0	0.00	0	0.00	
XV	844	28.73	72	39.34		593	31.63	57	50.44	
XVI	254	8.65	10	5.46		137	7.31	6	5.31	
XVII	24	0.82	1	0.55		14	0.75	0	0.00	
XVIII	32	1.09	0	0.00		18	0.96	0	0.00	
XIX	0	0.00	0	0.00		0	0.00	0	0.00	
XX	71	2.42	0	0.00		51	2.72	0	0.00	
XXI	0	0.00	0	0.00		0	0.00	0	0.00	
...	15	0.51	0	0.00		10	0.53	0	0.00	
<b>Totals:</b>	<b>2938</b>	<b>100</b>	<b>183</b>	<b>100</b>		<b>1875</b>	<b>100</b>	<b>113</b>	<b>100</b>	

**Table 6: Sectorial Breakdown of WTO Member Cases 01/01/95-30/06/06**

**Source: WTO Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures**



Antidumping	Complaining Country	European Communities	India	Brazil	Rep. of Korea	Japan	Canada	United States	Other Countries	Total
Responding Country	Mexico									
United States	5	6	2	2	4	5	5	-	5	34
Mexico	0	0	0	1	0	0	0	4	1	6
European Communities	0	0	3	2	0	0	0	0	1	6
India	0	1	0	0	0	0	0	0	2	3
Argentina	0	2	0	1	0	0	0	0	0	3
Trinidad and Tobago	0	0	0	0	0	0	0	0	2	2
South Africa	0	0	1	0	0	0	0	0	1	2
Guatemala	2	0	0	0	0	0	0	0	0	2
Other Countries	3	0	1	1	1	0	0	0	5	11
Total	10	9	7	7	5	5	5	4	17	69
Total Number of Unique AD WTO Dispute Settlement Cases: 60										
The United States had Two Cases with Multiple Complainants, Resulting in a Total number of Countries Bring a Dispute Being 69.										
Countervailing	Complaining Country	European Communities	Canada	Brazil	Rep. of Korea	India	Mexico	Philippines	Sri Lanka	Total
Responding Country	European Communities									
United States	4	5	1	1	1	1	1	0	0	14
Argentina	2	0	0	0	0	0	0	0	0	2
Brazil	0	0	0	0	0	0	0	1	1	2
European Communities	0	0	0	1	0	0	0	0	0	1
Peru	0	0	1	0	0	0	0	0	0	1
Total	6	5	2	2	1	1	1	1	1	20
Total Number of Unique CVD WTO Dispute Settlement Cases: 20										

**Table 7: WTO Dispute Settlement Cases Addressing Member Use 01/01/95-04/03/07**

Source: WTO DSB, [www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_subjects\\_index\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm)

Table 7 shows the key WTO members complaining about other member's trade remedy policies and determination between 01 January 1995 and early 2007. For both antidumping and countervailing duty measures the US is the primary responding country. WTO members have complained to the Dispute Settlement Body (DSB) 34 times about US trade remedy policies/implementation. The key complaining members against the US are Mexico, the EC, Canada, Japan and the Republic of Korea. The US accounts for approximately half of all complaints to the WTO DSB about antidumping use by member countries. Mexico and the EC are however also the second and third most regular responding countries. The US targeted Mexico in four out of the six cases against Mexico and this is arguably a sign of the growing integration of the two economies since the North American Free Trade Area (NAFTA) was established.

WTO dispute settlement cases with respect to countervailing duty implementation are even more concentrated than antidumping dispute activity. The EC and Canada are the primary complainants, targeting the US. Again the US accounts for the majority of the dispute cases, almost three quarters of the cases brought. It should be noted that while a total of 60 unique dispute settlement cases regarding antidumping use have been brought to the WTO DSB, the United States however had two cases with multiple complainants and this results in a total of 69 cases based on individual country activity. Other countries also use the WTO disputes process to address member's countervailing duty use, but are not repeat users to the same degree as the EC and Canada.

### **6.3 Antidumping and Countervailing Duty Literature**

Given the global use of trade remedy measures and the active use of dispute settlement with regards to these cases at the WTO, it is not surprising that a significant body of literature has developed around the phenomena of antidumping and countervailing duty policies and the broader area of trade remedy measures<sup>3</sup>. The administrative processes in a number of countries have been addressed, including the European Union, the US, Australia and Japan (DeVault, 1996, Feaver & Wilson, 1995, Hansen & Prusa, 1995, Yoshimatsu, 2001). The economic (Repp, 1989) and political (Finger, Hall, & Nelson, 1982) justifications for antidumping and countervailing duty policies remain

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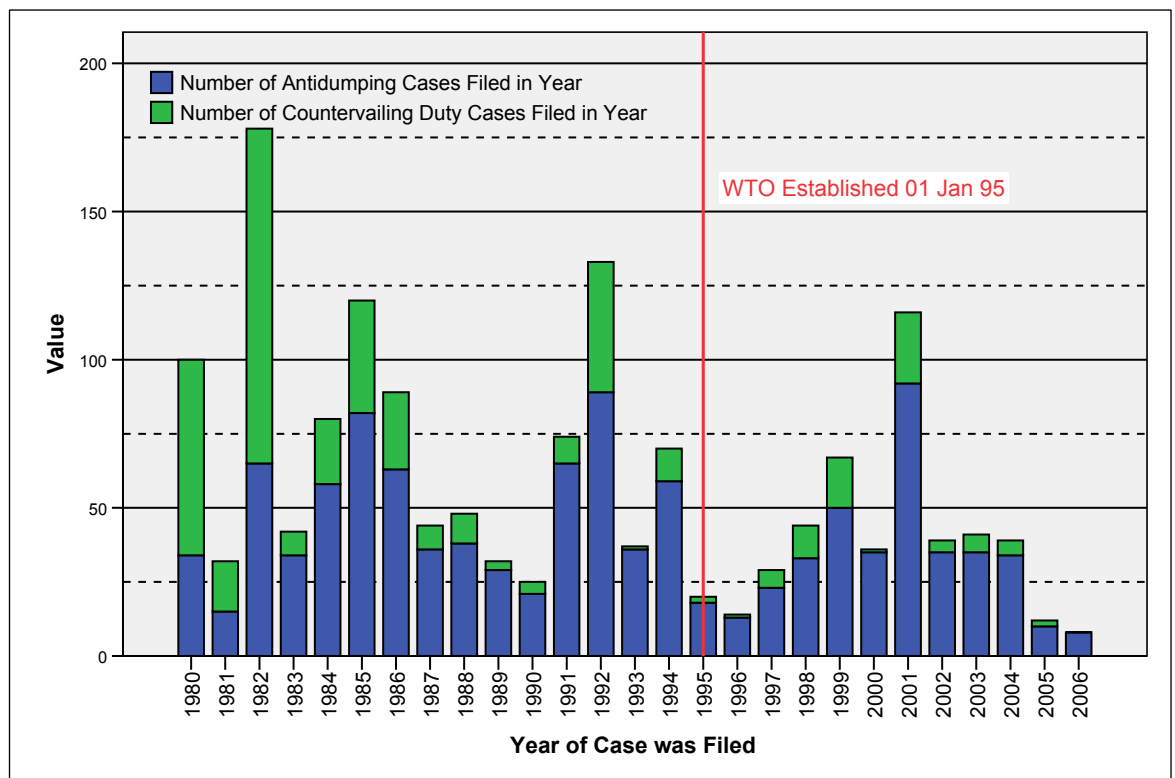
<sup>3</sup> Trade remedy measures are also often referred to as administrative or contingent protection or trade defence policies.

controversial. The effects of antidumping and countervailing duty duties, both internationally (Blonigen & Bown, 2003, Bown & Crowley, 2006, Wetshoff, Yarbrough, & Yarbrough, 1995) and domestically (Feinberg & Kaplan, 1993, Pauwels, Vandebussche, & Weverbergh, 2001), have received attention. Finally the implementation of antidumping and countervailing duty policies, by WTO member governments, and potential sources of bias in these domestic processes have also been studied (Boltuck & Litan, 1991, Feinberg & Hirsch, 1989, Goldstein & Lenway, 1989, Lenway, Jacobson, & Goldstein, 1990).

Antidumping and countervailing duty cases can affect trade flows (Bown & Crowley, 2004, de Lima-Campos & Vito, 2004) and domestic market shares (Krupp & Skeath, 2002) as both foreign and domestic firms in affected industries react to the imposition of a duty on imported goods. The effect of an antidumping or countervailing duty investigation has both non-duty and duty related aspects. Staiger and Wolak (1994) identify three non-duty effects of an antidumping case on trade flows as an ‘investigation effect,’ the ‘suspension effect,’ and the ‘withdrawal effect’, broadly the three possible outcomes of an antidumping case prior to a duty being put in place. These effects can be thought of as the results of decisions by the firms in petitioning and responding industries in anticipation of and during the prosecution of a trade remedy case. “Investigation effects occur when an antidumping investigation takes place; suspension effects occur under so-called “suspension agreements” (where an investigation is suspended in exchange for a promise by foreign firms to stop dumping); and withdrawal effects occur after a petition is simply withdrawn without a final determination” (Staiger & Wolak, 1994; p.1). The non-duty effects can result in changing trade flows and market share, even before a duty is put in place. Krupp and Skeath (2002) identify three effects of an antidumping duty being put in place, a harassment effect, a diversion effect and market-share shifting. These effects are the result of foreign producers and domestic importers of the merchandise subject, or potentially subject to a trade case, reacting to this and adjusting their business activities accordingly. The harassment effect refers to the disruption that these cases can cause to the daily operations of a firm. The diversion effect is a result of firms changing the market they export to in reaction to duties, the petitioners in the PET Resin case made it clear that they were filing their case in reaction to duties imposed by the EU on the

subject merchandise and resulted in trade diversion of the subject merchandise to the US (Howrey Simon Arnold & White, 2004). Market-share shifting results from the firm specific duty rates calculated for responding firms, it is not unusual for a foreign producer to find itself with a duty rate so much lower than its fellow respondents, that it has a competitive advantage over these firms in the US. These outcomes result in a change in the market share of petitioning and responding firms.

#### 6.4 US Antidumping and Countervailing Duty Investigations between 1980 and 2006



**Figure 1: Number of US Antidumping and Countervailing Duty Investigations Between 1980 and 2006**  
 Source: (USITC, 2006)

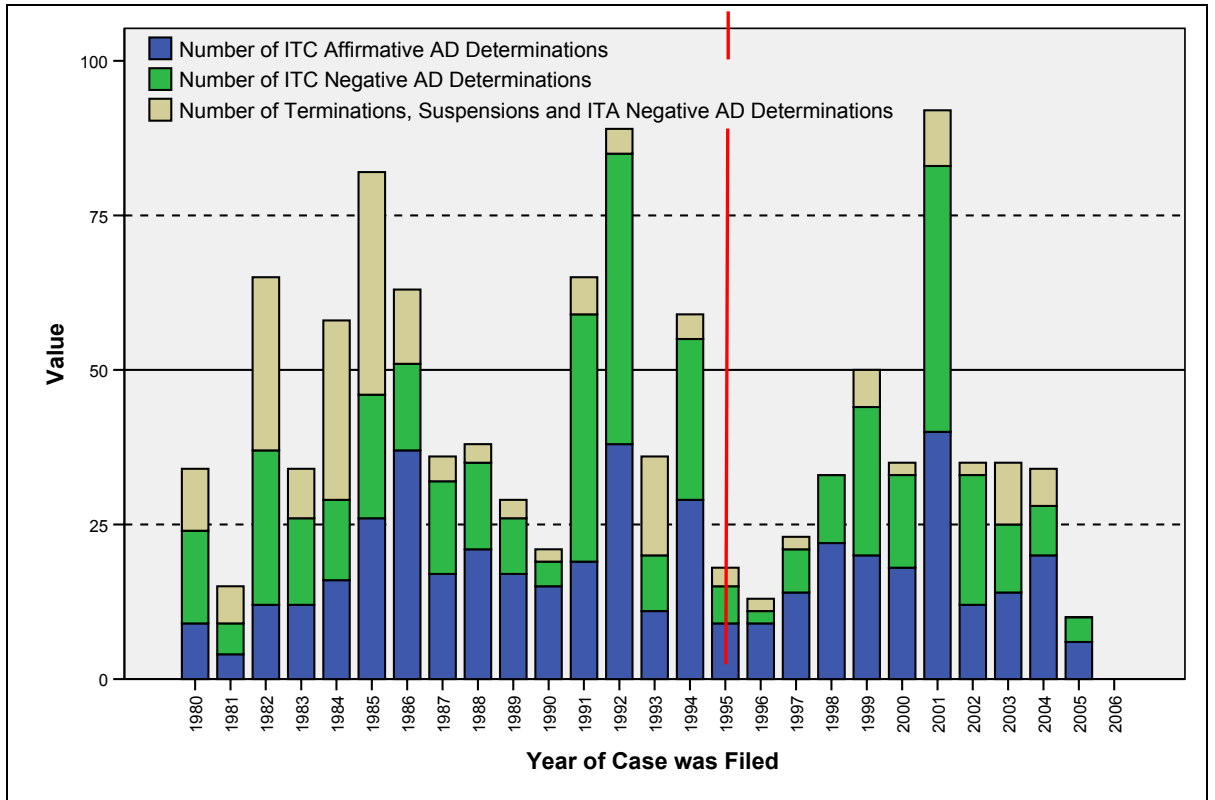
The number of investigations initiated in the US between 1980 and 2006 has varied from year to year, see Figure 1. With the most active year being 1982, which was the last year that the number of countervailing duty cases was larger than the number of antidumping cases. The number of cases brought declines after the mid 1980s and then peaks again in 1992, before significantly reducing in 1995 when the WTO is established. Since the establishment of the WTO the number of cases as remained fairly stable, with between 25 and 50 cases being investigated per annum. The exception is

2001 when both antidumping and countervailing duty cases increase significantly. More recently, 2005 and 2006 have seen some of the lowest numbers of investigations in the last 26 years of US practice. Only 8 antidumping cases were filed in 2006 of which 2 resulted in duties, but 2007 saw a return to the average number of filings with a total of 28 antidumping and nine countervailing duty cases filed (USITC, 2008a). This has prompted speculation about whether globalisation is bringing the use of trade remedy measures to a natural end in the US (McGuire, 1999, McGuire & Lawton, 2006). The increasing cost of bringing a case is also often cited as a reason for reluctance on the part of US firms to prosecute these cases, especially when even after an affirmative finding, the benefits of a case remain uncertain.

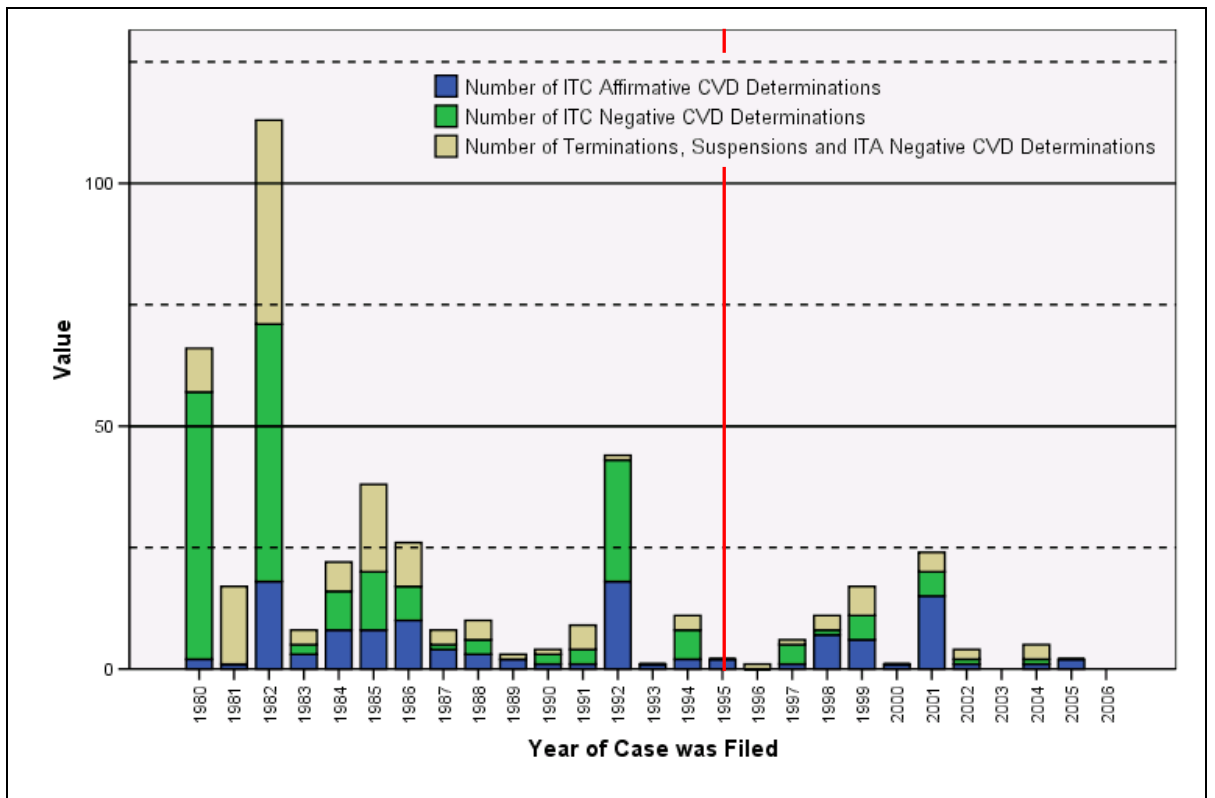
“[I]t has become more and more costly in the US to bring a case, it may be a million dollars to bring a big dumping petition. There haven’t been any textile dumping cases in the US and perhaps one reason is [that] no one wants to, they can’t see the justification for spending a million dollars for something that is of uncertain benefit.”

(Trade Attorney, 2005e)

Figure 2 shows the number of antidumping investigations in the US stabilising at an average of about 32 cases per year after 1995, compared to an average of 74 per year between 1980-1994. The figure refers to the International Trade Administration (ITA), the DOC department responsible for trade remedy cases. Figure 2 further shows the percentage of ITC affirmative determinations in antidumping investigations rises from 41% between 1980-1994, to 52% since 1995. The percentage of terminations, suspensions and ITA negative determinations fell from an average of approximately 23% between 1980-1994, to 11% since 1995. The DOC is responsible for calculating the dumping or countervailing duty margins for respondent firms, if any dumping or subsidisation is identified by the agency. The ITC determines whether the domestic US industry is injured or likely to be injured by reason of the dumped or subsidised imports. These statistics would seem to indicate that US industries have met with greater success since 1995 at both the ITC and DOC, but this should be put within the context of a reduced number of cases being investigated every year.



**Figure 2: Breakdown of US Antidumping Investigations by Outcome**  
 Source: (USITC, 2006)



**Figure 3: Breakdown of US Countervailing Duty Investigations by Outcome**  
 Source: (USITC, 2006)

Category	Description	AD	%	CVD	%
I	Live Animals; Animal Products	21	1.80	33	7.10
II	Vegetable Products	37	3.30	44	9.40
III	Animal or Vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes	2	0.20	1	0.20
IV	Prepared Foodstuffs; Beverages, Spirits and Vinegar; Tobacco and Manufactured Tobacco Substitutes	14	1.20	4	0.90
V	Mineral Products	47	4.10	11	2.40
VI	Products of the Chemical or Allied Industries	167	14.70	35	7.50
VII	Plastics and Articles Thereof; Rubber and Articles Thereof	32	2.80	10	2.10
VIII	Raw Hides and Skins, Leather, Furskins and Articles Thereof; Saddlery and Harness; Travel Goods, Handbags and Similar Containers; Articles of Animal Gut (Other than Silk-Worm Gut)	0	0.00	6	1.30
IX	Wood and Articles of Wood; Wood Charcoal; Cork and Articles of Cork; Manufactures of Straw, of Esparto or of Other Plaiting Materials; Basketware and Wickerwork	2	0.20	7	1.50
X	Pulp Of Wood or of Other Fibrous Cellulosic Material; Recovered (Waste and Scrap) Paper or Paperboard; Paper and Paperboard and Articles Thereof	24	2.10	7	1.50
XI	Textiles and Textile Articles	20	1.80	8	1.70
XII	Footwear, Headgear, Umbrellas, Sun Umbrellas, Walking-Sticks, Seat-Sticks, Whips, Riding-Crops and Parts Thereof; Prepared Feathers and Articles Made Therewith; Artificial Flowers; Articles of Human Hair	0	0.00	0	0.00
XIII	Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials; Ceramic Products; Glass and Glassware	25	2.20	4	0.90
XIV	Natural or Cultured Pearls, Precious or Semi-Precious Stones, Precious Metals, Metals Clad with Precious Metal and Articles Thereof; Imitation Jewellery; Coin	0	0.00	0	0.00
XV	Base Metals and Articles of Base Metal	572	50.30	267	57.10
XVI	Machinery and Mechanical Appliances; Electrical Equipment; Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles	42	3.70	2	0.40
XVII	Vehicles, Aircraft, Vessels and Associated Transport Equipment	11	0.10	5	1.10
XVIII	Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and Apparatus; Clocks and Watches; Musical Instruments; Parts and Accessories Thereof	19	1.70	7	1.50
XIX	Arms and Ammunition; Parts and Accessories Thereof	0	0.00	1	0.20
XX	Miscellaneous Manufactured Articles	86	7.60	11	2.40
XXI	Works of Art, Collectors' Pieces and Antiques	0	0.00	0	0.00
...	Unknown	17	1.50	5	1.10
<b>Totals:</b>		<b>1138</b>	<b>100</b>	<b>468</b>	<b>100</b>

**Table 8: Sectorial Breakdown of US Cases 1980-2007**

Source: Adaptation of data from (USITC, 2008a)

Figure 3 shows the number of countervailing duty investigations in the US decreasing significantly after the early 1980s, with almost no activity after the last major use of countervailing duty measures by US industries in 2001. There was an average of 25 countervailing duty cases filed per year before 1995, compared to 6.5 investigations per year since 1995. The percentage of ITC affirmative determinations in countervailing duty investigations rises from 33% between 1980-1994, to 62% since 1995. The percentage of terminations, suspensions and ITA negative determinations fell from an average of approximately 34% between 1980-1994, to 30% since 1995.

US antidumping cases predominantly concern industries in categories V, VI, XV, XVI and XX of the WTO 'harmonized system section headings' for trade cases, see Table 8. While US countervailing duty cases are concentrated in categories I, II, VI and XV, see Table 8. Categories VI and XV attract a particularly high number of petitions in the US every year, in keeping with the experiences of all WTO members reporting cases between 01 January 1995 and 30 June 2006, see Table 6.

### **6.5 The Institutions of US Antidumping and Countervailing Duty Procedures**

The earliest US countervailing duty law was passed by Congress in 1897, while the first US antidumping legislation passed was the Antidumping Act of 1916 (USITC, 2005a; p.IV-3-7). US countervailing duty and antidumping cases are provided for under Section A and B of Title VII of the Tariff Act of 1930, as added by the Trade Agreements Act of 1979 and subsequently amended (USITC, 1998). This legislation has been amended a number of times since being signed into law, most recently by the Uruguay Round Agreements Act (URAA), effective January 1, 1995, which implemented "changes required by the Uruguay Round Agreements (URA), which established the World Trade Organization" (USITC, 2005a; p.IV-4). WTO agreements on implementing and administering antidumping and countervailing duty policies require a two part decision-making process. A petitioning industry first has to show that dumping or subsidisation is taking place. If this is the case, then there is a requirement to show that the dumping or subsidisation is causing material injury or threatens a domestic industry with material injury. A third criterion, the retardation of a US industry is also included in the statute, but none of the cases in this study resorted to it to show injury.



The statutory requirements for the administrative process for investigating antidumping and countervailing duty cases sets tight deadlines for each phase of an investigation and provides guidance on how the various decisions in an investigation need to be made (USITC, 2005g). Two US government agencies are responsible for implementing this legislation, the DOC and the ITC. The DOC is responsible for showing that sales at dumped prices have taken place and determining the appropriate duty rate to remedy the unfair advantage this has given to imported goods. The DOC also provides pre-petitioning counselling to industries considering filing a petition and administers a number of different reviews between the initial affirmative determination and the five year sunset review of a case. The ITC has the task of determining whether there is a causal link between the dumped or subsidised goods and injury or the threat of injury to the domestic US industry in the original investigation. The ITC is also responsible for conducting the sunset review of a case in conjunction with the DOC every five years while a duty order is in place. See Figure 4 (p.44) for the broad chronological phases of the agencies' administrative process.

The administrative process for making the necessary duty margin and injury determinations is designed to make objective decisions, based on a factual record, free of political influence and as transparent as possible. The degree to which this is reflected in practice remains controversial and has received significant attention in the literature. The process is designed to be "free from politically charged trade debate. The idea is that either the imports are or are not 'fairly traded' according to well-established statutory standards. Impartial government agencies make the decisions, and the consequences are automatic" (Boltuck & Litan, 1992; p.1). The independent agencies are argued to enable Congress to make decision on trade policy free of constituency pressure and so consider the greater good of a specific policy. But such a clear statement of political freedom for such an important and controversial aspect of economic activity has naturally drawn much attention. Authors have investigated the degree to which statutory standards are followed (Anderson, 1993, Finger, Hall, & Nelson, 1982, Moore, 1992), the degree of political influence in investigations (Anderson, 1993, DeVault, 2002, Finger, Hall, & Nelson, 1982, Goldstein & Lenway, 1989, Moore, 1992) and to what extent petitioning industries are filing petitions as rent seeking activities (Feinberg & Hirsch, 1989, Hansen & Prusa, 1997) and are able to influence the outcome of an

investigation. Other authors have studied the role of macroeconomic variables and affirmative injury determinations (Lee & Mah, 2003, Mah, 2000a). This paper adds to this understanding of US trade cases by taking a firm perspective of the US administrative procedures.

Previous studies have tended to address the process of prosecuting antidumping and countervailing duty cases from the perspectives of the domestic industry and political interests seeking protection from import competition. Typically the literature does not consider the pre-petition or post investigation phases of an antidumping or countervailing duty case. Exceptions include Taylor's (2004) discussion of the effects of case termination in the US, Blonigen and Bown's (2003) consideration of retaliation threats and DeVault's (1996) paper on administrative reviews. The emphasis is more typically on whether a duty is put in place, what might have influenced this decision and what its effect will be on market shares and trade flows. The studies are predominantly quantitative and the key dependent variable is usually the injury determination by the ITC, as the DOC has an affirmative determination rate in the high ninety percent. For individual firms in the petitioning and responding industries, the process and outcomes are far more nuanced.

## **6.6 The US Antidumping and Countervailing Duty Process**

Trade remedy cases can be understood from the perspective of the firms in the petitioning industry and those interests supporting them, from the perspective of firms in a responding industry and the interests supporting them and finally a case can be understood from the perspective of the US government agencies responsible for administering the process. For each of these different interest groups there are three phases to the case, a pre-petitioning phase, an investigation phase and finally the review phase of a case. The emphasis for this thesis is on the two firm perspectives, but the activities of the government agencies and the administrative process they manage is central to the choices made by participating firms and serves as a guide for discussing the two firm perspectives during each phase of an AD/CVD case. This section seeks to develop a preliminary model of how US trade cases are prosecuted, see Figure 5, as part of the model describing a resource-based view of corporate political activity during the

prosecution of a case. A more detailed discussion of how firms prosecute trade cases in the US is held in chapter 9.

Two key issues to note here are that throughout the prosecution of a trade case every document that is accepted by the DOC and ITC goes towards building the official factual record for that case and it is on this record that the agencies make their determinations. There are also two versions of this record, a full record that contains all the information submitted to the agencies and only allows access to those individuals who are under administrative protective order (APO). The second version is a public version that all parties can access, because the business proprietary information (BPI) that required the restricted access has been removed from the record.

### 6.6.1 Pre-petitioning Phase

The role of the government agencies is limited during the pre-petition stage of a trade remedy case, as the formal institutional process for investigating and deciding trade cases begins with the filing of a petition with the DOC and ITC or self initiation of a case by the DOC. While it is possible for the DOC to self-initiate a trade remedy case, it rarely does so (USITC, 2007a; p.II-4). Both agencies however provide a number of publications to support petitioners in the preparation of their petition, which is required to initiate a trade case original investigation; these are listed in Table 9.

<b>Document Name:</b>	<b>Source:</b>
Department of Commerce Antidumping Manual	(DOC ITA, 1998)
Petition Format for Requesting Relief Under U.S. Antidumping Law	(DOC ITA, 2007c; Doc No. ITA-375P)
Petition Format for Requesting Relief Under U.S. Countervailing Duty Law	(DOC ITA, 2007c; Doc No. ITA-366P)
ITC Antidumping and Countervailing Duty Handbook	(USITC, 2007a)
ITC Summary of Statutory Provisions Related to Import Relief	(USITC, 1998)

**Table 9: DOC and ITC Documents Providing Guidance on the Prosecution of Trade Remedy Cases in the United States of America**

The DOC and the ITC additionally offer pre-petition counselling to the petitioning industry, to help strengthen the eventual filing. Pre-petition counselling provides the opportunity for “any deficiencies in the petition which, if not corrected in time, may delay or prevent initiation of the investigation. A draft petition also enables both agencies to begin preliminary work in preparation for the actual filing” (USITC, 2007a; p.I-4). A trade remedy case can only be brought if US firms are able to identify imports as the source of their loss of their competitive advantage, show that the import competition is causing injury to the US industry, and that those imports have gained an advantage over domestically produced ‘like products’ due to actions on the part of foreign firms and / or governments which have been accepted as ‘unfair’ in the context of international trade. The guidelines provided by the ITC for preparing a petition explain that in addition to an introduction and conclusion, containing basic information about the purpose of the document, there should also be up to five other sections (USITC, 2007a). These are as follows;

Section A: General Information (Required)

Goal of Section A: Show Industry Support

To show that the firms who bring the petition to the DOC and ITC represent the majority of the US industry producing the product.

Section B: Description of Imported Goods, Exporters, and Importers (Required)

Goal of Section B: Determining the ‘Scope of the Investigation

To clarify the merchandise / product subject to the investigation.

Section C: Subsidy Information (CVD) and Price Information (AD) (Either or Both Required)

Goal of Section C: Show Dumping and / or Subsidisation

To provide evidence supporting the claimed dumping and / or subsidisation.

Section D: Critical Circumstances Information (Optional)

Goal of Section D: Address Attempts to Avoid Effects of Future Duties

To allow petitioning firms in an industry facing further injury by attempts of foreign producers and US imports to import large volumes of the subject goods before a preliminary duty margin is put in place.

Section E: Injury Information (Required)

Goal of Section E: To Show Injury or the Threat of Injury

To show that the domestic US industry has been injured or is threatened with injury due to imports which are being dumped or subsidised.

From an institutional perspective the pre-petition phase of an investigation ends with the filing of a petition with the DOC to initiate a trade remedy investigation.

For detailed information regarding the content of antidumping and countervailing duty petitions the ITC Antidumping and Countervailing Duty Handbook (USITC, 2007a), the ITA Format for Petition Requesting Relief under US Countervailing Duty Law (DOC ITA, 2007a) and the ITA Format for Petition Requesting Relief under US Antidumping Law (DOC ITA, 2007g) should be used as the source documents.

Both the petitioning and responding firms have motivations, concerns, key hurdles and decisions that need to be taken when preparing and responding to a petition respectively. One of the first decisions that a firm needs to take is whether to take part in an investigation. US producers need to decide to what extent they want to support the

petition and foreign producers need to consider whether they want to take part in the potential original investigation phase or attempt to avoid it. One of the key concerns for all firms is the cost of prosecuting an antidumping or countervailing duty case. It is almost impossible to prosecute a case without legal support and this is very expensive. The ability to produce the required information which will be requested by both the DOC and ITC is another hurdle that a firm needs to be able to surmount if it wants to take part in the process. The degree of disclosure of information required of firms is another factor that needs to be considered.

This phase of a case is predominantly centred on the activities of the potential US petitioners, who will typically come to a trade remedy case in a roundabout manner. It begins with growth of import competition and an associated change in the competitive position of foreign producers and exporters relative to the domestic US firms producing and selling a specific product in the US marketplace.

“[T]ypically, [firms] through market forces identify the problem and at that point they start thinking about well what can they do about the problem.”

(Trade Attorney, 2005b)

Quite often they will have tried a number of competitive strategies to solve their lack of competitiveness, before turning to an antidumping or countervailing duty case, although this is more likely to be the case for smaller inexperienced firms. Larger firms will tend to have easier access to suitable legal advice that can lead a firm to these cases. From the perspective of US producers the prosecution of the pre-petition phase is concerned with the identification of a trade case and the subsequent preparation for filing a case with the DOC and ITC. The US firms need to identify import competition as the source of their lack of competitiveness and loss of market share. Then these firms need to identify a trade remedy case as a possible solution to this problem. Petitioning firms will often rely on internal resources, such as the company’s sales staff to identify the import competition and trade laws, but on other occasions a law firm may approach an US industry with data and suggest that a trade case may be possible. Generally speaking all petitions will require a law firm to help the US industry prepare a strong case.

Finally the US industry needs to decide to pursue an antidumping or countervailing duty case and prepare a petition. The three main goals for the petitioning firms are to show industry support for the petition, show dumping and / or subsidisation and prove injury or threat of injury by reason on the dumped and / or subsidised goods. The defining of the subject merchandise and through this the foreign and domestic US industry are both parts of these three tasks and flow out of these requirements. The potential petitioning firms also need to consider the effect of the case on factors like their relationships with customers, general public relations, investor relations for public companies and any joint ventures. Where firms also have operations in the country being targeted, it is important for the petitioners to consider how the foreign government will react to the petition. The phase ends with the potential petitioners either filing the petitioning with the DOC and ITC or deciding to abandon the case. It is rare for the firms in the foreign industry to be active during this phase of an antidumping or countervailing duty case.

For foreign producers and exporters the opportunity to prosecute this phase of an investigation may not arise if the preparations on the part of US firms are kept confidential, often the first time that firms in a foreign industry will become aware of a case is at the time it is filed with the DOC and ITC. On other occasions the US industry may have signalled its intent to pursue a case and the foreign firms will have had an opportunity to take early action to avoid or prepare for a case. Where foreign producers and exporters do become aware of the possibility that the firms in an US industry intend to file a petition they will need to choose between either preparing for the case in expectation of it being brought or doing nothing until a case is actually filed. At this stage of the prosecution of a case there is limited opportunity for foreign firms to engage with the DOC and ITC.

The foreign producers will normally be conducting business as usual and typically will not know they are dumping for example. These firms will simply be selling as much as they can at the highest price they can in the US market and it is only too natural to charge different prices in different markets. Even in those instances where the firms in the foreign industry do become aware of a potential antidumping or countervailing duty case, it is rare for them to take action before the petition is actually filed. The responding firms do not face the multiple concerns the petitioning industry faces when considering the possibility of filing a petition. The primary concern for responding firms

is the cost of taking part in the process. The most important influence on a responding firm's decision to prosecute a case is the importance of the US market to the firm. The answer to this question determines whether the firm should take part in the case or not. The ultimate goal of a responding firm and their attorney should be to avoid the investigation. For foreign producers in an AD case this could mean adjusting their pricing to get a 0% margin, although this can be difficult to do or if the method of production is suited to it, a responding firm may choose to relocate manufacturing facilities to a country not subject to the investigation.

### **6.6.2 Investigation Phase**

The statutory process for antidumping and countervailing duty cases truly commences with the official filing of a petition, by the domestic US industry, with both the DOC and ITC. There are five stages, "each ending with a determination by either Commerce or the Commission: (1) initiation of the investigation by Commerce, (2) the preliminary phase of the Commission's investigation, (3) the preliminary phase of Commerce's investigation, (4) the final phase of Commerce's investigation, and (5) the final phase of the Commission's investigation" (USITC, 2005a; p. II-3). Broadly the DOC is responsible for identifying any dumping or subsidization and determining an appropriate duty for foreign producers of the good. The ITC is responsible for determining whether there is any injury or likely to be injury to a domestic US industry. With the exception of the DOC preliminary determination, a negative determination at any stage will terminate the investigation. An affirmative determination in the final Commission phase results in duties being imposed on the goods subject to the investigation and marks the start of the review phase.

Once a trade remedy case has been filed the demands on the petitioning and responding firms varies as the case moves between the agencies. The reason for this is that the ITC's remit of determining material injury results in it focusing on the domestic US industry and so the primary burden of proving injury falls on domestic firms and their attorneys. At the DOC the burden of providing information is with the responding firms, and their government in countervailing duty cases. Both antidumping and countervailing duty cases are extremely information intensive. Firms taking part in a case will need to provide large volumes of data with respect to their business and



industry and this information is rarely in the format demanded by the DOC or ITC. The submission of this information helps to build the official record for the case, which is central to an investigation as it provides the evidence upon which the agencies make their determinations.

Both the agencies hold hearings as part of their investigation. The DOC hearing is generally only attended by the attorneys representing the interested parties, as it typically addresses the technicalities of determining how to calculate the antidumping or countervailing duty for a given case. The US system allows for sensitive data to be shared between attorneys on both the petitioning and responding sides of a case under an APO. The individual firms do not see this information, but by allowing the opposing attorneys to view the complete record it is argued that they can challenge not only their respective interpretations of the data, but also the use of the data by the DOC and ITC. The ITC hearing is typically public and representatives of both petitioning and responding firms will be present to make their case for and against injury to or threat of injury to the domestic US industry.

During the preliminary phase of the ITC injury determination, firms will be issued with questionnaires as part of the ITC's early data gathering activities. These will be followed by a 'staff conference' where the ITC staff investigating a case will seek input from prosecuting firms and their representatives. The firms will then have an opportunity to submit comments on the discussion during the staff conference with post-conference briefs, which will be followed by a vote by the ITC Commissioners and the issuing of a preliminary determination on injury to the US industry by reason of the subject merchandise being dumped or subsidised. The petitioning firms will then have an opportunity to submit their views on this determination.

The preliminary phase of the DOC's dumping or subsidisation investigation will include clarification of any deficiencies that the DOC identifies in the petition. These could include aspects of showing industry support and the suggested scope of the investigation for example. The phase also includes the selection of mandatory respondents and an opportunity for responding firms to address nonmarket economy status of the named countries, if required. The DOC issues a number of different questionnaires during the preliminary phase of its investigation. These include quantity

and value questionnaires for selecting mandatory respondents, section A, B, C, D and E antidumping questionnaires, full antidumping and / or full countervailing duty questionnaires depending on the requirements of the case. The DOC will also issue supplemental questionnaires where necessary to clarify earlier responses from responding firms. Both petitioning and responding firms are able to submit comments on the investigation and the agency will meet with interested parties to discuss specific issues. After making the preliminary determination the DOC again receives comments and any allegations of ministerial errors in the calculation of the preliminary duty rate determination.

The final phase of the DOC investigation provides room for clarification of some issues such as those related to nonmarket economy status and further issuing of questionnaires for information required by the DOC and requesting any further information needed by the DOC from prosecuting firms. The DOC will also conduct a verification of questionnaire responses by the mandatory responding firms prosecuting the case and will issue a report on their findings for each of these firms. Prosecuting firms are able to file case briefs after the respondent verification and request a hearing with the DOC if required to discuss aspects of the case. The DOC then makes a final duty rate determination, followed by a period for comment by prosecuting interests and any allegations of ministerial errors in the duty rate calculations.

The final phase of the ITC investigation begins with the Federal Register notice scheduling the phase. The ITC will issue questionnaires, produce a pre-hearing report and receive pre-hearing briefs during this phase. The six ITC commissioners will then hold a hearing at which the petitioning and responding interests will argue their cases and answer Commissioner's questions. This is followed by submission of post-hearing briefs by the prosecuting firms and the ITC issuing a final report. After a specific period of time the official record for the case is closed, the agency receives final comments on the investigation and the commissioners vote to make an injury determination and the case ends. If the ITC and DOC find that dumping and / or subsidisation have taken place and that the US industry has suffered injury due to these imports being dumped or subsidised, then the DOC will issue a duty order for the firm specific rates determined in its final determination. This marks the end of the original investigation of a case.

While the DOC investigation is focused on the foreign firms and the ITC investigation on domestic US firms, the tasks required of prosecuting firms at the two agencies are broadly similar. Table 10 summarises the basic ways in which petitioning firms engage with the two agencies, including the submission of information by questionnaire, briefs, participation in hearings and general submission of written comments. Although the degree to which petitioning and responding firms are required to engage with the prosecution of a case, and the times at which this needs to be done, will differ as a case moves between the DOC and ITC phases.

<b>Task</b>	<b>DOC Initiation</b>	<b>ITC Prelim</b>	<b>DOC Prelim</b>	<b>DOC Final</b>	<b>ITC Final</b>
Respond to Agency Questionnaires	-	Yes	Yes	Yes	Yes
Respond to Requests for Comments / Information	Yes	Yes	Yes	Yes	Yes
Participate in Agency Conferences / Meetings / Hearings	-	Yes	Yes	Yes	Yes
Submit Briefs in Response to Meetings	-	Yes	Yes	Yes	Yes
Submit Comments in Response to Agency Decisions	-	Yes	Yes	Yes	Yes
Respond to Other Firms' Engagement with Agencies	Yes	Yes	Yes	Yes	Yes

**Table 10: Firm Engagement with DOC and ITC During the Original Investigation**

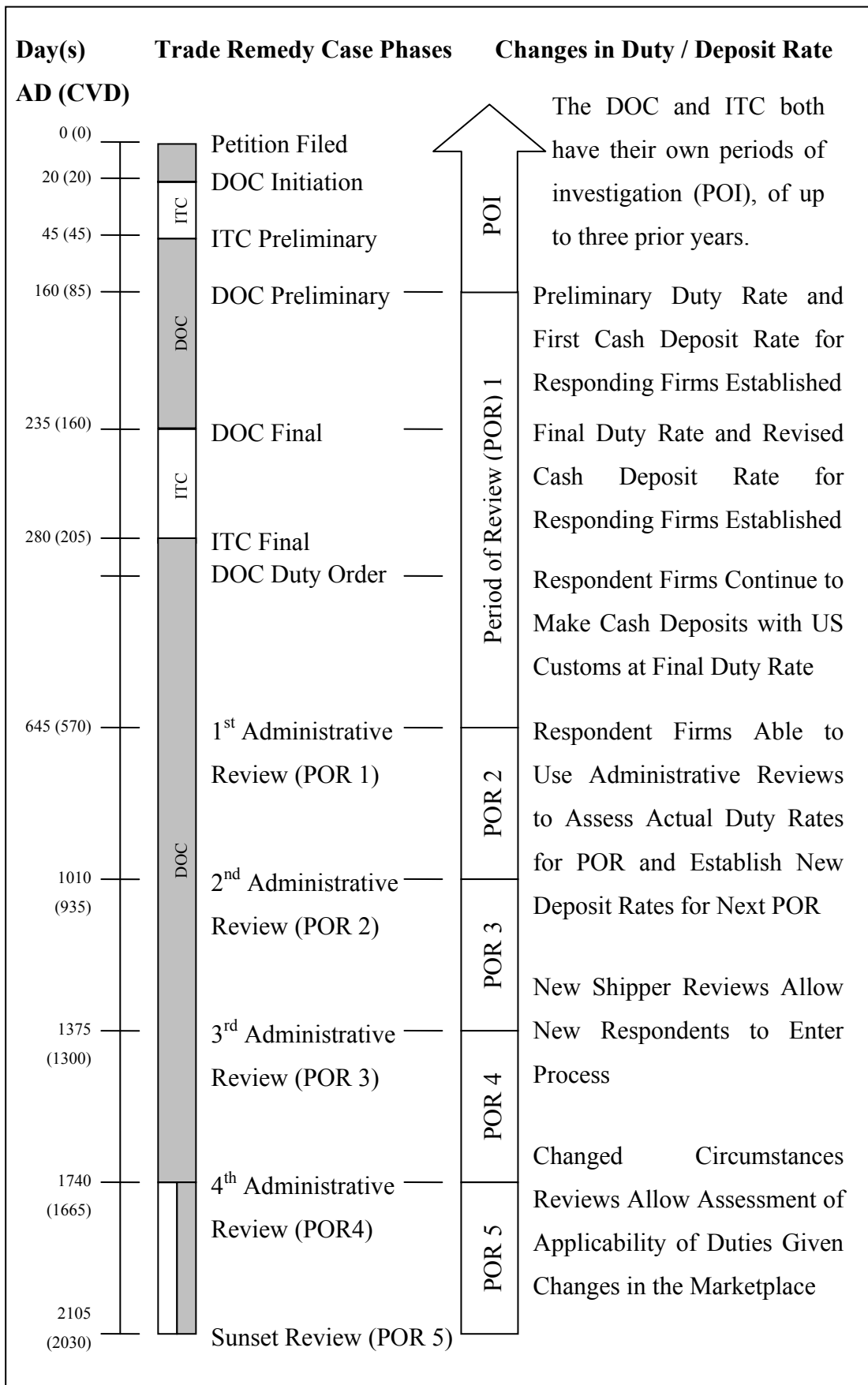
Source: Appendix B

### 6.6.3 Review Phase

During this phase both petitioning and responding firms are concerned with ensuring the right level of duties are being applied to imports of the subject merchandise, that these duties are being applied to all the imported goods that fall within the scope of the subject merchandise and only these goods, and finally with seeking to address aspects of the original investigation's determination that firms believe were not made correctly. To assess whether countervailing and antidumping duties are being applied at the correct value for the individual responding firms the DOC conducts administrative and

new shipper reviews. To determine whether imported goods fall within the scope of the duty order, the DOC conducts scope and changed circumstances reviews. Firms have three courses of action open to them for addressing possible errors in the original determinations of the DOC and ITC, depending on the institutional environment they believe best suits their case, these are through the US Court of International Trade (CIT), the WTO Dispute Settlement Process and for cases involving Canada or Mexico, the use of NAFTA Panels is also possible. The review phase can be thought of as a five year cycle, ending with the final determination of the DOC and ITC in the sunset review during the fifth year. Sunset reviews are conducted by both the DOC and ITC jointly and revisit both the subsidisation and / or dumping allegation and the injury allegation for a given trade remedy case, with the aim of determining whether the duty order for that case should remain in place or be revoked (USITC, 2005a; p.28-36). This cycle can potentially continue repeating itself indefinitely, two examples are the Brass Sheet and Strip and the Ball Bearings cases which are now in their 19<sup>th</sup> and 18<sup>th</sup> review years and have been subject to three sunset reviews. The ITC provides a full list of active antidumping and countervailing duty cases on its website (USITC, 2007d). Each of these aspects of the review phase will now be discussed in greater detail.

The review phase can be thought of as being structured around the annual administrative reviews, which serve the purpose of calculating “the actual amount of duties that Customs will assess on imports of the subject merchandise during the period of review (POR)” and “establishes new cash deposit rates for entered subject merchandise for each of the companies reviewed” (DOC ITA, 1998; chapter 18, p.13). Administrative reviews take place on an annual basis from the date of the imposition of a duty order and can be requested by either respondent or petitioning firms or self initiated by the DOC (DOC ITA, 1998). This retrospective approach to assessment distinguishes the US system from many other processes adopted by WTO members for investigating trade remedy cases (Trade Attorney, 2005b).



**Figure 4: Basic Trade Remedy Case Timeline, Administrative Reviews and Duty Rates**  
Source(s) for days taken to complete phases of original investigation: (USITC, 2007c)

An administrative review includes the issuing of questionnaires to foreign firms subject to investigation, verification of questionnaire responses is not normally required by statute, but must be done “if no verification was conducted in the previous two administrative reviews, the company under review has requested revocation, or the petitioners or other domestic interested parties have shown good cause for verification” (DOC ITA, 1998; chapter 18, p.15). Following the questionnaire responses and verification, the DOC investigators issue a preliminary determination and disclose their calculations to interested parties, who have the option to request a disclosure conference if required. The interested parties then have the opportunity to submit case briefs and rebuttal comments. The DOC then issues a notice of final determination, releases the dumping calculations if requested, holds a conference if required and receives any allegations of ministerial errors (DOC ITA, 1998). The majority of the administrative review must be completed within a year and the assessed dumping margins become the firms new deposit rate (DOC ITA, 1998). If the results of the review are not challenged the DOC issues a liquidation order to US Customs indicating the new deposit rate for the firms (DOC ITA, 1998). Foreign firms named in the notice of initiation for an administrative review, which have not exported to the US during the period of review retain their original duty rate (DOC ITA, 1998).

New producers and exporters of the subject merchandise to the US during the period of review can request a ‘new shipper review’, which is an expedited administrative review (DOC ITA, 1998). The new shipper review provides the foreign firms with an initial duty margin to allow them to begin participating in the review phase of the case, in much the same way that the original investigation does. If the “the factors underlying its initial determination have changed sufficiently to warrant” it (DOC ITA, 1998; chapter 18, p.10), the DOC will conduct a ‘changed circumstances review’ to determine if a duty order should remain in place. “The most common changed circumstance sufficient to warrant a review and resulting in the revocation of an order or part of an order is when it is no longer of interest to domestic interested parties” (DOC ITA, 1998; chapter 18, p.10).

The DOC conducts scope reviews to determine “whether or not a particular product belongs within the scope of an AD duty order/finding” (DOC ITA, 1998; chapter 18, p.24). Scope reviews are most often requested by US importers and other domestic

interested parties, but the DOC may self-initiate as well (DOC ITA, 1998). The DOC will refer to the description of the subject merchandise in the petition, the original investigation and the DOC and ITC determinations (DOC ITA, 1998). If this is not clear enough the agency use further criteria to clarify the situation, which are not required for this discussion. Anti-circumvention inquiries are a type of scope determination (DOC ITA, 1998) and are conducted to “address actions taken by the exporter or manufacturer, subsequent to the imposition of an AD duty order, which circumvent the order, i.e., avoid AD duties” (DOC ITA, 1998; chapter 18, p.26).

The DOC and ITC are required to conduct ‘sunset reviews’ on the fifth anniversary of a duty order being issued, to determine respectively whether “dumping or a countervailable subsidy would be likely to continue or recur” and whether “material injury would be likely to continue or recur” if the duty order was revoked (USITC, 2007a; III-3). Sunset reviews are initiated by interested firms replying to a notice of initiation published in the Federal register no later than 30 days before the five year anniversary of the publication of the antidumping or countervailing duty order for a case (USITC, 2007a). The notice of initiation will request interested parties to submit: “(1) a statement expressing their willingness to participate in the review by providing information requested by Commerce and the Commission, (2) a statement regarding the likely effects of revocation of the order or termination of the suspended investigation, and (3) such other information or industry data as Commerce or the Commission may specify” (USITC, 2007a; III-6). If there is no response to the DOC notice of initiation, the DOC “will issue a final determination, within 90 days after initiation of the review, revoking the order or terminating the suspended investigation” (USITC, 2007a; III-6). The adequacy of the responses from respondent firms to the DOC notice of initiation determines whether the agencies conduct an ‘expedited’ or ‘full’ sunset review. In an expedited review either agency “may issue without further investigation a final determination based on the facts available” (USITC, 2007a). Expedited reviews offer interested parties the opportunity to file comments on the review with the ITC, before a report based on the facts available is produced, final comments are received and a determination is made (USITC, 2007a). If the responses to the notice of initiation are considered adequate both agencies will conduct ‘full’ reviews, with the total process taking 360 days from the date of initiation to complete in normal cases (USITC, 2007a).

A full DOC review will consist of “substantive response to the notice of initiation by all interested parties and industrial users and consumers”, the filing of rebuttal responses, a preliminary determination, verification where needed, case briefs, rebuttal briefs, a hearing if required and a final determination (DOC ITA, 2007e). A full review at the ITC mirrors the final phase of the ITC investigation during the original investigation (USITC, 2007a).

For cases not involving Canada or Mexico, there are two options available to firms who are dissatisfied with the investigations of the DOC and ITC during a trade remedy case, they can either appeal the case to the CIT or make use of the WTO Dispute Settlement Process. The CIT has nine judges appointed for life and “a residual grant of exclusive jurisdictional authority to decide any civil action against the United States, its officers, or its agencies arising out of any law pertaining to international trade” (USCIT, 2007b). It is therefore the court of appeal for trade remedy determinations at the DOC and ITC. The CIT uses the information gathered during the trade remedy case investigation and “when determinations are challenged in [the] court, a complete administrative record must be filed with the Court” (DOC ITA, 1998).

The WTO Dispute Settlement Body is “based on a procedure [which] underscores the rule of law, and it makes the trading system more secure and predictable. The system is based on clearly defined rules, with timetables for completing a case” (WTO, 2004b). Disputes are brought to the WTO by member governments and if consultations between members do not resolve a dispute, the Dispute Settlement Body (DSB) convenes a panel of experts to decide whether a member’s trade policies are WTO compliant (WTO, 2003). Firms do not have legal standing in the disputes process; they can simply request their government to bring a case and then support their government’s efforts during the disputes process. In the US it is the responsibility of the US Trade Representative (USTR) to represent the country at the WTO (USTR, 2004).



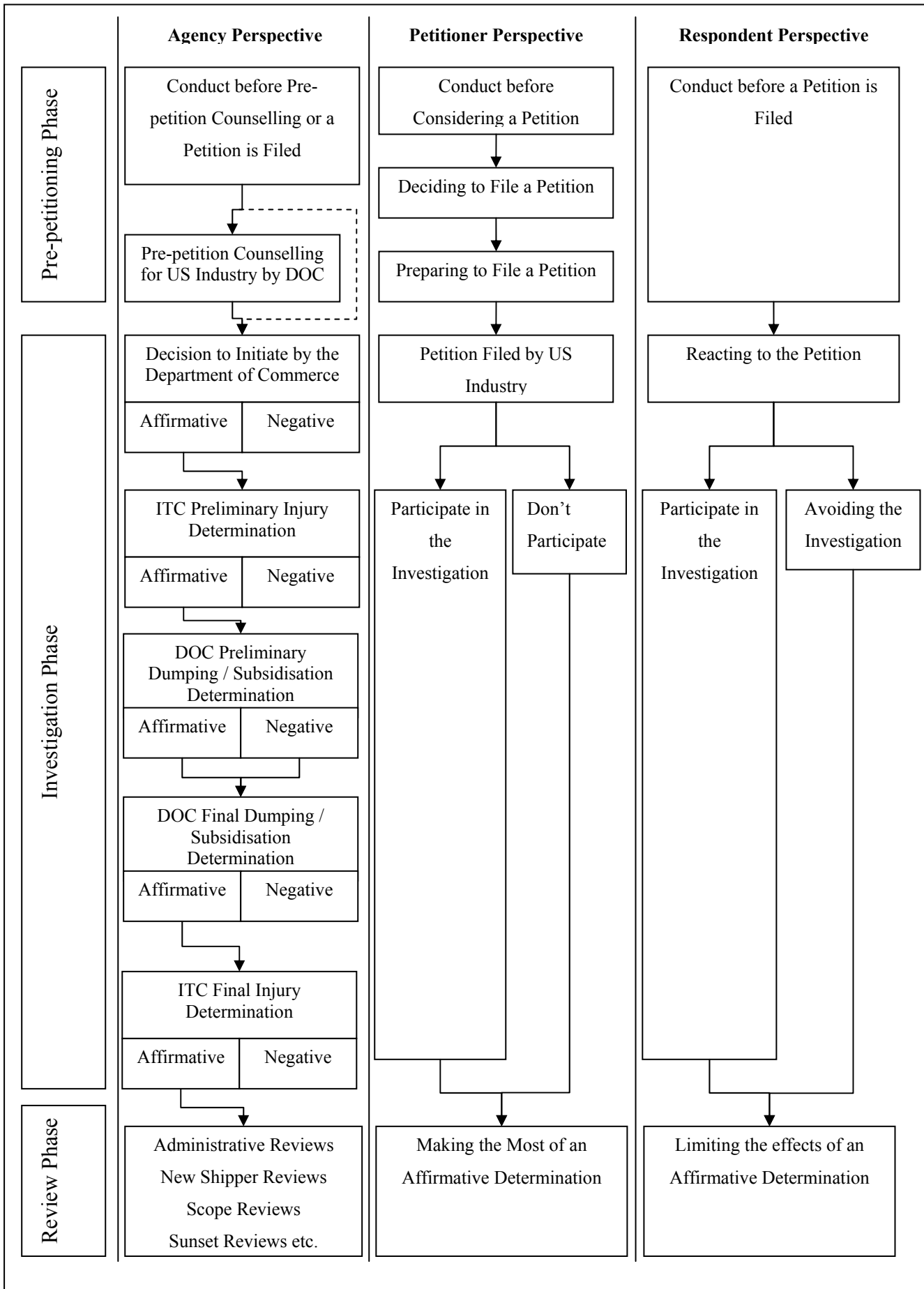


Figure 5: Revised Model of a Firm Perspective of Trade Remedy Cases in the US

“Dispute settlement procedures are designed to resolve procedural disputes among governments concerning the operation of domestic laws and their consistency with the Agreement. In other words, a WTO panel can only determine whether a country’s laws and the manner in which those laws are implemented are consistent with the Agreement. The WTO dispute settlement process does not decide whether dumping or injury is occurring.”

(DOC ITA, 1998; chapter 20, p.26)

In a similar vein to WTO dispute settlement, antidumping and / or countervailing duty cases that address trade between members of the North American Free Trade Agreement (NAFTA), have the option of requesting “that a binational panel review a NAFTA country’s final determination in an [antidumping or countervailing] administrative proceeding that involves imports from another NAFTA country if an interested party requests it. In the United States this can replace review by the Court of International Trade” (DOC ITA, 1998; chapter 20, p.28). As none of the cases in this study are between the US and other NAFTA members, this is considered beyond the scope of the current study.

## **6.7 The DOC and ITC as Institutional Actors**

The immediate institutional context for prosecuting trade cases in the US are the DOC and ITC. These two agencies however very much exist within the context of the broader governmental context in the US, notably the institutional context of Congress, and at a multilateral level the multilateral trade institutions embodied by the World Trade Organisation (WTO). It is of course possible for countries to independently establish antidumping a countervailing duty investigation procedures and the associated rules, regulations and norms they wish to guide those investigations. It is however the case with US trade remedy cases that their prosecution needs to be seen within the context of the multilateral institutions governing trade, implemented domestically through Congress and administered by the two US government agencies. This institutional architecture creates a variety of relationships that have an effect on the capacity for action, the demands of, the opportunity for acting as gate-keepers and framing of the prosecution of cases and perceived legitimacy of each of the institutional actors. The nature and influence of each of these institutional environments will now be discussed

in turn, beginning at the multilateral level and ending with the immediate institutional context for this study.

WTO multilateral trade institutions provide an internally agreed set of rules for the conduct of trade and the resolution of disputes between members about trade practices of both member governments and firms located in a member's territory. As an institution and organisation the WTO has very little capacity for direct action in the resolution of trade remedy cases. The WTO as has been discussed earlier serves to set the rules of trade, in the case of trade cases the WTO through the Antidumping Agreement and SCM Agreement is able to set the basic rules for conducting both antidumping and countervailing duty investigations and set the rules for how member governments can use subsidisation. The WTO has no ability to directly address the conduct of firms on request from a member, but through the WTO disputes settlement process the WTO can discipline the use of subsidisation by a member government on request of another member. The WTO does not make demands, instead providing members with mechanisms to ensure the enforcement of trade rules. The WTO is therefore the gatekeeper organisation to the negotiation on multilateral rules for trade remedy cases, only providing access to member governments, and the disputes process for members to clarify the implementation of trade rules for antidumping and countervailing duty cases. The organisation is able to perform these roles through the legitimacy it derives from being a members, 153 as of 23 July 2008 (WTO, 2008), driven multilateral organisation, with a clear rules based approach to regulating international trade.

The US Constitution gives the US Congress the responsibility for administering the regulation of all trade both internal and external with the US (Destler, 2005). Congress has however taken opportunities to delegate this right on a number of occasions, as is the case with the negotiation of international trade agreements, where the responsibility now lies with the US Trade Representative, an office of the Executive. This is also the case with the administration of trade cases in the US. Congress has delegated the responsibility to the DOC, a federal executive department, for identifying dumping or subsidisation and the responsibility for determining if unfair trade has injured a domestic industry to the ITC, an independent, quasijudicial Federal agency. Congress however retains control over the budgets for both these agencies and it is this link that is

often suspected of allowing political influences to affect the outcome of trade cases in the US (DeVault, 2002, Goldstein & Lenway, 1989). Congress is argued to have made these changes in how trade cases are administered to remove constituent pressure from the formulation of trade agreements and the resolution of trade disputes (Destler, 2005). The Executive remains a key gate-keeper for appointment of senior members of staff at these two government agencies and this provides another potential source of influence for the US government on the investigation process for trade cases. On the other hand, the US government plays a very large part in the framing of the role of the two agencies and is often argued to use them to divert constituency pressure for protection from international trade, but at the same time also strengthen the agencies legitimacy by emphasising the importance of a fair, rules based approach to the resolution of international trade disputes (USITC, 2008b). This allows the members of Congress to retain their legitimacy as elected representatives, but also avoid pressures that have in the past been seen to lead to negative trade policies (Destler, 2005).

It is the DOC and ITC that have the greatest capacity for direct action from an institutional perspective in the prosecution of US trade cases. The rules and regulations for the prosecution of these cases has however limited their capacity for action by splitting the responsibilities between the agencies, with the DOC establishing dumping or subsidisation and the appropriate duties if they are present and the ITC being tasked to determine if a domestic industry is injured or threatened with injury. The agencies' capacity for action is further constrained by the clear rules-based approach to administering the cases, these rules do, however, require interpretation within the unique context of each case and this again provides the agencies with some room for shaping the prosecution of a case. The primary demand on the part of both these agencies with respect to the firms in both the domestic and foreign industry is that they participate in a case that is being investigated. Without the participation of interested firms the prosecution of a case will lose its legitimacy, which is built on the rule-based nature of the process, that uses factual information to determine the appropriate outcome for a case. As such the agencies also serve as gate-keepers to participation in a trade case, determining who can attend hearings, submit information and what type of information is admitted. The agencies also control who has access to the full confidential record for a case and who is only able to view the public record. It is this gatekeeper function with respect to access to the sensitive data used in a case that along

with their mandates from the US government that provides the agencies with most of their legitimacy with respect to having the right to investigate trade cases in the US. As the ultimate arbiters on what information is made part of the administrative record for a case the agencies are also able to play a significant role in the framing of a given case, as well as having the opportunity to publish the official reports for an investigation which play very large role in determining how a case will be viewed by interested parties and the broader public.

This institutional perspective on the prosecution of US trade cases has been included at this stage to remind readers that the prior discussion of the procedures for prosecuting a case through the three phases need to be interpreted and understood through the institutional context of the DOC and ITC if their full meaning is to be understood. The discussion will now turn to the cases being studied in this thesis.

## **6.8 Introduction to Selected Cases**

The five cases in this study include countervailing duty cases for Dynamic Random Access Memory (DRAM) Semiconductors from Korea and Bottle-grade Polyethylene Terephthalate (PET) Resin from India and antidumping cases addressing Wooden Bedroom Furniture from China, Hand Trucks and Certain Parts Thereof from China and Outboard Engines from Japan, see Table 11. Appendix B: Case Summaries for Each of the Five Cases, includes a summary of the basic descriptive information and a chronological list of key documentation for each of these five cases. The remainder of this section provides an introduction to each of the cases, including the firms that prosecuted the case, the outcomes of the original investigation, the duty rates determined for responding firms in affirmative cases and how firms made use of the review phase of the case.

Micron Technology, Inc. (Micron) filed the countervailing duty case against imports of DRAMs from Korea in November 2002. Two Korean firms Hynix Semiconductor Inc. (Hynix) and Samsung Electronics Company Ltd. (Samsung) produced and exported the subject merchandise to the US and prosecuted the case against duties. In descending order, Samsung, Micron and Hynix represent the top three manufacturers of DRAMs by revenue worldwide in 2001 (Hale and Dorr LLP, 2002; Exhibit 8). A second North American producer Infineon Technologies North American Corporation and Infineon

Technologies Richmond, LP (Infineon), the fourth largest producer by revenue in 2001, supported Micron in the prosecution of the case. Two interest groups, representing more than 73% of worldwide market share for DRAMs in 2001 (Hale and Dorr LLP, 2002; Exhibit 8), therefore emerged to prosecute the cases for and against countervailing duties, aligned along domestic producers versus foreign producers / exporters of DRAMs. The original investigation phase of the case ended in August 2003, with Hynix being assigned a duty rate of 44.29%, while Samsung was able to show the DOC that it had received a net subsidy rate of only 0.04% and was therefore excluded from the duty order as this was below the minimum threshold for duties to be applied on the firm's exports to the US. The outcome of the case may very well therefore be that Micron simply succeeded in removing one foreign competitor to the benefit of another exporter to the US. This left Hynix as the only Korean firm to have to prosecute the review phase of the case, facing a financial burden and administrative distraction for an indefinite period if the firm wishes to continue to access the US market. Samsung was arguably able to most successfully prosecute the original investigation, finding a significant home competitor hampered in the US and both Hynix and Micron distracted by an ongoing costly process of prosecuting the review phase of the case. A number of other internationally recognisable firms have also been affected by the review phase of the case, with both ATI Technologies, Inc. (ATI Technologies) and Cisco Systems, Inc. (Cisco) successfully prosecuting scope determination requests to have their imports ruled outside the scope of the countervailing duty order. Hynix as with the original investigation has continued to prosecute the review phase fully, making use of reviews at the DOC and appeals to the CIT and to the WTO disputes process in attempts to reduce the duty rate the firm is subject to and have the original determination overturned, respectively. Hynix's appeals to the CIT and the WTO were both unsuccessful and after initially not effectively prosecuting the first annual administrative review and facing a revised rate of 58.11%, Hynix was able to use the second review to reduce the rate to 31.86%. The case saw significant political support for both interest groups, with Micron enjoying the support of US politicians from Idaho, while Hynix has been able to rely on the support of the Government of Korea (GOK) throughout the prosecution of the case and the support of US politicians from across Oregon at both the state and federal level.

The second countervailing duty case included in this study was filed by the United States PET Resin Producers Coalition (PET Coalition) against imports of PET Resin from India in March 2004. It is part of the only example in this study of a case that was filed against multiple countries and included both antidumping and countervailing duty petitions. The case included antidumping cases against PET resin from India, Indonesia, Taiwan and Thailand and an additional countervailing duty case against Thailand. The PET Coalition had four member firms, Voridian (a division of Eastman Chemical Company), Wellman, Inc. (Wellman), DAK Americas, LLC (DAK) and Nan Ya Plastics Corporation America (Nan Ya). The countervailing duty case against India was prosecuted by four foreign producers, as mandatory respondents, these were Reliance Industries, Ltd. (Reliance), South Asia Petrochem Ltd. (SAPL), Futura Polyesters, Ltd. (Futura) and Elque Polyester Ltd. (Elque). These foreign respondents however received support from a coalition of US firms as members of the PET Users Coalition (PETUC) and two other foreign firms prosecuting the trade cases against PET resin from Thailand and Indonesia, namely Indo-Pet (Thailand) Ltd. (Indo-Pet) and P.T. Indorama Ltd. (Indorama). The PETUC members included American Beverage Association (ABA), American Frozen Food Institute (AFFI), Cadbury Schweppes (Cadbury), America's Beverages, the Coca Cola Company (Coca Cola), Constar International, Inc. (Constar), the Distilled Spirits Counsel of the United States (DSCUS), Graham Packaging, the Grocery Manufacturers Association (GMA), the International Bottled Water Association (IBWA), Lion Chemical Industries, Food Products Association (FPA), Nestle USA (Nestle), Nestle Waters North America (Nestle Waters), PepsiCo Inc. and Proctor & Gamble (P&G) (USITC, 2005e; p.225 of ITC final hearing transcript). The Government of India (GOI) also actively supported the responding firms throughout the prosecution of the case, in contrast to the noticeable lack of political support for the petitioners from US politicians. The case ended in May 2005 with no duty order being issued by the DOC. The petitioners had successfully prosecuted the DOC phase of the case and the four responding firms received final subsidisation rates of between 6.15% and 19.97%. The respondents were however able to show the ITC that the domestic firms had not suffered nor did they face the threat of material injury due to imports of PET resin from India that had benefited from government subsidies. Therefore no countervailing duties were imposed on imports of PET resin from India and the case ended.

The Wooden Bedroom Furniture case was filed by the American Furniture Manufacturers Committee for Legal Trade and its Individual Members (AFMCLT), see Table 77 for names of the 25 members, the Carpenters Industrial Union Local 2093, the Teamsters, Chauffeurs, Warehousemen and Helper Local 991, the Cabinet Makers, Millmen, and Industrial Carpenters Local 721, the UBC Southern Council of Industrial Worker's Local Union 2305, the United Steel Workers of American Local 193U and received support from a number of US furniture retailers, please see Table 80. The case is the seventh largest Title VII trade remedy case and the fourth largest antidumping case filed between 1980 and 2005 by value (USITC, 2006). The petition received overwhelming bipartisan political support from US politicians, with the record only showing Congressman Jack Kingston as providing support against the case. At least 121 foreign producers were affected by the case, six of these firms fully prosecuted the original investigation and the remaining 115, see Table 82 for firm names, partially prosecuted the phase. The six mandatory respondents were (1) Dongguan Lung Dong Furniture Co., Ltd., or Dongguan Dong He Furniture Co., Ltd (Dongguan Lung Dong), (2) Lacquer Craft Mfg. Co., Ltd (Lacquer Craft), (3) Markor International Furniture (Tianjin) Manufacturing Company, Ltd (Markor), (4) Rui Feng Woodwork Co., Ltd., or Rui Feng Lumber Development Co., Ltd. or Dorbest Limited (The Dorbest Group / Dorbest), (5) Shing Mark Enterprise Co., Ltd., or Carven Industries Limited (BVI), or Carven I Industries Limited (HK), or Dongguan Zhenxin Furniture Co., Ltd., or Dongguan Yongpeng Furniture Co., Ltd (Shing Mark), (6) Starcorp Furniture (Shanghai) Co., Ltd., or Orin Furniture (Shanghai) Co., Ltd., or Shanghai Starcorp Furniture Co., Ltd (Starcorp). The case was prosecuted by a number of other firms and coalitions on the respondent side, please see Table 62 for full details. The case ended in January 2005 duties of between 0.83% and 15.78% imposed on the six mandatory respondents and a rate of 6.65% on the remaining 115 Chinese producers that received 'Section A' status, making them eligible for the 'all others' duty rate. The preliminary phase of the first administrative review for this case indicates that a significant higher duty rates may be awarded to the participating 47 firms. The review phase has also seen a large number of firms seeking to determine if their imports are subject to the duty order, through scope reviews, with mixed success of avoiding the order. A number of Chinese producers have sought to have appropriate duty rates determined for their exports, through new shipper reviews, with firms being awarded duty rates between



0.00% and 222.04%. The AFMCLT has used changed circumstances reviews to amend the scope of the duty order on three occasions and Tradewinds International achieved partial success when using this type of review to get acknowledgement of its changed corporate structure and therefore its status under the duty order. A number of respondent firms turned to appeals to the CIT to address issues of concern, Decca Hospitality Furnishings, LLC (Decca) and Guangzhou Maria Yee Furnishings Ltd and Maria Yee Inc. (Maria Yee) where able to move from a punitive PRC-wide rate of 198.08% to a rate of 6.65%. Lacquer Craft, a mandatory respondent was excluded from the duty order after a successful appeal to the CIT, resulting in the 'all others' rate being revised up from 6.65% to 7.24%, raising the duty paid by 115 firms by 0.59%. Interestingly given the size of the case, there has been no recourse to WTO dispute settlement to date.

The Hand Trucks case was filed by Gleason Industrial Products, Inc. and Precision Products, Inc. (Gleason) against imports of hand trucks and parts thereof from China. There are a number of producers of the product in China, but the four mandatory respondents in the original investigation were Qingdao Huatian Hand Truck Co., Ltd. (Huatian), Qingdao Taifa Group Co., Ltd (Taifa), Qingdao Xinghua Group Co., Ltd. (Xinghua), and True Potential Co. (True Potential). Three firms submitted Section A responses and qualified for the 'all others' duty rate, Qingdao Future Tool Inc. (Future Tool), Qingdao Zhenhua Industrial Group Co., Ltd. (Zhenhua), and Shandong Machinery Import & Export Group (Shandong). Gleason received support for the petition from three other manufacturers, Angelus Manufacturing (Angelus), Harper Trucks, Inc. (Harper), Magline, Inc. (Magline) and two labour unions, the Laborer's International Union of North America (LIUNA) and the United Food and Commercial Workers International Union (UFCWIU). Other responding firms included Since Hardware (Guangzhou) Co., Ltd. (Since Hardware), Jiaonan Tianhe Hand Truck Co., Ltd. (Jiaonan), Safco Products Co., Liberty Diversified Industries, Inc. and Fully owned subsidiary Safco Products Co. (Safco), W.W. Grainger, Inc. (Grainger), and Central Purchasing Inc. d/b/a Harbor Freight Tools (Central Purchasing). The petitioning firms seem to have received no or limited political support in the case. Responding Chinese firms however benefitted from the support of the China Chamber of Commerce for Import and Export of Machinery and Electronics (CCCIEME). The case lasted from November 2003 to December 2004 and Gleason successfully prosecuted the case and

duties of between 26.49% and 46.48% were imposed on mandatory and section A respondents, while all other firms were subject to a PRC-wide rate of 383.6% at the end of the original investigation. The first administrative review saw Shandong and Future Tool have their rates reassessed from 32.76% to the PRC-wide rate of 383.6%. Forecarry Corp was also unable to successfully prosecute the first review and received the PRC-wide rate. Since Hardware which prosecuted the original investigation but did not receive an individual rate successfully used a new shipper review to receive a duty rate of 0.00%. While mandatory respondent True Potential was able to have its duty rate revised downward from 39.54% to 17.59%. Again a number of other importers made use of the scope reviews to determine whether their merchandise fell within or outside the duty order, with varying degrees of success. No respondents made use of the WTO disputes process in this case, but Vertex International, Inc. was able to use an appeal to the CIT to overturn a partially successful scope review request, resulting in its Garden Cart being ruled outside the scope of the duty order.

The Outboard Engines antidumping case was filed by Mercury Marine, a division of Brunswick Corp. (Mercury) against imports of outboard engines from Japan in January 2004. It is the eighth largest antidumping case filed between 1980 and 2005 by value (USITC, 2006). Five Japanese firms manufacture and / or export outboard engines to the US, Yamaha Motor Company, Ltd., Yamaha Marine Company, Ltd., and Yamaha Motor Corporation, USA (Yamaha), American Honda Motor Co., Inc., and Honda Motor Co., Ltd. (Honda), Nissan Marine Co., Ltd. (Nissan), Suzuki Motor Corporation and American Suzuki Motor Corporation (Suzuki), Tohatsu Corporation, Tohatsu Marine Corporation, and Tohatsu American Corporation (Tohatsu). Yamaha was selected as the only mandatory respondent in the case, but the other four Japanese firms actively supported Yamaha throughout the prosecution of the case. Mercury prosecuted the case fully, successfully arguing that the case was based on sales of exports below the cost of production, significantly complicating the nature of the case and received significant political support. Mercury was also actively supported by Bombardier Motor Corporation and Bombardier Recreational Products Inc. (Bombardier / BRP) another North American producer of outboard engines. The original investigation ended in February 2005 and Yamaha was able to successfully show that no injury had been caused to the domestic industry by imports of the subject merchandise.

The Wooden Bedroom Furniture, Hand Trucks and Outboard Engines cases represent instances of first time prosecuting firms. Although more broadly Chinese and Japanese firms have been subject to other trade cases. The DRAMs case is the only case in which both the petitioners and respondents had previously prosecuted a US trade case, with a history of petitions by the US industry dating from the mid 1980s (see Table 11). Korean DRAM manufacturers have been targeted in both antidumping and intellectual property (Section 337) cases since the early 1990s. The PET Resin case was also a first time filing for the US industry, but the broader PET related industry has seen an ongoing series of cases filed against foreign producers of PET Film, Sheet and Strip, again since the early 1990s. While the prior experience of the firms in the DRAMs cases will most certainly have had an effect on the prosecution of the case in this study, it is however less clear to what extent the broader industry and country experience in prosecuting US trade cases will have played a role in the other four cases.

Year Filed	Case Number ITC (ITA)	Case Name	Country	Year of Imports	Value of Subject Imports	Outcome	Sunset Reviews	
							Effective Year	Outcome
<b>Cases in this Study</b>								
2003	701-TA-431 (C-580-851)	DRAMs & DRAM Modules	Korea	2002	*** (1)	Affirmative	-	-
2004	731-TA-1058 (A-570-890)	Wooden Bedroom Furniture	China	2003	957,948	Affirmative	-	-
2004	731-TA-1059 (A-570-891)	Hand Trucks and Certain Parts Thereof	China	2003	14,839	Affirmative	-	-
2004	731-TA-1069 (A-588-865)	Outboard Engines	Japan	2003	584,014	Negative	-	-
2004	701-TA-439 (C-533-842)	PET Resin	India	2003	*** (1)	Negative	-	-
<b>History of DRAM and SRAM Cases</b>								
1985	731-TA-270 (A-588-503)	64K DRAMs	Japan	1984	266,611	Affirmative	1993	Revoked
1985	731-TA-300 (A-588-505)	256K and Above DRAMs	Japan	1984	*** (1)	Suspended	-	-
1992	337-TA-345	Certain Anisotropically Etched One Megabit and Greater DRAMs	Korea	-	-	-	-	-
1992	731-TA-556 (A-580-812)	DRAMs of 1 Megabit and Above	Korea	1991	*** (1)	Affirmative	1999	ITA revoke 65 FR 59391
1997	731-TA-761	SRAMs	Korea	1996	*** (1)	Negative	-	-
1997	731-TA-762	SRAMs	Taiwan	1996	*** (1)	Affirmative	-	-
1998	731-TA-811 (A-583-832)	DRAMs of 1 Megabit and Above	Taiwan	1997	378,667	Negative	-	-
2003	701-TA-431 (C-580-851)	DRAMs & DRAM Modules	Korea	2002	*** (1)	Affirmative	-	-
<b>History of US PET Cases</b>								
1990	731-TA-458 (A-588-814)	PET Film	Japan	1989	*** (1)	Affirmative	1995	Revoked
1990	731-TA-459 (A-580-807)	PET Film	Korea	1989	*** (1)	Affirmative	2005	Not Revoked 70 FR 61118
1990	731-TA-460 (A-583-809)	PET Film	Taiwan	1989	*** (1)	Negative (P)	-	-
2001	731-TA-933 (A-533-824)	PET Film	India	2000	34,825	Affirmative	2007	Ongoing 71 FR 51573

2001	701-TA-415 (C-533-825)	PET Film	India	2000	34,825	Affirmative	2007	Ongoing 71 FR 51573
2001	731-TA-934 (A-583-837)	PET Film	Taiwan	2000	14,190	Affirmative	2007	Ongoing 71 FR 51573
2004	701-TA-439 (C-533-842)	PET Resin	India	2002	*** (1)	Negative	-	-
2004	731-TA-1077 (A-533-841)	PET Resin	India	2003	*** (1)	Negative	-	-
2004	731-TA-1078 (A-560-817)	PET Resin	Indonesia	2003	*** (1)	Negative	-	-
2004	731-TA-1079 (A-583-840)	PET Resin	Taiwan	2003	30,054	ITA Negative	-	-
2004	701-TA-440 (C-549-824)	PET Resin	Thailand	2002	98,5321	ITA Negative	-	-
2004	731-TA-1080 (A-549-823)	PET Resin	Thailand	2003	98,532	Negative	-	-
2007	731-TA-1131 (A-351-841)	PET Film	Brazil	-	-	-	-	-
2007	731-TA-1132 (A-570-924)	PET Film	China	-	-	-	-	-
2007	731-TA-1133 (A-549-825)	PET Film	Thailand	-	-	-	-	-
2007	731-TA-1134 (A-520-803)	PET Film	The United Arab Emirates	-	-	-	-	-
<b>Notes:</b>								
(1) Not disclosed by ITC as considered to be business proprietary information.								

**Table 11: Summary of US Trade Remedy Cases for Subject Merchandise**

**Source(s): (DOC ITA, 2007d, USITC, 2005f, 2006, 2007d)**

Three of the selected cases resulted in duties being imposed on imports. Petitioning firms only sought to use provisions for unique circumstances to their case, in the PET Resin case the petitioners unsuccessfully sought retroactive imposition of duties on the subject imports to address a surge of imports prior to the filing of a petition and in the Outboard Engines case the petitioners successfully argued that the investigation should be a ‘cost case’, significantly complicating the dumping margin calculation. As was noted above the Wooden Bedroom Furniture case one of the largest cases by value since 1980, but as can be seen in Table 12 this is matched in the number of firms that participated in the original investigation of the case. The other large case by value, Outboard Engines from Japan, was prosecuted by a relatively small number of firms and only one responding firm was able to fully prosecute the original investigation. The

majority of the cases in this study therefore represent individual or small coalitions of firms, with no or limited prior experience of prosecuting these case.

	<b>DRAMs</b>	<b>PET Resin</b>	<b>Wooden Bedroom Furniture</b>	<b>Hand Trucks</b>	<b>Outboard Engines</b>
DOC Issued a Duty Order	Yes	No	Yes	Yes	No
Petitioner Alleged Critical Circumstances	No	Yes	No	No	No
Petitioner Argued for a Cost Case	No	No	No	No	Yes
Number of Petitioning Firms	1	4	26	1	1
Number of Petitioning Trade Unions	-	-	5	2	-
Number of Supporting Producers	1	-	12	4	1
Political Support for Petitioners	Yes	No	Yes	Yes	Yes
Number of Foreign Producers	2	4 +	121 +	6 +	5
Number of Mandatory Respondents	2	4	6	4	1
Number of Section A Respondents	-	-	115	2	-
Political Support for Respondents	Yes	Yes	Yes	Yes	No

**Table 12: Comparison of Cases for Pre-petition and Original Investigation Phases**

**Source: Appendix B and C**

## **6.9 Conclusion**

The US is one of the heaviest users of both antidumping and countervailing duty measures amongst WTO members, as well as being the target for a number of antidumping cases since 01 January 2007. The five case summaries have also shown that the prosecution and outcomes of US trade cases can affect a wide range of firms, both foreign and domestic, and significantly alter the competitive position of firms in the market for merchandise subject to investigation. Effective prosecution of US trade cases is therefore of great value to both foreign and US producers and their customers. This study explains what the outcome of a case could mean for individual firms in both

the domestic and foreign industries prosecuting a case, showing that an approach based on a conceptualisation of duties being good for petitioners and bad for respondents does not accurately captured the varied nature of firm specific effects of a case. The study discusses the corporate political strategies adopted by firms and how these in conjunction with a better understanding of the resources and capabilities firms draw on to prosecute case may lead to an improved understanding of why a firm may consider itself to have successfully prosecuted a trade case.

## 7 Conceptual Background

*“For case studies, theory development as part of the design phase is essential, whether the ensuing case study’s purpose is to develop or test theory.”*

Robert K. Yin (2003; p. 28)

The goal of this chapter is to develop a conceptual model of how firms prosecute trade remedy cases in the US. Broadly there are two approaches to the development of theory before conducting research, those which “avoid specifying any theoretical propositions at the outset of an inquiry” (Yin, 2003; p. 28) and those approaches which develop theoretical models / propositions to guide the conduct of a study. Ethnographic and grounded theory approaches for example avoid the development of prior theory instead seeking to develop theory from the data. While with the prior development of theory in case studies, “the simple goal is to have a sufficient blueprint for [a] study” (Yin, 2003; p. 28), which can inform the research design and provide guidance on what data to collect and how to analyse it. By drawing on this stock of knowledge a researcher is able to avoid lines of inquiry which have been shown to be dead ends, identify gaps in our knowledge and develop a more focused piece of research. This study draws on previous studies of the trade remedy process in the US and other WTO member countries, the literature on CPA and the strategic management RBV literature, to develop a conceptual model and associated working propositions to guide the study.

### 7.1 Selecting the Appropriate Literature

The focus of this study emerged from broad reading of WTO related research, especially with respect to the WTO dispute settlement process (DSP). This initial literature review became focused on the domestic implementation of the WTO agreements on antidumping and countervailing duty measures. The implementation of the antidumping agreement especially has resulted in a number of WTO DSP cases. Further reading resulted in three bodies of literature emerging as important for this study. Firstly, those pieces dealing with trade remedy cases broadly. Secondly, the literature on CPA. Thirdly, the RBV literature within the field of business strategy. Both the trade remedy and the CPA literatures were naturally suggested by the phenomenon



being studied. The RBV literature was identified as important after reviewing the different approaches for understanding CPA. By selecting a business strategy approach and focusing on the relative performance of firms prosecuting trade remedy cases, there was a need to be able to explain relative firm performance. Broadly there have been two separate, yet complementary, explanations for firm competitiveness in the competitive strategy literature. Firstly explanations, which focus on the external environment of the firm and secondly those which look inside the firm for sources of competitive advantage. As both the industry and the institutional environment in trade remedy cases are fixed, the internally focused RBV approach was most suited to this study.

## **7.2 Developing the Conceptual Model**

The conceptual model provided a framework for guiding the fieldwork phase of the study and the subsequent analysis of the data collected. It was developed by drawing on aspects of each of the three literatures identified above that provided models useful for explaining the process of prosecuting a trade remedy case. The process of prosecuting a case in the US as explained in chapter 6 was developed from the existing literature and later revised using the findings of the fieldwork. The CPA literature and the broader nonmarket strategy literatures provided further understanding of prosecuting a trade case and suggested a way for thinking about how firms engage with the agencies administering these cases. Finally the RBV literature provided a way to analyse the findings of the study and compare the relative performance of both US and foreign firms in US trade cases.

The model in this paper has three aspects that need to be developed. First the administrative process in the US for trade cases, this is developed in chapter 6. The second part of the model uses the broader literature on trade cases to understand how the firms in an industry may choose to interact with the US government agencies responsible for investigating allegation of unfair trade practices. The third and final aspect of the model uses the CPA business strategy perspective to understand firm choices over how to participate in US trade remedy cases. The remainder of this chapter is primarily concerned with developing the business strategy perspective of CPA, drawing on the RBV of the firm.

### 7.3 The Literature on Trade Remedy Measures

The US, the EC and Australia are WTO members who have used trade remedy measures and received most attention in previous research (Feaver & Wilson, 2004b, Hansen & Prusa, 1997, Lenway, Jacobson, & Goldstein, 1990, Messerlin & Reed, 1995, Tharakan, 1993). The political economy of antidumping in Japan has also received attention (Yoshimatsu, 2001). Three main themes emerge from this literature, the first is an international political economy (IPE) theme, the second an economic theme and the third a domestic political economy (DPE) theme.

- |                                    |
|------------------------------------|
| 1. International Political Economy |
| 2. Economic                        |
| 3. Domestic Political Economy      |

**Table 13: Perspectives in the Literature**

The IPE theme questions whether trade remedy measures are correcting trade distorting actions of foreign firms and governments or simply providing a WTO compliant means of protecting inefficient domestic industry from import competition (Boltuck & Litan, 1992, Leidy, 1995, Lindsey, 1999, Lindsey & Ikenson, 2002, Lindsey & Ikenson, 2003). From the IPE perspective of trade remedy measures seems to contradict the promotion of price competition in domestic competition law and the free trade stance of WTO members. The literature in the economic theme investigates the externalities of using trade remedy measures at both the domestic and international levels of analysis. Economic analysis has shown that even the prospect of an trade remedy petition affects the decisions of foreign exporters (de Lima-Campos & Vito, 2004) and the flows of international trade (Bown & Crowley, 2004). Given these results it is worrying that industries which are granted protection also seem unable to capitalise on the measures they are granted (Hansen & Prusa, 1995), a fact which may be linked to a finding of this study that both absolute and relative respondent duty rates are important for understanding the perceived success of a case for individual firms.

Studies of the DPE of administering trade cases have four broad themes. The first is an attempt to identify and explaining any politically motivated bias in trade remedy decisions. The second looks to industry structure and behaviour models as explanations for industry rent seeking through the institutions of administrative protection. The third

theme is the use of “statutory models that seek to determine evidence of administrative or internal systemic bias” (Feaver & Wilson, 2004b; p.88). The final theme is a call for integrating the previous three themes into studies, to ensure that findings aren’t affected by missing variables. Feaver and Wilson (2004b) propose a six category administrative protection bias typology, see Table 14.

<b>Pressure</b>	<b>Bias Type</b>	<b>Characteristics</b>
<b>Political Supply Pressure</b>	1. Government Policy Bias	Evidence of political pressure by government to influence decisions to conform to government trade/commercial policy objectives.
	2. Political Lobby Bias	Evidence of political pressure by agents and arising from lobbying activity to elicit political support to protect industry related interests.
<b>Industry Demand Pressure</b>	3. Industry Capture Bias	Evidence of direct pressure by applicant industry leading to relationship with decision-maker to favour domestic applicant.
	4. Indirect Rent-Seeking Bias	Evidence of applicant industry behaviour and manipulation of process which increases the likelihood of a finding in its favour.
<b>Regulatory Process Bias</b>	5. Administrative Bias	Evidence of unintentional bias resulting from failure of the decision-maker to exercise administrative competence.
	6. Statutory Bias	Evidence that impartial application of law results in bias inherently favouring domestic applicants.

**Table 14: Feaver & Wilson (2004b) Administrative Protection Decision-making Bias Typology**

As the individual firms in both the US and foreign industries subject to a trade remedy investigation are affected in different manners by the outcome of a petition, they have an interest in trying to ensure they secure the policy outcome which is most in their favour. Feaver and Wilson’s (2004b) six category bias typology, see Table 14, is useful

as it incorporates all three types of influence, regulatory, political and industry, that might cause a duty to be put in place when it is not warranted. Relating this typology to the discussion in chapter 6, it is therefore possible to propose the following working propositions for potential types of bias;

WP 1: Political supply pressure in the prosecution of US trade cases is most likely to be in the form of political lobby bias in favour of US industries petitioning for protection.

WP 2: Industry demand pressure is most likely going to take the form of rent-seeking bias on the part of both petitioning and responding firms, as the nature of the US trade remedy institutions make industry capture bias problematic.

WP 3: Regulatory process bias is likely to be present in administrative bias favouring the petitioning firms.

WP 4: Regulatory process bias is likely to be present in statutory bias favouring the petitioning firms.

#### **7.4 Domestic Political Economy of Administered Protection in the United States of America**

The DOC and ITC institutions form the foundation for studies attempting to establish which factors most accurately predict trade remedy investigation outcomes in the US (DeVault, 2002, Hansen, 1990, Hansen & Prusa, 1997, Lenway, Jacobson, & Goldstein, 1990, Moore, 1992). Empirical research has thus far produced mixed results (DeVault, 2002). Some studies support a statutory explanation for trade remedy decisions (Anderson, 1993, Lenway, Jacobson, & Goldstein, 1990), others supporting congressional dominance (Goldstein, 1986, Hansen, 1990), and others produce mixed results for these two sources of influence (DeVault, 2002, Hansen & Prusa, 1997, Moore, 1992). Executive influence has been argued for (Goldstein, 1986, Lenway, Jacobson, & Goldstein, 1990) and both for and against (Goldstein & Lenway, 1989) in the case of safeguard measures. Finally some studies have found evidence of interest

groups having influence (Hansen, 1990, Herander & Pupp, 1991, Rehbein & Lenway, 1994), while others have argued that they do not (Goldstein, 1986).

Statutory bias has been tested by using variables established by the statutory requirements for trade remedy investigations by the ITC. These variables have included changes in industry employment, changes in industry capacity utilization, changes in production, changes in level of shipments, level of plant closures, changes in firm market share, changes in revenue and changes in industry profitability. Administrative bias has received some attention, especially with respect to the decisions determining dumping margins by the DOC (Blonigen, 2006a). The trade ideology of ITC commissioners has also been studied (Hansen, 1990, Mah, 2000a; p.1708) and evidence of Commissioners prior “affiliation with business and labour organizations and political party” (Brook, 2005) have been argued to influence their voting patterns. Government policy bias can be seen in the decision to move responsibility for making injury determinations to the ITC from the Treasury Department in 1980. This is regarded as an attempt by Congress to secure more positive determinations in trade cases. Domestic macro-economic variables used in studies have included national unemployment, inflation, the trade balance and real gross national product growth (Hansen, 1990). Political supply pressure is thought to be exercised through congressional oversight of the agencies activities, the process of establishing budgets and through the process of appointing committee members (Moore, 1992; p.451). While used for studying the Australian trade remedy institutions, Feaver and Wilson’s (Feaver & Wilson, 2004b, 2004c) taxonomy of variable types in the previous literature provides a useful summary of how previous research has approached identifying the three types of bias, see Table 15.

The CPA of petitioning industries or industry demand pressure as an explanation for trade remedy decisions has received some attention (Hansen & Prusa, 1997, Rehbein & Lenway, 1994). Corporate political influence has been measured using the testimony of chief executives, the quantity of legal counsel and political action committee contributions (PAC) to members of Congressional oversight committees. General industry characteristics such as size, concentration and degree of organization have also been used in a number of studies, to account for the ability of the industry to successfully petition for a trade remedy.

A Taxonomy of Variable Types	Variable Type		
	Political Pressure	Industry Pressure	Regulatory Pressure
Export Size	*		
Developing Country (DC)	*		
National Unemployment Rate	*		
Centrally Planned Economy	*		
Japan	*		
Industrialized Country (OECD)	*		
Newly Industrialized country (NIC)	*		
US Senate	*		
US House	*		
Level of Union Membership (Union)	*		
Quantitative Restrictions (QR)	*		
Employment (4-digit Industry)	*	*	
Employment (8-digit Industry)	*		*
Value-added	*	*	
Concentration		*	
Capital Stock / Intensity		*	
Value-added	*	*	
Average Wage	*	*	
Scale Economies		*	
No. Products		*	
Change in Total Import Sales		*	*
Nominal Wage		*	
No. Firms		*	
Turnover / Revenue			*
Profit			*
Change in Profit			*
Change in Domestic Sales			*
Import Market Share			*
Change in Import Market Share			*
Ratio of Imports to Total Consumption		*	*
Capacity Utilization			*
Change in Production		*	*
Profit / Sales Ratio			*
Dumping Margin			*
Change in Volume of Dumped Imports			*
Price / Cost Margin			*
Admin Threat	*		
Case Size	*	*	
Repeat Product		*	*
Repeat Case		*	*
FINAL Outcome Decision			*

Table 15: Feaver and Wilson's (2004) Taxonomy of Variable Types in Previous Literature

CPA has received far too little attention to date in light of the central role played by firms and their representatives in the process of prosecuting trade remedy cases. The use of proxies for firm / industry influence as is common in the literature is inadequate for this purpose. These proxies are aggregates of a potentially wide variety of factors, not all related to the nonmarket environment or the process of petitioning for a trade remedy. To fully appreciate the role of firms in the process of petitioning for protection it is necessary to identify the resources and capabilities that enable firms to engage in CPA and influence the outcome of trade remedy investigations. Greater understanding of the effectiveness of CPA resources and capabilities when prosecuting a trade remedy case will provide firms with an opportunity to engage in the process more effectively and efficiently and provide greater understanding of any biases in the petitioning process.

### 7.5 Developing a Firm Perspective of the Administrative Protection Process

Each of Feaver and Wilson’s (2004b) bias typologies is a potential perspective on the process of securing protection in the US. This study, originating from a business school and having identified a need for greater understanding of the influence of CPA on the outcomes of trade remedy petitions, takes a firm perspective of the trade remedy process. A firm perspective must give guidance on how the institutions of trade remedy measures are related to the other activities of the firm and the nature and purpose of CPA.

David Baron’s (1995a, 1995b) identifies internal and external environments of the firm and distinguishes between two types of external environment, the market and nonmarket. The internal *organizational environment* of the firm is host to the capabilities and competencies of a firm, which enable the firm to achieve competitive advantage. The *market environment* of the firm is the external ‘place’ where “[e]conomic exchange is

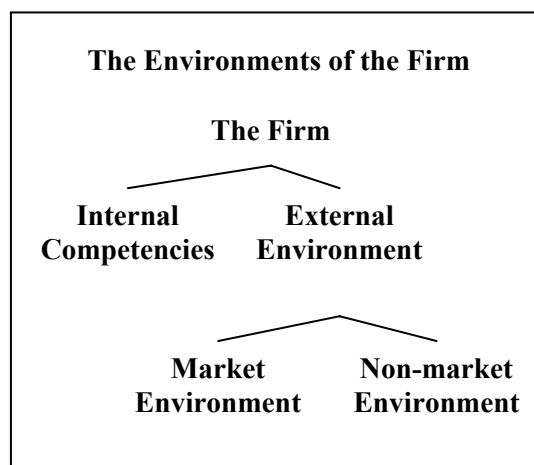


Figure 6: Subfields of Strategic Management  
Source: Baron (1995b)

organized in a system of property rights governed by a unanimity rule” (Baron, 1995b; p.74), where only parties to the exchange are enfranchised and actions are voluntary and produce private benefits. The *nonmarket environment*, is host to social, legal and political institutions which are “characterized by majority rule, due process, broad enfranchisement, collective action, and publicness, i.e. in full view of the public” (Baron, 1995b; p.74).

The nonmarket environment is characterised by the Four I’s: issues, institutions, interests, and information’ (Baron, 1995a; p.48). The four I’s can be defined as follows, *issues* are those things that nonmarket strategies address, such as increased import competition and petitions for trade remedy measure. *Institutions* are the rules of the game in society or, more formally, [they] “include any form of constraint that human beings devise to shape human interaction” (North, 2002; p.4). An example would be the procedures for petitioning for trade remedy and the subsequent investigation of the DOC and ITC. Baron (1995a) defines *interests* as those actors who have a preference about or stake in an issue, in trade remedy investigations these could include firms, government officials, politicians and foreign producers for example. While *information* “pertains to what the interested parties know or believe about the relation between actions and consequences [for an issue] and about the preferences and capabilities of the interested parties” (Baron, 1995a; p.48). An interest in a trade remedy petition might know that a foreign competitor is being subsidised or believe that the current political climate is conducive to support for domestic interests and therefore petition for a trade remedy measure.

<b>Baron’s Four I’s</b>
• Issues
• Institutions
• Interests
• Information

**Figure 7: Baron’s Four I’s**  
**Source: Baron (1995b)**

## **7.6 Conceptualising Corporate Political Activity**

Business is often recognised as a ‘special’ interest group, due to its central role in organising the economy and the large amount of resources which business interest possess. The political science literature has long recognised the importance of the relationship, Salamon and Siegfried (1977; p.1026) stated that “[f]ew questions are as important to an understanding of American democracy as the relationship between economic power and political influence”. The importance of the relationship also



continues to be recognised, with Research Committee 33 of the International Political Science Association recently sponsoring the publication of a book reviewing the nature of the relationship between business and government and noting that this relationship is “an increasingly important area of study in political science, particularly in western countries” (Coen & Grant, 2006).

Government decisions regarding the institutions of the market can have a significant impact on the competitive position of a firm and “[i]n many industries, the success of a business in Washington is no less important than business success in the marketplace” (Yoffie & Bergenstein, 1985; p.124). Equally the ongoing regulation of business activity by governments can have a significant effect on the competitive position of a firm or industry (Mitnick, 1981). The US steel industry’s success with trade remedy cases is often argued to be key to its continued survival. The greater the control that government exercises over the market environment, and the opportunities available to firms, the greater the value of political resources to firms (Baron, 1995a).

The use of regulation to raise rivals costs and create a cost advantage for a given firm has also been noted in the literature (McWilliams, Fleet, & Cory, 2002). The imposition of a tariff or local content requirements are examples of attempts to protect domestic industry by raising the costs of international rivals through the regulation of trade. Trade remedy cases, such as antidumping and countervailing duty cases, represent an opportunity for firms to influence an aspect of international trade over which governments have complete control, the tariff placed on a specific imported good. It should therefore be expected that firms facing import competition will be interested in using antidumping and countervailing duty policies to influence their competitive advantage in the marketplace. As the trade cases are administered by government agencies, the actions of firms are examples of CPA.

The CPA literature draws on a wide variety of disciplinary foundations, including political science, economics, sociology and management (Getz, 2002). Shaffer (1995) identifies two CPA theoretical perspective at the firm level of analysis: organizational theory and business political strategy. The main theme of organizational theory is that CPA is a means of domain maintenance or defence. He describes the level of analysis as firms, trade associations, coalitions and councils, at the micro level. The dependent

variable is the use of political activity or association as a buffer or bridge. The independent variables are environmental uncertainty and perceived threat to the firm's domain. For the business political strategy perspective, politics is seen as a dimension of competitive strategy. The theory operates at the level of the firm, industries, strategic groups and trade associations, again at the micro level. The dependent variable is the political position of the firm or group and independent variables include the impact of public policy on the industry and the firm's competitive position.

Getz (2002) identifies the behavioural theory of the firm and the business strategy theory as perspectives which look inside the firm for an explanation of firms engagement in CPA. "The behavioural theory of the firm is a theory of business decision making. ... Characteristics such as structure, resources, routines and history influence a firm's interpretation of and responses to environmental stimuli" (Getz, 2002). Those firms with greater levels of slack resources are believed to be better positioned to undertake CPA. Business strategy theory explicitly links a firm's nonmarket activities to firm performance. The business strategy theory "suggests that firms develop distinctive competencies that they can exploit in one or more settings so as to attain economic success" (Getz, 2002). There is a growing literature which argues that firms can develop distinctive nonmarket competencies and that these can be used with market competencies to develop an integrated firm strategy (Aggarwal, 2001, Baron, 1995a). The greater the control government has over the firm's market environment, the more important nonmarket competencies become for gaining competitive advantage. This study adopts the business-political (Shaffer, 1995) or business strategy (Getz, 2002) theoretical perspective.

This study will draw on the work of Hillman and Hitt (1999) and Hillman, Keim and Schuler (2004) as the foundation for a model of a business strategy perspective of CPA targeting the US trade remedy institutions. The business strategy perspective assumes a degree of choice on the part of business actors, the firm is not taken as a black box, firms are conceptualized as having the ability to make decisions with regard to their nonmarket strategies and tactics. The authors take an integrative view of the CPA literature and develop a model which includes antecedents of CPA, the types of CPA, how firms organize to implement CPA and the outcomes of CPA. Hillman, Keim and Schuler (2004) identify four types of antecedent for CPA, firm level, industry level,

issue specific and institutional factors. A number of the independent variables identified in the trade remedy literature are antecedents of CPA. This is unsurprising given that the trade remedy literature is attempting to model industry sources of influence in trade cases.

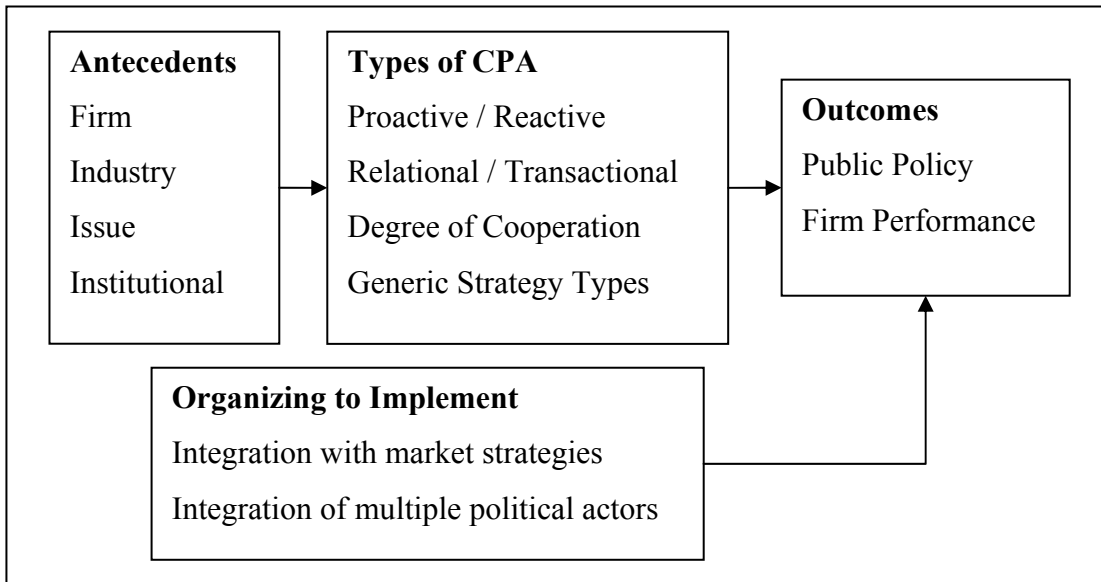


Figure 8: Hillman, Keim and Schuler's (2004) Integrative Model of CPA Literature

Hillman, Keim and Schuler (2004) identify two approaches to studying the decision making processes of firms. The first perspective, predominantly used by economist and political scientists “assume that the firm is a ‘black-box’ value maximizer and will *automatically* engage in CPA given certain firm characteristics” (Hillman, Keim, & Schuler, 2004; p.839) and can be seen in the trade remedy literature. While Management “scholars emphasize strategic choice and assume that managers *choose* to engage in political activity to enhance the value of the firm” (Hillman, Keim, & Schuler, 2004; p.839), this study adopts the later perspective. The resource-based view of the firm has started to make an impact in this second perspective. Keim (2001) argues that firms need to develop CPA resources which will enable a firm to achieve sustained competitive advantage. McWilliams, van Fleet, and Cory (2002) show how CPA affecting the formulation of industry regulation, can raise rivals’ costs and eliminating substitutes for a firm’s rare, valuable and costly to imitate capabilities, leading to sustained competitive advantage.

The industry-level studies of CPA look to industry structure, using measures such as firm concentration and industry size, as an indicator of an industry's ability to organize for CPA (Hillman, Keim, & Schuler, 2004). This is the classic 'collective action problem' originally expressed by Olson (1965), where firms may attempt to free-ride on the back of industry wide CPA if they believe they can get away with it. The nature of a public policy may encourage a firm to engage in CPA if an issue has a significant impact on the activities of the firm (Hillman, Keim, & Schuler, 2004, Schuler & Rehbein, 1997, Vogel, 1996). Alternatively a firm may decide not to undertake CPA if the degree of political competition related to a specific issues is too intense (Hillman, Keim, & Schuler, 2004). The specific nature of an issue and differences in the institutional environment, with respect to formal rules and informal cultural norms and values, can also affect the decision of a firm to pursue CPA (Hillman, Keim, & Schuler, 2004). This study will highlight the key aspects of the issues of dumping and subsidisation and the nature of the institutional environment for US antidumping and countervailing duty cases to contextualise the prosecuting firms CPA choices.

The second part of Hillman, Keim and Schuler's (2004) conceptual model is based on Hillman and Hitt's (1999) decision tree model of CPA and typology of political strategies and tactics. There are four choices to be made by the firm. 1) Should the firm be proactive in its CPA or reactionary? A proactive approach could include providing government decision makers with information, while a reactive position would be "tracking the development of legislation/regulation so to have compliance in place when passed and exceeding compliance levels for regulation" (Hillman, Keim, & Schuler, 2004; p.844).

WP 5: A proactive CPA strategy is likely to be more effective than a reactionary approach in US trade cases.

2) If a firm chooses to be proactive in its CPA, should the firm pursue a long term relational strategy or a more transactional approach? In a transactional approach to CPA firms formulate political strategy only in response to specific, salient issues, "awaiting the development of an important public policy issue before building a strategy to affect this issue" (Hillman & Hitt, 1999; p.828). In contrast, firms adopting a relational approach "attempt to build relationships across issues and over time so that when public

policy issues arise that affect their operations, the contacts and resources needed to influence this policy are already in place” (Hillman & Hitt, 1999; p.828).

WP 6: A relational approach to US trade cases can be expected to be more effective than a transactional approach.

3) Should the firm act alone or should it cooperate with other aligned interests? “Regardless of whether a firm decides to pursue a transactional approach or a relational approach, it may do so either alone or with others” (Hillman & Hitt, 1999; p.831).

WP 7: As US trade cases are brought by an US industry against a foreign industry, cooperative strategies can be expected to be more effective for firms.

4) Finally, a firm needs to decide on the combination of the three generic CPA strategies it wishes to use. The firm needs to decide when an “information strategy, seek[ing] to affect public policy by providing policy makers specific information about preferences for policy or policy positions and may involve providing information on the costs and benefits of different issue outcomes” (Aplin & Hegarty, 1980, Hillman & Hitt, 1999; p.834), is preferable. Under which conditions a financial incentive strategy directly targeting political decision makers “to influence public policy by directly aligning the incentives of the policy makers with the interests of the principals through financial inducements” (Hillman & Hitt, 1999; p.834) is likely to be effective. Finally, a firm may consider pursuing “a constituency-building strategy attempt[ing] to influence public policy by gaining support of individual voters and citizens, who, in turn, express their policy preferences to political decision makers” (Baysinger, Keim, & Zeithaml, 1985, Hillman & Hitt, 1999; p.834). Additionally an informational strategy for example may be preferable to a financial or constituency based strategy, for a given issue, but it is also possible for a firm to pursue a combination of the three strategies. Each of Hillman and Hitt’s (1999) generic strategies have associated CPA tactics, the primary examples of these are summarised in Table 16.

WP 8: The prosecution of US trade cases will on balance make use of a combination of informational and financial generic CPA strategies.

This typology of CPA strategies, see Table 16, is however rooted in the study of corporate engagement with the legislative institutions of a country and the findings of this study will later argue that these three generic strategies need to be adapted / revised to accommodate other forms of CPA, such as engagement with administrative processes of government, of which the prosecution of trade remedy cases in the US is an example. Firms prosecuting a trade remedy case draw on information, money and constituency based strategies during a case, the manner in which this is done is however different from the approach described above for targeting decision makers in a legislative environment.

<b>Strategy</b>	<b>Tactics</b>	<b>Characteristics</b>
<b>Information Strategy</b>	<ul style="list-style-type: none"> <li>• Lobbying</li> <li>• Commissioning research projects and reporting research results</li> <li>• Testifying as expert witnesses</li> <li>• Supplying position papers or technical reports</li> </ul>	Targets political decision makers by providing information
<b>Financial Incentive Strategy</b>	<ul style="list-style-type: none"> <li>• Contributions to politicians or party</li> <li>• Honoraria for speaking</li> <li>• Paid travel, etc.</li> <li>• Personal service (hiring people with political experience or having a firm member run for office)</li> </ul>	Targets political decision makers by providing financial incentives
<b>Constituency-building Strategy</b>	<ul style="list-style-type: none"> <li>• Grassroots mobilization of employees, suppliers, customers, etc.</li> <li>• Advocacy advertising</li> <li>• Public relations</li> <li>• Press conferences</li> <li>• Political education programs</li> </ul>	Targets political decision makers indirectly through constituent support

**Table 16: Hillman and Hitt's (1999) Taxonomy of Corporate Political Strategies**

Hillman, Keim and Schuler (2004) note a growing literature which argues that researchers need to look beyond the pivotal political institutions to the executive, judicial and other agencies as targets of CPA (de Figueiredo & de Figueiredo Jr., 2002, Holburn & Vanden Bergh, 2004). The institutions of trade remedy cases are an example of alternative arenas demanding attention. Finally, nonmarket and market strategies are

argued to be both complements to and substitutes for each other and “effective implementation of either form of strategy necessitates integration with the other” (Hillman, Keim, & Schuler, 2004).

WP 9: An integrated strategy will be more effective than pursuing only a nonmarket strategy.

There are two outcomes from CPA, a public policy and a firm performance outcome (Hillman, Keim, & Schuler, 2004). For the trade remedy process the public policy outcome is whether a tariff is imposed on the goods of a specific foreign producer’s goods entering the domestic market and the firm performance outcome is related to the financial performance of the firm. Does the tariff positively influence the financial performance of firms in an industry, which successfully petitions for trade remedy measure, and how does it affect the performance of the individual respondent firms?

### **7.7 A Resource-based View of Corporate Political Activity**

A number of authors in the preceding discussion have referred to the resource-based view (RBV) of the firm as part of their conceptualization of the firm. Baron (1995) discusses the assets and competencies of firms in the nonmarket environment and how these are related to the market environment and competitive advantage. Getz (2002) describes the capacity for rational action on the part of firms as the ability to develop distinctive competencies in non-market activities. The RBV is one of the two main strategic management perspectives for explaining firm performance, the first of which focuses on the firm’s market environment (Porter, 1980) and the second looking at the internal characteristics of the firm (Barney, 1991, Wernerfelt, 1989).

The central research question for the field of strategic management is “[w]hy do some firms persistently outperform others?” (Barney & Arian, 2001). The RBV of the firm has come to dominate the internal perspective of a firm’s competitiveness and looks to the resources, capabilities and competencies of the firm for an explanation of superior performance in the marketplace. This section introduces the RBV from the market oriented perspective, the literature which provides the origins of the RBV. The aim is to define the key concepts of the RBV approach adopted in this research, discuss the theoretical development of the field, make a distinction between the ability of firms to

earn economic rents and achieve sustained competitive advantage and consider the possibility of firms being able to draw on resources and capabilities which are external to the firm.

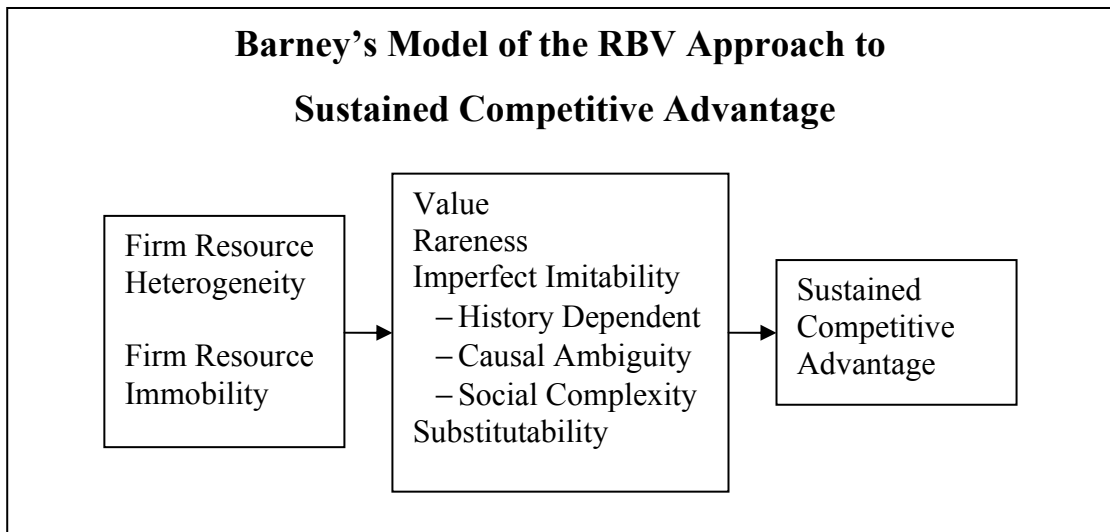
Barney & Arikan (2001; p.139) recognise that a number of typologies of tangible and intangible resources have been developed in “an attempt to suggest that different types of assets have different competitive effects for firms.” Resulting in a number of different terms being used in the literature, including “resources” (Galbraith & Galvin, 2004, Grant, 1991), “capabilities” (Barney & Arikan, 2001, Grant, 1991), “competencies” (Prahalad & Hamel, 1990, Stalk, Evans, & Shulman, 1992), “dynamic capabilities” (Eisenhardt & Martin, 2000, Teece, Pisano, & Shuen, 1997) and “knowledge” (Grant, 1996, Spender, 1996). A common typology for conceptualising the RBV distinguishes between those things which a firm “has”, resources / assets, and those things which a firm “does”, capabilities (Hall, 1993). Where “[t]angible resources include those factors containing an accounting value as recorded in the firm’s balance sheet. Intangible resources, include those factors that are non-physical (or non-financial) in nature and are rarely, if at all, included in the firm’s balance sheet” (Galbraith & Galvin, 2004; p.L2) and capabilities are those attributes of a firm that enable it to exploit its resources in implementing strategies (Barney & Arikan, 2001, Hitt, Ireland, & Hoskisson, 2001). Put another way, “[t]he capabilities of a firm are what it can do as a result of teams of resources working together” (Grant, 1991; p.120). The distinction between resources and capabilities is not always made in the literature, with resources being used to mean both things a firm ‘has’ and ‘does’, but this study adopts an approach which makes a distinction between the two.

The RBV builds on four main prior theoretical sources, “(1) the traditional study of distinctive competencies; (2) Richardian economics; (3) Penrosian economics; and (4) the study of the anti-trust implications of economics” (Barney & Arikan, 2001; p.125). The distinctive competencies literature looked to those attributes of a company which enable it to pursue a strategy more effectively and efficiently than its competitors. Richardian economics focuses on “higher-quality factors of production with inelastic supply” (Barney & Arikan, 2001; p.127), which allow firms to earn an economic rent as their supply cannot be increased in response to price changes. Edith Penrose in her highly regarded study of firm growth (Penrose, 1959) contributed to the RBV by



conceptualising the growth of the firm as limited “(1) by the productive opportunities that exist as a function of the bundle of productive resources controlled by a firm, and (2) the administrative framework used to coordinate the use of these resources” (Barney & Arikan, 2001; p.129). She is also credited with recognising the heterogeneity of resources controlled by different firms and adopting a much broader conceptualisation of what could be considered a productive resource (Barney & Arikan, 2001; p.129). Finally, Barney and Arikan (2001; p.130) link the development of the RBV to the study of antitrust regulations by economists. Arguing that questioning of the structure-conduct-performance (SCP) paradigm, which emerged from the social welfare perspective in the area of antitrust and was later used by Porter (1979) to develop his theory of superior firm performance, anticipated the RBV by arguing that industry structure was not the only determinant of firm performance (Barney & Arikan, 2001; p.130). Firms may outperform competitors due to luck or being more competent in serving customer needs for example, with (Demsetz, 1973) being cited as one of the earliest contributors from this literature (Barney & Arikan, 2001; p.130).

Three authors are typically cited as providing the founding articles of the RBV literature, Wernerfelt (1984) , Rumelt (1984) and Barney (1986). Wernerfelt (1984) is argued to have “attempted to develop a theory of competitive advantage based on resources a firm develops or acquires to implement a product market strategy” (Barney & Arikan, 2001; p.131). Rumelt described a strategic theory of the firm focusing on the ability of firms to generate and appropriate economic rents, he “defines firms as a bundle of productive resources and he suggests that the economic value of these resources will vary, depending on the context within which they are applied” (Barney & Arikan, 2001; p.132). Barney (1986) develops a “theory of persistent superior firm performance based on the attributes of the resources a firm controls” and “introduces the concept of strategic factor markets as the market where firms acquire or develop the resources they need to implement their product market strategies” (Barney & Arikan, 2001; p.133). The resource-based literature, after the first three papers identified above, “tends to focus either on developing/testing a theory of economic rents, or developing/testing a theory of competitive advantage” (Barney & Arikan, 2001; p.134).



**Figure 9: Barney's (1991) Model of the Resource-based View Approach to Sustained Competitive Advantage**

A “firm is said to have a *sustained competitive advantage* when it is implementing a value creating strategy not simultaneously being implemented by any current or potential competitors *and* when these other firms are unable to duplicate the benefits of this strategy” (Barney, 1991; p.102). Not all resources will give a firm a SCA, to have this potential Barney (1991) explains the resource must have four attributes. It must be valuable, rare, imperfectly imitable and there should be no strategically substitutable resources. A resource is valuable only when it enables strategies that improve firm efficiency and effectiveness. “The traditional ‘strengths-weaknesses-opportunities-threats’ model of firm performance suggests that firms are able to improve their performance only when their strategies exploit opportunities or neutralize threats” (Barney, 1991; p.106). A resource (or bundle of resources) is rare when it is not possessed by many competing firms (Barney, 1991). For a resource to give a firm a SCA it must however not only be valuable and rare, it must also be difficult to imitate or obtain (Barney, 1991). Three sources of resource imperfect imitability are historical dependence, causally ambiguity and social complexity (Barney, 1991).

It does not however follow that a firm will earn an economic rent if it has a SCA over rivals. A firm can enjoy SCA and earn economic rents when it is able to implement a value-creating strategy that uses “resources in ways that were not anticipated in the strategic factor market where [they] were acquired or developed” (Barney & Arkan,

2001; p.135). In perfectly competitive factor markets a firm may however achieve a SCA without earning an economic rent, because the price of acquiring or developing the resources “will reflect their [full] value in implementing a product market strategy” (Barney & Arikan, 2001; p.135).

The prosecution of a trade remedy case in the US requires firms to draw on both internal and external resources and capabilities for prosecuting a case successfully. The effective combination of these internal and external resources and capabilities is arguably central to the prosecution of trade cases and the theoretical framework for the thesis requires a way to analyse this contribution. To date studies from the competitive strategy literature on how firms are able to access and leverage resources and capabilities external to the firm typically address firm preferences for strategic alliances and / or mergers and acquisitions (Hagedoorn & Duysters, 2002, Shanley & Peteraf, 2004). Dahan (2005b; p.47) addresses this issue of whether resources are located inside or outside the boundary of the firm in the typology introduced below, providing a suitable approach for this study.

The business strategy perspectives identified by Shaffer (1995) and Getz (2002) recognise the importance of firm resources and capabilities and the ability of firms to develop or acquire distinctive nonmarket resources and capabilities. In the discussion of the RBV above, it was noted that studies in the competitive strategy literature typically seek to focus on either seeking to develop / test theories of economic rents or identifying strategies that could lead to firms achieving a sustained competitive advantage over competitors in the marketplace. Getz (2002) however questions if this perspective can explain firms’ motivations or strategy and tactic selection, see Table 17.

<b>The Contribution of Business Strategy Perspective to understanding and explaining...</b>	<b>...Motivation for Why Firms Participate</b>	<b>...Strategies and The Tactics Selected by Firms</b>	<b>...Capacity for Rational Action on the Part of Firms in CPA</b>	
<b>(Getz, 2002)</b>	<b>CPA</b>	No contribution.	?	Firms can develop distinctive competencies in non-market activities.
<b>(Barney, 1991)</b>	<b>Resource-based View of the Firm</b>	To achieve sustained competitive advantage.	Leverage those capabilities which are valuable, rare, imperfectly imitable and non-substitutable	Core competencies can give the firm a sustained competitive advantage.
<b>Synthesis</b>	<b>Resource-based View of CPA</b>	To improve competitive position in the marketplace.  To do this in the most efficient and effective way possible.	Firms select those strategies and tactics allowed by their resources in a given public policy arena.  Industries with firms which possess the best fit of CPA resources, given the institutional environment, will be most successful.  Some resources will enable more efficient CPA than others.  Firms can gain required capabilities from internal and external sources.	Firms can develop capabilities and distinctive competencies in non-market activities.

**Table 17: Contributions of a Resource-based View of Corporate Political Activity**

Trade remedy duty orders are a form of regulation and the firms prosecuting a trade remedy case can therefore be argued to be seeking to achieve a 'regulatory advantage', which can be defined as "a favourable state of public policies for a given firm" (Dahan, 2005b; p.43). This study argues that a business strategy perspective of CPA can explain the motivations of firms in terms of seeking a competitive advantage over rivals, specifically foreign competitors, as this regulation could potentially provide the firms with an opportunity to earn economic rents. Explaining firms' strategy and tactic selection in terms of the resources and capabilities available and needed by firms for prosecuting a case. Where firms select those strategies and tactics that enable them to most effectively and efficiently prosecute a case.

Two approaches for taking a RBV approach to studying this regulatory advantage have been adopted by authors in the CPA literature. In the first approach authors have sought to understand how firm resources and capabilities can be used in the pursuit of a nonmarket strategy to achieve a favourable public policy / regulatory outcome or regulatory advantage (Dahan, 2005a, 2005b). This study is within in this first approach, seeking to understand how firms prosecuting a US trade case use resources and capabilities to achieve their preferred regulatory outcome. A second approach has sought to understand how firms can use a specific public policy / regulatory outcome as a regulatory advantage over competitors in the market environment, "a means designed to achieve a higher goal, that of competitive advantage, and ultimately, superior economic performance" (Dahan, 2005a; p.11). In this second approach the regulatory advantage is considered to be a resource in its own right. While this study does not seek to study how petitioning firms are able to use a trade remedy measure as a regulatory advantage over foreign producers, exporters and US importers, understanding the effects of a duty order is necessary for understanding how firms prosecute a case.

This study does not attempt to identify CPA resources and capabilities with the intent of suggesting the prosecution of a trade case as a strategy for achieving sustained competitive advantage. The study rather seeks to understand how both petitioning and responding firms use CPA resources and capabilities to prosecute trade remedy cases in the US, why these resources and capabilities were used and asks to what degree firms are able to earn / avoid economic rents as a result of prosecuting a trade case.

<b>Political Resources</b>	<b>Comments</b>	<b>Purpose in Relationships with Public Decision Makers</b>
Expertise	Expertise can be gained in several separate areas: technical / technological, economic / managerial, social, environmental, legal, political / administrative.	Legitimation and influence
Financial Resource	It can be both a direct political resource (through campaign contributions) and an indirect resource (through the financing of other political resources).	Access and influence
Relational Resource	Including formal relations (e.g. the membership of a standard committee) and informal relations (interpersonal contacts with nonmarket actors).	Access
Organizational Resource	Either an internal resource (permanent office of representation, inhouse office of public affairs or regulatory monitoring, etc.) or an external resource (consultant under contract, offices of a trade association, etc.).	This resource is not valued by public decision makers and is only a support for other resources
Reputation with Other Non-market Actors	This concept is close to Yoffie and Bergenstein's (1985) 'political capital', which stresses the idea of accumulation over time. A useful distinction could be made between the individual reputation of the firm's leaders or advocates (e.g. chief executive officer, prominent lawyer, etc.) and the institutional reputation of the firm itself.	Influence
Public Image	This public image may be a moderating factor in the public decision makers' reactions to the firm's attempt at political influencing.	Legitimation
Support of stakeholders	The weight of this support is a positive function of the stakeholders' number, unity of interest and diversity of origins. This support may be more or less formally organized (from a simple petition or demonstration to the creation of an association), and more or less durable (ad hoc versus permanent coalition).	Legitimation and influence
Recreational Skill	I include all kinds of recreational services supplied to public decision makers and journalists in order to gain the opportunity for a more informal, personal and perhaps favourable contact. These services are diverse: restaurants, hotels, 'study' visits, trips by planes, helicopters, etc. (usually all free of charge).	Access

**Table 18: Nicolas Dahan's (2005) Typology of Political Resources**

**Source: (Dahan, 2005a, 2005b)**

Arguing that greater understanding of the CPA resources and capabilities used by firms to prosecute the cases will provide an increased understanding of the biases in the US trade remedy institutions and enable more effective and efficient prosecution of US trade cases in the future.

WP 10: Corporate political resource heterogeneity and immobility will enable some firms to prosecute US trade cases more effectively than other firms.

To be able to discuss trade cases from a RBV perspective, it is necessary to be able to describe the resources and capabilities used by firms. While a number of the RBV resource typologies developed in the competitive strategy literature could be used to this end and a variety of authors in the nonmarket strategy literature have sought to classify (corporate) political resources, a recent typology seeking to “synthesize the most frequent generic categories in the literature” (Dahan, 2005b; p.44) was selected for this study. This typology in seeking to address four aspects of earlier typologies, perceived by the author to be in need of improvement, accommodates a number of aspects of the process of prosecuting US trade cases that were not easily illuminated by earlier work. Dahan (2005b) argued that while the CPA literature has been aware of and seeking to conceptualise ‘political resources’ for some time (Dahan, 2005b), the conceptualisation of resources external to the firm, the imprecision about the areas of expertise required in CPA, the collective nature of some CPA resources and the organisation of events to “cement relationships with non-market actors” (Dahan, 2005b; p.46) needed to be further addressed.

By addressing the issue of whether a resource is developed internally by a firm, the development is externalised to a partner, or that some resources will always be external to the firm and the firm is never able to own them, only manipulate and channel them (Dahan, 2005b), the typology addresses the role of external experts in the prosecution of cases, a key aspect of the prosecution a trade cases. The specific nature of expertise a firm possess and can use in CPA will differ depending on the institutional environment the nonmarket activity is taking place and can be as diverse as technological, political, legal, social or environmental expertise for example. To understand how firms use expertise to strengthen a nonmarket strategy it is necessary to identify the specific expertise the firm is using to influence the nonmarket decision maker(s). Dahan’s

(2005b) concern with CPA resources being found at the firm and a collective level, is reflected in the co-operative nature of aspects of prosecuting trade cases, such as where significant amounts of sensitive firm data being shared to argue the injury case. The trade remedy process in the US does not exhibit explicit interaction between firms and decision makers, that would be in keeping with the fourth area addressed by Dahan, the need to include a recreational capability, but instances within the process of prosecuting trade cases do bring the parties together and there may be room for considering how this aspect of his typology is reflected in the prosecution of the cases.

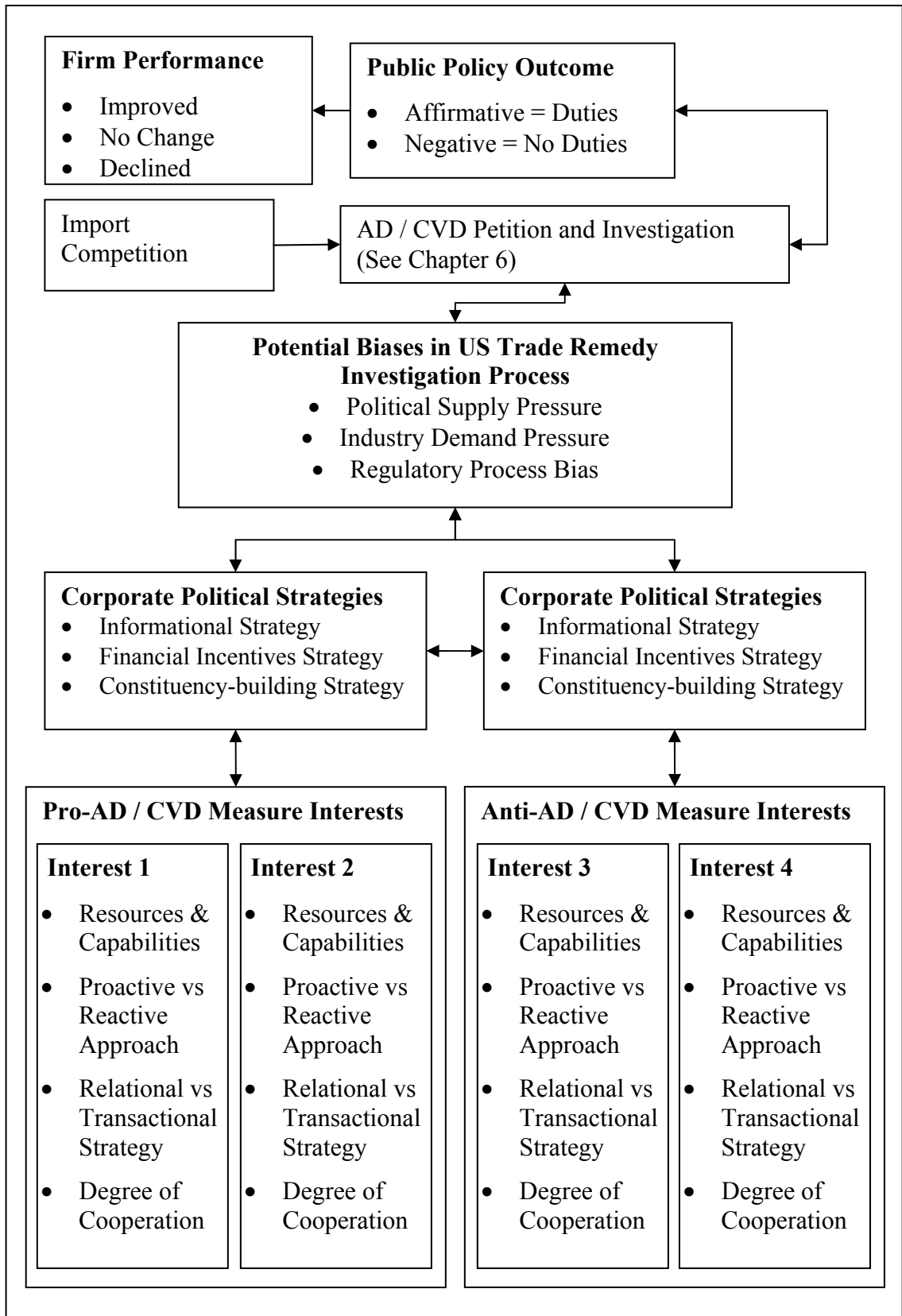
Dahan's (2005a, 2005b) typology of (corporate) political resources is argued to most naturally speak to the process of prosecuting trade remedy cases and is described in Table 18. The 'generic' nature of the typology is one of its greatest attractions, as it offers a way of providing broad findings which reflect the spirit of prosecuting the trade cases, while allowing space for specific aspects of the prosecution process to be discussed within the generic resources. This approach reflects a recent study by Newbert (2008), that studied the contribution of firm's resource-capability combinations to competitive advantage and firm performance. This space for discussing specifics within the generic resource categories of the typology will allow key resources both internally and externally to the firm and essential capabilities to be identified. It is this balancing act between the general and specific that has provided most difficulty when seeking to use some of the other typologies of resources and capabilities and prompted the search for an alternative framework. This tension emerges as a result of the institutional environment for prosecuting the cases and is reflected in the data collected for the study. Interviews often provide detailed descriptions of technical aspects of the cases as examples for explaining the nuanced nature of the broader process, while the documents collected at the DOC and ITC provide a large volume of textual information, which often provide a story from within a case that is illustrative of the nature of the prosecution of the cases, but again turn on a very specific technical / legal aspect. This nature of the data too easily resulted in the analysis getting caught up in the often technical nature of prosecuting the cases, leading to an analysis which identified resources and capabilities at a level of detail that lost the ability to convey the broader themes of concern for prosecuting firms. Dahan's (Dahan, 2005a, 2005b) typology was found to provide the flexibility required to achieve this goal.



## **7.8 Model of Corporate Political Activity in US Trade Remedy Cases**

The conceptual model for this study combines Feaver and Wilson's (2004a) bias typology, Hillman, Keim and Schuler's (2004) integrative model of the CPA literature and Hillman and Hitt's (1999) decision-tree model of political strategy formulation. Hillman, Keim and Schuler's (2004) integrative model of the CPA literature serves as the skeleton for the model. Their model is comprehensive moving from the antecedents to the outcomes of CPA. The context of import competition and firm responses by petitioning for or reacting to a trade remedy investigation is added. Feaver and Wilson (2004a) provide a typology for classifying the potential types of bias in US trade remedy investigations. Hillman and Hitt (1999) provide a typology of three generic CPA strategies. This typology includes financial, informational and constituency strategies, reflecting the broader CPA literature. Two types of interest group are included, those for and those against an affirmative decision in the trade remedy case. These models consider more than just the firm perspective of petitioning for a trade remedy case, providing reminders to the researcher that the context of firm decisions is important for understanding the use of CPA resources and capabilities.

Drawing on Hillman and Hitt's (1999) decision-tree model of political strategy formulation, each interest has a preference for proactive or reactive engagement with the nonmarket environment, a preference for or against cooperation and a preference for a certain level participation to influence the outcome of a trade case. To these preferences is added the certain CPA resources and capabilities which each interest has access to for prosecuting the case. How and why the individual firms and interest groups use the resources and capabilities they possess when prosecuting a trade case will show where these interests thought they could exercise most influence given their resources and capability and overall strategy for dealing with the trade remedy case.



**Figure 10: Conceptual Model of Resource-based View of Corporate Political Activity to Influence the Administrative Protection Process in the United States of America**

Having drawn on these authors work to develop the conceptual model for the study it is necessary to explicitly state how this study conceptualises the constituent aspects of the model. In keeping with Feaver and Wilson (2004b), political supply pressure is present when government uses political pressure to influence decisions at the DOC and ITC to conform to preferred government policy objectives or when political support to protect an industry, as a result of pressure group activity, influences the outcome of a case.

Industry demand pressure in a trade case can be defined as instances of an US industry either using their relationship with the DOC and ITC to influence the outcome of a case or where either the petitioning or responding interests are able to use and manipulate the process of prosecuting a case so that it is more likely that the DOC or ITC will find in their favour. Final regulatory process bias in trade cases can be defined as instances where the failure of the DOC or ITC to exercise administrative competence or the impartial application of the trade laws and regulations for dumping and subsidisation cases inherently favour some interests over others, giving them a more favourable outcome.

The definitions for the three generic corporate political strategies are defined by drawing on Hillman and Hitt's (1999) taxonomy. An informational strategy for prosecuting a trade case will seek to influence the decisions of the DOC and ITC by providing them with information the information they request in a manner that favours the firm supplying the information. A financial incentives strategy will seek to influence the outcome of a case by using financial resources to ensure that interests are able to fully prosecute a case, by for example retaining external trade attorneys and economic consultants. While a constituency-building strategy can be defined as the use of other interested parties to show support or opposition to the trade case.

With respect to the conceptualisation of individual firms' CPA strategies, resources are defined as those tangible and intangible things that firms have and capabilities are those things that firms are able to do as a result of bundling the resources and capabilities a firm has available to it. A proactive approach to prosecuting an US trade case is defined as firms providing the DOC and ITC with information, while a reactive approach is defined as firms not taking part in the case but preparing for the potential consequence of the outcome of a case. A relational approach to prosecuting these cases would be

where a firm has an ongoing relationship with legal counsel and other experts in preparation for prosecuting future cases. A transactional approach would see firms taking no action until a case is pursued / expected and then deciding to prosecute the case. The degree of cooperation refers to the preference of individual firms for prosecuting a case or aspects of a case with other firms or on its own.

## **7.9 Conclusion**

This chapter has developed a conceptual model for understanding how firms prosecute trade remedy cases in the US, adopting a resource-based view to explain why some firms may be more effective at this than other firms. Three literatures contributed to the development of the model. Firstly the literature on trade remedy measures, secondly the CPA literature and final the RBV literature. The conceptual model is designed to explain firm CPA in a specific context, in this case the conceptual model will be used to explain firm prosecution of the trade remedy process in the US as modelled in chapter 6. Before this model can however be used to understand the interview data and case materials collected in this study, the next chapter will explain the research strategy adopted for the study.



## 8 Research Strategy and Design for Study

*“In the social sciences there is only interpretation.”*

Norman K. Denzin (1994; p.500)

This chapter has four parts and addresses the issues considered important to conducting a high quality piece of research. The logic for the chapter is to move from the questions being asked, to the way in which it is believed that the world can be understood; the inquiry paradigm, followed by an explanation of the research strategy chosen to answer the research questions, given the inquiry paradigm adopted, concluding with an explanation of the research design for collecting and analysing the data required to answer the research questions.

The early introduction of the study’s research questions is intended to allow the remainder of the chapter to be read with these questions in mind. The specification of the research question is included as part of a study’s research design and this section is therefore brief, with greater attention being paid to the evolution of the research questions as part of the study’s research design. The inquiry paradigm is a statement of how the nature of reality is conceived, how researchers can get to know this reality and the knowledge claims that can legitimately be made given these beliefs. An interpretivist research paradigm is adopted for this study and this choice influences a number of important aspects of a study, such as the appropriate methods for data collection and analysis. The research paradigm is discussed at the beginning of the chapter to frame the choice of research strategy and the subsequent research design adopted. The study uses a multiple-case study research strategy for understanding how firms prosecute trade remedy cases in the US. The advantages and disadvantages of a multiple-case study strategy are discussed to show its appropriateness given the study’s research questions and paradigm. Having identified the questions being answered, how it is believed the world should be understood and the preferred strategy for doing so, the chapter concludes by discussing the research design adopted to link the data collection and analysis to the original research question for this study (Yin, 2003).

## **8.1 The Research Question**

There is a risk that the researcher could become overwhelmed by the volume of data collected in fieldwork. By specifying research questions it is possible to give the study some focus. Eisenhardt (2002) however argues that the research questions should remain tentative and the researcher should remain open to shifts in the research focus. The evolution of the study's research question is discussed as part of the research design. The original research question for this study was as follows:

- 1) How do different corporate political resources and capabilities influence the decision of the DOC's International Trade Administration and the ITC to grant an industry administrative protection in the US?

During the course of conducting the fieldwork for the study, the research question became more focused on trade cases and also broader in scope by adopting the integrated strategy approach looking at the role of all firm resources and capabilities in the prosecution of cases in the US:

- 2) How do the resources and capabilities available to firms influence the prosecution of antidumping and countervailing duty cases in the US?

The final research question which emerged from analysis of the data collected during the fieldwork and has been adopted for this thesis is as follows:

- 3) Why are some firms able to more successfully prosecute antidumping and countervailing duty cases in the United States of America?

## **8.2 Adoption of an Interpretivist Inquiry Paradigm**

The different positions on the nature of reality, how we as researchers can get to know this reality and the knowledge claims we can legitimately make are called inquiry paradigms. The research paradigm adopted for a particular piece of enquiry determines important aspects of a study, such as the appropriate methods for data collection and analysis. By adopting an interpretivist perspective, this study argues that the process of prosecuting trade cases is best understood through the experiences of the actors involved in the process. Their interpretations of the nature of the process will allow

resources and capabilities of value for successfully prosecuting trade cases in the US to be identified and highlight any potential instances of influence or sources of bias in the outcomes of US trade cases.

An inquiry paradigm defines, “what it is [researchers] are about, and what falls within and outside the limits of legitimate inquiry” (Guba & Lincoln, 1994; p.108). Three broad approaches to social science research are recognised, the interpretivist, positivist and critical perspectives (Sarantakos, 1998) and there are three main parts to an enquiry paradigm, its ontology, epistemology and methodology (Guba & Lincoln, 1994). Burrell and Morgan (1979) identify a fourth assumption, human nature, but this has not been widely adopted. For the purposes of this study only the three standard sets of assumptions will be discussed. The positivist, critical and interpretivist approaches are compared to show how the findings of this study should be understood and evaluated.

A study’s ontological position describes “the form and nature of reality and, therefore, what is there that can be known about it” (Guba & Lincoln, 1994; p.108). A positivist perspective takes an objective position regarding the phenomenon being studied. The phenomenon has an objective reality, external to and independent of the actors associated with it (Bryman, 2004) and independent of influence by the researcher. This is the more traditional ontological position in social sciences, largely adopted from the physical sciences, and argues for value-free science carried out by an independent observer (Easterby-Smith, Thorpe, & Lowe, 1993). The critical perspective distinguishes between ‘appearance and reality’ and while recognising the subjective nature of reality also believes that objective relations cannot be denied. Human beings are seen having “great potential for creativity and adjustment. They are, however, restricted and oppressed by social factors and conditions and exploited by their fellow man” (Sarantakos, 1998; p.37).

The interpretivist perspective, adopted in this study, argues that reality is socially constructed on an ongoing basis as actors interpret their experiences and reflect on their understandings of these experiences. This approach to social science does not recognise any ‘real’ structure to the world external to the cognition of the individual. Instead the phenomenon being studied is argued to be ‘constructed’ through the interaction of actors and is continually being revised by actors (Bryman, 2004). Actors create the



social world by assigning meanings to events, therefore there are a number of different 'realities' or interpretations of the phenomenon, each actor interpreting their experience of the phenomenon in an idiosyncratic manner. The researcher is not seen as independent of the phenomenon and the resulting findings are not value free or value neutral (Sarantakos, 1998).

A study's epistemology is an articulation of how a researcher believes "one might begin to understand the world and communicate this knowledge to fellow human beings" (Burrell & Morgan, 1979; p.1). The positivist perspective places great emphasis on deducting a hypothesis from theory and then empirically testing it in an attempt to confirm it or show the need for modification of the theory (Saunders, Lewis, & Thornhill, 1997). This approach is associated with quantitative methods, measurement and inferential statistics. Positivist research aims "to identify causal explanations and fundamental laws that explain regularities in human social behaviour" (Saunders, Lewis, & Thornhill, 1997; p.71). Because generalization is central to the positivist paradigm, there is a need for large samples with this approach.

Critical theorists believe that the researcher is engaged with their subject and there is an assumption of involvement and activism. "[C]ritical science sees in social research the goals of removing false beliefs and ideas about society and social reality, ... and is critical of the power systems and inequality structures that dominate and oppress people in societies" (Sarantakos, 1998; p.39). The aim is not only to understand and explain, but also to change or enable change by highlighting the oppressive structures in society.

The interpretivist research paradigm adopted in this study places emphasis on understanding and explaining the meanings attached to and interpretations of the phenomenon as experienced by actors. An interpretivist study is an interpretation, by the researcher, of the reality as experienced by actors. General laws are not recognised or searched for, instead "subjective meanings, patterns and regularities of behaviour [are believed to] emerge as a result of social conventions, established through interaction" (Sarantakos, 1998; p.37). The epistemological approach is inductive, "proceeding from the specific to the general and from the concrete to the abstract" (Sarantakos, 1998; p.38).

The methodological position, constrained by ontological and epistemological assumptions, addresses how research should be conducted to generate the type of knowledge claim associated with a research paradigm (Burrell & Morgan, 1979, Guba & Lincoln, 1994). When adopting an interpretivist perspective, there is a need for the researcher to engage with the actors involved in the phenomena being studied and to enable the researcher to study the distinctive character of the context within which actors form their interpretations of the phenomena being studied (Nandhakumar & Jones, 1997). Both quantitative and qualitative methods are valid for interpretivist studies, as long as the results of the methods are seen “as products of the respondents’ interpretations of their situation” (Nandhakumar & Jones, 1997; p.111).

Within the positivist research paradigm the quality of research is evaluated using the criteria of reliability, replication and validity (Bryman, 2001). Reliability is concerned with whether the results of a study can be repeated when using the same operations as the first study (Bryman, 2001, Yin, 2003). Replication refers to the degree to which the procedures for conducting a study have been made clear, a study meets the criteria for replication if the procedures used to collect and analyse data are stated in enough detail for the research to be replicated (Bryman, 2001). Three types of validity are generally raised as important for high quality research, construct, internal and external validity. Construct validity emphasises the need to ensure a measure accurately represents the concept being studied (Bryman, 2001, Yin, 2003). Internal validity addresses the degree to which one can be sure that a causal relationship between two variables is valid. A third unknown variable affecting the relationship between two variables for example is a threat to internal validity (Bryman, 2001, Yin, 2003). External validity is concerned with generalisability. Positivist studies rely on statistical generalization to enable generalization from a sample to a larger universe (Yin, 2003). Yin (2003) argues these criteria to be common to all social science methods. But the direct use of these criteria in interpretivist work has been questioned and it has been argued that an interpretivist approach should be evaluated using different criteria (Lincoln & Guba, 1985, Seale, 1999). Easterby-Smith, Thorpe and Lowe (1993; p.40) articulate an approach that claims that “provided the researcher is committed to providing faithful descriptions of others’ understandings and perceptions, then ideas such as validity and reliability can provide a very useful discipline” within the interpretivist paradigm.

The concept of trustworthiness has been proposed as an alternative to the positivist criteria for evaluating research (Bryman, 2004, Lincoln & Guba, 1985). The concept is developed to parallel the four criteria for positivist research, see Table 19.

<b>Positivist</b>	<b>Interpretivist</b>
Internal Validity	Credibility
External Validity	Transferability
Reliability	Dependability
Objectivity	Conformability

**Table 19: Comparing the Positivist and Interpretivist Criteria for Evaluating Research**

Credibility requires the researcher to consider how believable the research

findings are, transferability asks to what degree the findings can be applied to other contexts, dependability addresses the time aspect of research and how likely the findings are to apply at another time and finally conformability asks to what degree has the researcher allowed his or her values to influence the findings (Bryman, 2004).

The multiple-case study strategy adopted in this study uses Yin (2003) as a significant contributor to the research design, but the analysis of data and the spirit in which the study is written tends towards an approach that reflects the use of the concept of credibility and Easterby-Smith, Thorpe and Lowe’s idea of “providing faithful descriptions of others’ understandings and perceptions” (1993; p.40). A further aspect of the study that may not be considered common to interpretivist approaches to research design is the development of working propositions to inform the fieldwork for the study and help structure the discussion of findings in the study. It is important that the reader be aware that these working propositions, while resembling hypotheses common in positivist research, are not being established with the intent of seeking to prove or disprove their ‘truth’. The aim is not to establish causal relations with the goal of being able to then predict outcomes; the working propositions are instead being used as guides and reminders during the fieldwork phase and writing of the thesis as to the focus of the research. The use of the working propositions therefore also contributes to the credibility and transferability of the research findings, by showing how assumptions based on the existing literature compare to the findings of the study and facilitating the duplication of the study in the future.

### **8.3 Previous Research Approaches in Related Fields**

Previous research informs a new study not only with respect to what has been learnt about the phenomena been addressed, but also with respect to the manner in which that research has been conducted. Reviewing the inquiry paradigms in previous enquiries provides an opportunity to ensure as strong a research design as possible and contextualises this study's contribution to knowledge.

Research into the role of corporate interests in petitions for trade remedy measures, addressed by the first four working propositions of this study, has predominantly adopted a positivist approach (Anderson, 1993, DeVault, 1993, 2002, Feaver & Wilson, 2004c, Finger, Hall, & Nelson, 1982, Goldstein & Lenway, 1989, Hansen, 1990, Hansen & Prusa, 1997, Leidy, 1997, Moore, 1992, Rehbein & Lenway, 1994). These studies have used large samples to test models, representing different types of influence, for their predictive powers regarding the outcome of trade remedy petitions. This approach does not attempt to understand the potential influences on and biases in the process of petitioning for trade remedy measure, the aim is to show causation. The proxies typically used to represent industry influence, such as firm size, are aggregates of a number of factors besides a firm's CPA resources and capabilities. While these measures are satisfactory for a first take on the phenomenon, providing guidance on what could be important, there is a need to understand the role of industry pressure in more depth. Just because a firm employs a great number of people does not mean it will be able to influence the outcome of a petition. There may be a firm with far fewer employees opposing the petition, but which has a long term relationship with key actors and thus has more influence than the first firm on the outcome of a petition. The distinction between these two approaches is in their research philosophies. What is the nature of the phenomenon being studied, how should this phenomenon be studied and what type of knowledge can be claimed with the different enquiry paradigms.

The CPA literature, which provides the foundation for working propositions five to nine, includes approaches founded on both positivist and interpretivist approaches. A positivist approach was adopted by Shaffer, Quasney and Grimm (2000) in their structured content analysis, to test an integrated model of firms' CPA and market strategies in relation to firm performance for US international airlines providing

services on North Atlantic routes. A multivariate approach was adopted to study the factors which determine whether “a firm will engage in lobbying and contribute to political campaigns, two political responses that may be related” (Schuler, Rehbein, & Cramer, 2002). Meznar and Nigh (1995) also adopted a positivist approach in their study of environmental and organisational determinants of public affairs activity in American firms. Positivist methods have also been used in case studies of specific events, such as deregulation of the airline industry (Banker, Das, & Ou, 1997) and corporate political activity in the US steel industry in response to foreign competition (Schuler, 1996).

Studies taking a more interpretivist approach include Yoffie and Bergenstein’s (1985) study of corporate political activity by MCI and American Express, Thacker’s (2000) study of the role of the Mexican business community in trade policy formation and implementation. Further examples of interpretivist studies, which adopted a case study approach include, Nakagawa’s (2001) analysis of European software firms’ market and nonmarket strategies, with an embedded unit of analysis focusing on SAP’s integrated strategy for enterprise resource application software. A multiple case study of political representation in concentrated industries, testing Olsonian hypothesis about collective action, was designed as a direct response to critiques of previous quantitative studies of the theory (Hart, 2003). The interpretivist approach to studies of CPA often uses a case study research design and has done so from very early on in the field’s history (Bykerk, 1992, Dalton, 1936).

The RBV theory, the supporting research area for working proposition ten, has been tested empirically in a number of literatures, including strategic management, human resources, marketing, entrepreneurship, management and information systems, operations management, and technology and innovation management (Barney & Arian, 2001). The strategic management literature has conducted the most empirical tests of resource-based logic, testing assertions of the theory, including industry versus firm effects on firm performance, the effect of resources and capabilities on firm performance, the role of resources and capabilities as sources of advantage in corporate diversification strategies, the role of resources and capabilities on international strategies, the role of resources and capabilities on the performance of strategic alliances and how firm resources and capabilities can enable a firm to achieve sustained

competitive advantage and earn economic rents (Barney & Arikan, 2001; p.146 and 170-171). The article by Barney and Arikan (2001) prompted Newbert (2007) to conduct an alternative analysis of the RBV literature to determine the empirical support for the theory. Newbert (2007; p.121) questioned Barney and Arikan's (2001) approach of simply "seek[ing]" to identify articles that have reported some empirical results in support of the RBV" and raise a concern over potential selection bias in the 166 articles discussed by Barney and Arikan (2001). Five general findings are made regarding support for the RBV approach. Despite considerable attention in the literature Newbert (2007) finds only marginal support for the approach, with only 53% of tests assessed receiving empirical support. This is however "similar to levels of support found in other theories of strategic management" (Newbert, 2007; p.136). Considerable variation was found to exist "regarding the level of support both across and within the theoretical approaches tested" (Newbert, 2007; p.136). Tests of the RBV have operationalised various independent variables in a number of ways. "Of the 417 (76%) tests in which a specific resource, capability, or core competence serves as the independent variable, 26 different resources, 32 different capabilities, and six different core competencies are studied" and this is similar for operationalisation of inimitability (Newbert, 2007; p.138). Finally tests of the RBV have begun to embrace a variety theoretical approaches and "empirical work seems to largely focused on early incarnations of the RBV" (Newbert, 2007; p.140) based on resource heterogeneity. More recently authors have been arguing that the possession valuable, rare, inimitable, non-substitutable resources are necessary but insufficient for explaining a firm competitive position, these resources need to be "paired with an appropriate dynamic capability or organizing context" (Newbert, 2007; p.140).

#### **8.4 Selection of the Multiple-Case Study Research Strategy**

Yin (2003) identifies five main research strategies and three criteria against which to measure their appropriateness. The strategies are experiment, survey, archival analysis, history and case study and the three criteria are the type of research question, the degree of control the researcher has over the phenomenon and whether the research focuses on historic or contemporary events, see Table 20. Yin (2003) argues that the research strategy adopted is in large part determined by the question being asked in a specific study. The primary research question for this study is:

Why are some firms able to more successfully prosecute antidumping and countervailing duty cases in the United States of America?

Yin (2003; p.5) recommends three research strategies for answering “how” and “why” questions, an experiment, history or case study. The experiment design is not appropriate for this study as it requires control of the behavioural events by the researcher and this is not possible for cases. The history is also not appropriate, as it does not focus on contemporary events. This leaves a case study strategy as the most suitable research strategy for this study. The five research strategies identified above are only a selection and there are a number of other well established strategies in the social sciences. These include ethnographic studies, participant observation, grounded theory and case studies. These approaches can be categorised in terms of the degree of emersion on the part of the researcher in the phenomenon being studied. The multiple-case study approach was selected not only because it was appropriate for the type of research question, but because it allows a significant emergence of the researcher in the context of the phenomenon, but provides a number of answer to common criticism of the single case study approach.

<b>Strategy</b>	<b>Form of Research Question</b>	<b>Requires Control of Behavioural Events?</b>	<b>Focuses on Contemporary Events?</b>
<b>Experiment</b>	how, why?	Yes	Yes
<b>Survey</b>	who, what, where, how many, how much?	No	Yes
<b>Archival Analysis</b>	who, what, where, how many, how much?	No	Yes/No
<b>History</b>	how, why?	No	No
<b>Case Study</b>	how, why?	No	Yes

**Table 20: Relevant Situations for Different Research Strategies**

**Source:** Yin (2003; p.5) citing the COSMOS Corporation as the original source.

### **8.4.1 Approaches to Case Study Research**

A multiple-case study design with embedded units of analysis was adopted for this study. The nature of the multiple case study design allows the researcher to get close to subjects, appreciate the context of the phenomenon and addresses a number of criticisms of the interpretivist approach to research.

Robert Stake (1995, 2006) and Robert Yin (Yin, 2003) are two of the most often cited authors for developing a case study projects. Stake argues that a case study is “both a process of enquiry about the case and the product of that enquiry” that focuses on an object of study that is “a specific, unique, bounded system” (Stake, 2000; p.436). Yin defines a case study as “an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident. ... The case study inquiry copes with a technically distinctive situation in which there will be many more variables of interest than data points, and as one result, relies on multiple sources of evidence, with data needing to converge in a triangulating fashion, and as another result benefits from the prior development of theoretical propositions to guide data collection and analysis” (Yin, 2003; p.13-14).

Stake (1995, 2000) focuses on the single case study, but identifies three types of case study based on the degree to which the study is focused on a particular single case. An intrinsic case study is undertaken to better understand one particular case, because the researcher is interested in that specific case first and foremost (Stake, 2000). In an instrumental case study, a particular case is studied “mainly to provide insight into an issue or to redraw a generalisation” (Stake, 2000; p.437). Finally, a collective case study seeks to investigate “a number of cases in order to investigate a phenomenon, population, or general condition” and is an “instrumental study extended to several cases” (Stake, 2000; p.437).

Yin (2003) argues that case studies can be designed as single case and multiple case studies. Each case can have single or multiple units of analysis embedded in it, depending on whether the case is a holistic or embedded design, respectively, and the boundary between a case and its context will rarely be clear (Yin, 2003). The single case is argued to be appropriate when studying a critical, extreme / unique,



representative / typical, a revelatory or longitudinal case (Yin, 2003). Multiple case studies follow a replication logic, with each case being carefully selected so that it (a) predicts similar results (a literal replication) or (b) predicts contrasting results for predictable reasons (a theoretical replication)” (Yin, 2003; p.47).

All three of the literatures in the conceptual background of this study have examples of calls for more engaged scholarship or specifically for case studies to improve the depth of knowledge in the respective fields. Pietro S. Nivola (1993) argues that case studies which distinguishes trade remedy cases according to political sensitivity may provide a better way of identifying political influence in trade remedy investigations. Goldstein and Lenway (1989) suggest that a series of case studies could possibly shed light on some of their unanswered questions regarding the relationship between the ITC and Congress. By observation of day-to-day decision making by the ITC commissioners, the ITC’s bureaucratic organization and the impacts of Congress, “one could bring into view the norms of the Commissioners and their staff” (Goldstein & Lenway, 1989; p.324). This could explain the degree of ITC Commissioners responsiveness to Congressional influence and to what degree Congress does not want the ITC to allow it to influence investigations, insulating Congress from constituent pressures for protection. The call for a case study approach, to further understand the importance of Congressional influence in safeguard investigations, is repeated in Lenway, Jacobson and Goldstein (1990).

The case study has been used in highly regarded studies in political economy (Schattschneider, 1935) and political science (Dahl, 1961, Wildavsky, 1962). Within the field of CPA examples of the use of the case study approach are a study of the sugar industry in the US (Dalton, 1936) and the attempts of Eastman Kodak Company to gain access to Fuji Photo Film Company’s home market in Japan (Baron, 1997). The case study approach has also been used in studies adopting the resource-based view of the firm. Woiceshyn and Daellenbach (2005) asked why some firms fare better than others when adopting new technologies. Mort and Weerawardena (2006) seek to identify “the role and characteristics of the entrepreneurial owner/manager and the development of networking capability over time.” Marino (1996) describes the “experiences of three management teams, each seeking a shared understanding of the core capabilities at their disposal” and comments on the process the teams went through.

## 8.5 The Research Design Adopted for the Study

A study's research design is not simply a review of the methods of data collection, it is a broader concept which provides a structure for guiding both data collection and analysis (Bryman, 2001, Easterby-Smith, Thorpe, & Lowe, 1993). There are five components of a case study design that are especially important, a study's questions, its propositions, the units of analysis, the logic linking the data to the propositions and the criteria for interpreting the findings (Yin, 2003; p.19).

The final research question(s) adopted for this thesis are as follows:

- 1) Why are some firms able to more successfully prosecute antidumping and countervailing duty cases in the United States of America?

This primary question was expanded with the following sub-questions, which helped guide the final analysis of the thesis:

- a) How did firms prosecute the five cases in this study?

Working propositions one to nine are largely concerned with providing greater details to this sub-question, from a trade remedy and broader CPA perspective.

- b) Why could some firms in the five cases be argued to have been more successful than other firms at prosecuting a case?
- c) Can the relative success of firms in these cases be explained using the resource based view of the firm?
- d) Why could a firm's access to certain resources and capabilities enable it to more successfully prosecute a case?

Working proposition ten is concerned with providing greater details to sub-questions b, c and d, by inclusion of the resource-based view of the firm into the conceptual model of the study.

In addition to the research question that has been specified, this study is based on eight propositions, which are broader in focus than the working propositions already discussed. These propositions draw attention to key components of the study, detailing the focus of the research question and giving clearer direction to fieldwork and analysis (Yin, 2003).

1. The world we study is socially constructed by actors through the meanings they ascribe to their every day experiences.
2. To understand this socially constructed world and the phenomenon of interest it is necessary to understand the interpretations individuals ascribe to their daily experiences.
3. Firms are heterogeneous in the resources and capabilities which they have access to for prosecuting antidumping and countervailing cases.
4. Resources and capabilities may not be perfectly mobile across corporate interests.
5. Some resources and capabilities may be more effective at influencing the decisions of the DOC and ITC than others.
6. Some resources and capabilities may be more costly than others to use when petitioning the DOC and ITC.
7. Greater understanding of the types of resources and capabilities used to petition the DOC and ITC will highlight the potential biases in the process of prosecuting antidumping and countervailing cases in the US.
8. Greater understanding of the types of resources and capabilities used to prosecuting antidumping and countervailing cases will allow more effective and efficient participation by firms in both petitioning and responding industries in the US system.

There are main and embedded units of analysis in this study. The main unit of analysis can be identified by asking to what phenomenon the findings of this research will be

generalized. In the case of this study the answer is firm prosecution of antidumping and countervailing cases in the US. An embedded unit of analysis is a subunit in a case which is also given attention in a study (Yin, 2003). The embedded units of analysis in the cases in this study will be the different types of corporate interests possessing the CPA resources and capabilities used to petition for trade remedy.

There are five cases which are included in this study. Two types of trade remedies, antidumping and countervailing duty measures are addressed in this study. For both antidumping and countervailing duty petitions there are two potential outcomes, the petition could be accepted by the DOC and ITC or their petition could be turned down by either the DOC or ITC.

<b>Case Type</b>	<b>Outcome</b>	<b>Description</b>
Antidumping	Successful	Hand Trucks and Certain Parts Thereof from China
	Successful	Wooden Bedroom Furniture from China
	Unsuccessful	Outboard Engines from Japan
Countervailing	Successful	DRAMs and DRAM Modules from Korea
	Unsuccessful	Polyethylene Terephthalate Resin from India

**Table 21: Number of Cases in Research Design for this Study**

Suitable cases were selected given the need to satisfy the following criteria:

1. The petition should have been filed after the 1<sup>st</sup> of January 1995, the founding date of the WTO, and before the 1<sup>st</sup> of January 2005. This criterion ensures that the cases were prosecuted under the same institutional environments domestically and internationally.
2. Only petitions by manufacturing industries should be considered. A focus on industries which produce a product was in keeping with the Innovative Manufacturing Research Centre (IMRC) at the University of Bath (UK) where the PhD was hosted.
3. At most one petition by interests in the steel industry and one petition by interests in the chemicals industry should be included. These industries file by

far the majority of the cases in the US, while a larger number of cases from these industries would possibly have been more representative of the cases filed to date, the aim with limiting the number of cases involving these firms was to gain a broader perspective on the issues that may be of importance to industries generally when prosecuting cases.

4. One high-technology industry petition should be included. This criterion was established for the same reason as given above, it sought to keep a broader range of cases in the study.
5. Petitions with only one country of origin for the imports are preferable. The addition of multiple countries and types of cases filed at the same time has the potential to lead to difficulty in understanding how firms prosecuted a case.
6. No two petitions should have the same respondent country as the origin of the imports. This criterion was relaxed as it was decided that the pilot study, Hand Trucks and Certain Parts Thereof from China, would make a valuable contribution to the final thesis.
7. At least one successful and one unsuccessful petition for each of the two types of trade remedy should be included in the study. This criterion was established to seek to create some difference between the selected cases in terms of their outcome to be able to analyse how approaches to prosecuting cases might be linked to success.
8. Only petitions which have resulted in a tariff being established should be included as successful petitions of the DOC and ITC. This allowed a consistency in the outcome of the original investigation phase.
9. Only petitions which have received a negative final determination at the ITC which resulted in the petition being terminated should be included as unsuccessful petitions. This criterion also sought to ensure that cases which had passed through the full original investigation were included.

The cases selected for this study represent a spectrum of cases in terms of their financial value, the size of the industries that prosecuted the cases, the experience of the firms in the prosecuting industries with US trade cases, the political support at the ITC for the prosecuting industries, trade union support, the use of special allegations by petitioners and the degree of success on the part of both petitioning and responding firms, see Table 1, Table 11, Table 12. The cases can be compared using Hillman, Keim and Schuler's (2004) four antecedents of firm CPA, namely issue, firm, institutional and industry antecedents.

All the firms dealt with the same issue, namely increased import competition for an US industry that had resulted in firms in that industry filing a trade remedy case being brought to the DOC and ITC. The firm level antecedents are the subject of this study and at this stage it can only be said that it is expected that the firms in these cases differed in their CPA resources and capabilities and that this resulted in them pursuing a variety of CPA strategies to varying degrees of success. The primary antecedents that serve to distinguish the cases and was used to justify their selection are at the institutional and industry levels of analysis.

At the institutional level the cases differ firstly as to whether they are countervailing duty or antidumping cases and their outcomes. The DRAMs and PET Resin cases being countervailing duty and the Wooden Bedroom Furniture, Hand Trucks and Outboard Engines cases being antidumping cases. Additionally at the institutional level the cases differ in their outcomes, the DRAMs, Wooden Bedroom Furniture and Hand Trucks cases resulting in duties due to ITC affirmative determinations and the PET Resin and Outboard Engines cases resulting in no duties being imposed on the subject imports. In terms of the value of the cases, the Wooden Bedroom Furniture and DRAMs cases are the largest of the cases studied, followed by the Outboard Engines, Hand Trucks and PET Resin cases. While the agencies did not release data on the imports subject to the countervailing duty cases, import statistics indicate that the DRAMs case is comparable in value to the Wooden Bedroom Furniture case, while the PET Resin industry saw \$32.86m of imports the year before the case was filed (see Appendix D). The cases were selected to represent the broader body of US trade cases in these respects, with the largest countervailing duty and antidumping cases by value resulting in duties. The PET Resin case and Hand Trucks cases were selected to represent smaller cases, but in this

instance the countervailing duty case was unsuccessfully prosecuted by US interests and the Hand Trucks case resulted in duties being imposed. The Outboard Engines case was also included to have more antidumping than countervailing duty cases, as is seen in the ITC data and also served to provide an example of antidumping case that did not result in duties.

From an industry perspective the DRAMs case was selected to represent a clear example of a case filed by an industry with experience of prosecuting these trade cases, while the other cases all represented instances of industries with little or no experience of prosecuting cases. The industries that prosecuted the cases were also selected to differ in terms of the number of firms that constituted the prosecuting and responding industries. The DRAMs case provided an example of two prosecuting interests versus two respondents, which resulted in duties. The Wooden Bedroom Furniture case provided an example of approximately 38 prosecuting interests versus over 121 responding firms, that resulted in a duty order. The PET Resin case served to allow a case with 6 petitioners and 4 respondents that did not result in duties to be studied in contrast to the five petitioners and 6 respondents in the Hand Trucks case, which did result in duties. While the Outboard Engines case provided a further example of what could be called a medium size case by number of firms to be studied in which no duty order was issued. The case selection therefore provided the opportunity for issues such as industry organisation and political support due to size by number of firms to potentially emerge in the analysis, reflecting themes from the current CPA literature.

## **8.6 Data Collection and Preparation for Analysis**

This section discusses the types of data that were collected, how this was done and the steps taken to prepare the data for analysis. The potential sources of information for this study included official documentation and records published by DOC and ITC for each petition, transcriptions of investigation hearings, press articles and industry publications, interests participating in antidumping or countervailing duty cases (corporate interests, DOC and ITC staff, government representatives, politicians and other interested parties), other documents produced by interests during a petition. Similarly a study of first mover advantages in international business and the role of firm specific political resources used data triangulation with archival material, interviews and

published material in a similar way to “constantly cross check information and data from different sources to increase the reliability and accuracy of [their] explanations. This allowed [them] to be confident in case study analysis” (Frynas, Mellahi, & Pigman, 2006; p.237).

Triangulation refers to the rationale for using multiple sources of evidence and allowing the development of converging lines of enquiry, making any conclusions of a case study more convincing and accurate (Yin, 2003). Patton defines triangulation as “[b]uilding checks and balances into a [research] design through multiple data collection strategies”. Denzin (1978) identifies four types of triangulation; data, investigator, theory and methodological triangulations. This study will primarily use data triangulation by collecting data from multiple sources. The two main types of data collected for the study are firstly interviews notes and transcriptions and secondly the electronic and paper documents from the official record for each of the five cases. Investigator triangulation requires multiple investigators and the time and financial constraints of this study prohibit its use. Theory triangulation is achieved by applying multiple perspectives to the same data set, in this design there is no theory triangulation, although it may be possible to add it at a later date if the data analysis suggests it is required. Methodological triangulation refers to the use of methods for collecting data and has been incorporated into the study by collecting data using semi-structured interviews and documentary evidence from the official records of the five selected cases in this study.

The interview data used in this study was collected between November 2005 and July 2006 using forty-five semi-structured interviews. Interviews were conducted with thirty-eight trade attorneys and four economic consultants in Washington, DC, who had represented either petitioning and / or responding firms in industries subject to trade remedy cases. A further two interviews were also conducted with business practitioners who had participated in an antidumping case and one with a member of staff at one of the research institutes in Washington, DC. Seven of the participants described themselves as having exclusively petitioner experience, thirteen had only respondent experience and a further eight had worked with both petitioners and respondents. With respect to agency experience, six of the participants had worked at the DOC and six had spent time at the ITC. Ten of the interviewees had mostly or only experience of



antidumping cases, only one respondent had only countervailing duty experience and seventeen respondents said they had experience of both antidumping and countervailing duty cases. The semi-structured interviews were used to discuss the process of prosecuting a trade case, the decisions firms must make, the strategic intent of firms and the challenges faced by firms participating in trade remedy cases.

These semi-structured interviews were conducted with the support of an interview protocol, included in Appendix G. The protocol included a section for recording basic information about the interview, such as the interview date, when the interview was transcribed, where it took place, who was interviewed and their biographical data. The next section included some guidance notes to remind me to ask for permission to record the interview and confirm the confidential nature of the conversation. This was followed by a space for the interviewer to note down any pre-interview thoughts. The interview questions can be divided into those seeking to establish the experience of the interviewee with trade cases (questions 1-3), a question related to confirming what type of case and from the perspective of which interests the interview was going to focus on (question 4), nine questions related to understanding how firms successfully prosecute trade cases (questions 5 – 13) and a final open question to see if the interviewee prompted any unconsidered avenues of enquiry (question 14). The protocol ended with space for me to note down any post-interview thoughts and ideas for the next interview or follow-up questions.

An important aspect of the interview protocol was developing the questions in the interview to ensure that data were collected that could address the working propositions for this thesis. The questions were designed to be broad and open, leaving the interviewee to answer the questions as they felt most comfortable and creating the opportunity for unexpected answers. As can be seen in Table 22 the first three questions, while primarily serving to provide a context to the interview responses also had the potential to provide responses that could inform the first two working propositions related to political supply pressure and industry demand pressure.

Interview Questions	Working Propositions									
	WP1	WP2	WP3	WP4	WP5	WP6	WP7	WP8	WP9	WP10
1. Could you please tell me a little bit about your experience in antidumping, countervailing duty and safeguard petitions?	Y	Y	-	-	-	-	-	-	-	-
2. What is your experience of antidumping, countervailing duty and section 201 cases?	-	Y	-	-	-	-	-	-	-	-
3. Have you represented mostly petitioners or respondents?	-	Y	-	-	-	-	-	-	-	-
4. Can we agree to discuss (circle as agreed)...	-	-	-	-	-	-	-	-	-	-
5. What are the key aspects of an AD/CVD/SG petition from the perspective of the petitioner?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
6. How does this differ for the pre-filing period of time, the investigation phase and administrative review period?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. What does a company in the petitioning industry need to be able to do to support the petition?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8. What are the key aspects of an AD/CVD/SG petition from the perspective of the respondent?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
9. How does this differ for the pre-filing period of time, the investigation phase and administrative review period?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
10. What do the respondent industry's companies need to be able to do to be successful?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
11. What is the importance of money in AD/CVD/SG proceedings?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
12. What is the importance of information in AD/CVD/SG proceedings?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
13. What other factors are important for companies to consider in AD/CVD/SG proceedings?	?	?	?	?	?	?	?	?	?	?
14. Is there any other issue that I should be addressing?	?	?	?	?	?	?	?	?	?	?

**Table 22: Matrix Relating Interview Questions to the Working Propositions for the Study**

Questions five to twelve were phrased in such a way that the responses to them could inform understanding of all the working propositions, especially with the use of additional probing by the interviewee in response to answers that addressed particular working propositions. The final two questions were the most open and in many ways left the door open for interviewees to tackle aspects of the prosecution of a case they thought had been omitted in the interview or to discuss aspects of the cases that they wanted to promote, such as how cases are perceived in terms of free trade for example. In this respect the last of the questions had the potential for receiving the most political of responses.

There are three potential sources for the documents which make up the official record for an antidumping or countervailing duty case. The documents making up the official record of the DOC investigation to determine dumping or subsidisation and the appropriate duty margins for firms are located at the Central Records Unit (CRU) in Room B099 in the DOC Building on 1401 Constitution Ave, NW, Washington, DC 20230. These documents are normally paper based, unless a case has been appealed and taken to the US Court of International Trade (USCIT) in which case electronic copies of documents are available via Alchemy database on CD in the CRU. Selected materials are also available via the International Trade Administration website at <http://trade.gov/index.asp>. The record for the ITC investigation is available online via the ITC Electronic Data Information System (EDIS) at <http://www.usitc.gov/>. These documents are all in pdf format. Where a case has been appealed to the USCIT, the full record for a case up to the date of the appeal is also available via the USCIT Case Management / Electronic Case Files (CM/ECF) system online at <http://www.cit.uscourts.gov/>. The Federal Register entries for the cases are also available from <http://www.gpoaccess.gov/fr/index.html> and provide a very useful summary of the main decisions and progress of the individual cases.

The difference in the nature of the data collected required two approaches to preparing the data for analysis. The interview data used in this study was collected between November 2005 and July 2006 using forty-five semi-structured interviews. A total of thirty-two of the interviews were personal interviews, sixteen were telephone interviews. Twenty of the interviews were recorded using a digital recorder and then fully transcribed for analysis the remaining interviews were recorded using hand written

notes, which were recorded in electronic form as soon as possible after an interview was conducted to ensure as accurate an account of the interview as possible. The transcription of the interviews was done by a third party, each of the transcriptions was then reread while listening to the original digital recording of the interview to confirm the accuracy of the transcriptions.

For each case the documents submitted by individual firms in the cases were logged, with the nature of the document and the date it was submitted being noted. Documents photocopied at the CRU were coded according to the case number, the folder the document was in and the location of the document in that folder. An example would be, "A-570-891, YEAR; FV2-0005". Where "A-570-891" is the case number at the DOC for the antidumping case Hand Trucks and Certain Parts Thereof from China, "FV2" refers to folder number 2 on the shelf for case "A-570-891" and "0005" records the fact that the document was the fifth document in the folder by date order. In this case the document is a submission by law firm Crowell Morning on behalf of the petitioners Gleason Industrial Products, Inc opposing the request of a respondent Total Trolley for an exemption of its product from the scope of the investigation. Those documents at the CRU available via Alchemy database on CD are automatically assigned a number in date order beginning with the number 1. These documents are referred to using the following protocol, "A-570-891-ADI, YEAR; 0001" Where "A-570-891" is the case number at the DOC for the antidumping case Hand Trucks and Certain Parts Thereof from China, "ADI" denotes the fact that the document is part of an Alchemy database and "0001" means it is the first document by date order of filing in the database. In the Hand Trucks case, "A-570-891-ADI, YEAR; 0001" is the original petition for the investigation filed by Crowell Morning on behalf of the petitioners Gleason Industrial Products, Inc on 13 November 2003. The field YEAR refers to the year the database was created.

ITC documents are assigned a unique number as part of their distribution via EDIS. The documents are coded as follows for this study "731-TA-1059-ITC-215291", where "731-TA-1059-ITC" identifies the document as part of the record for the antidumping case Hand Trucks and Certain Parts Thereof from China at the ITC and "215291" is the documents unique number in the ITC record.

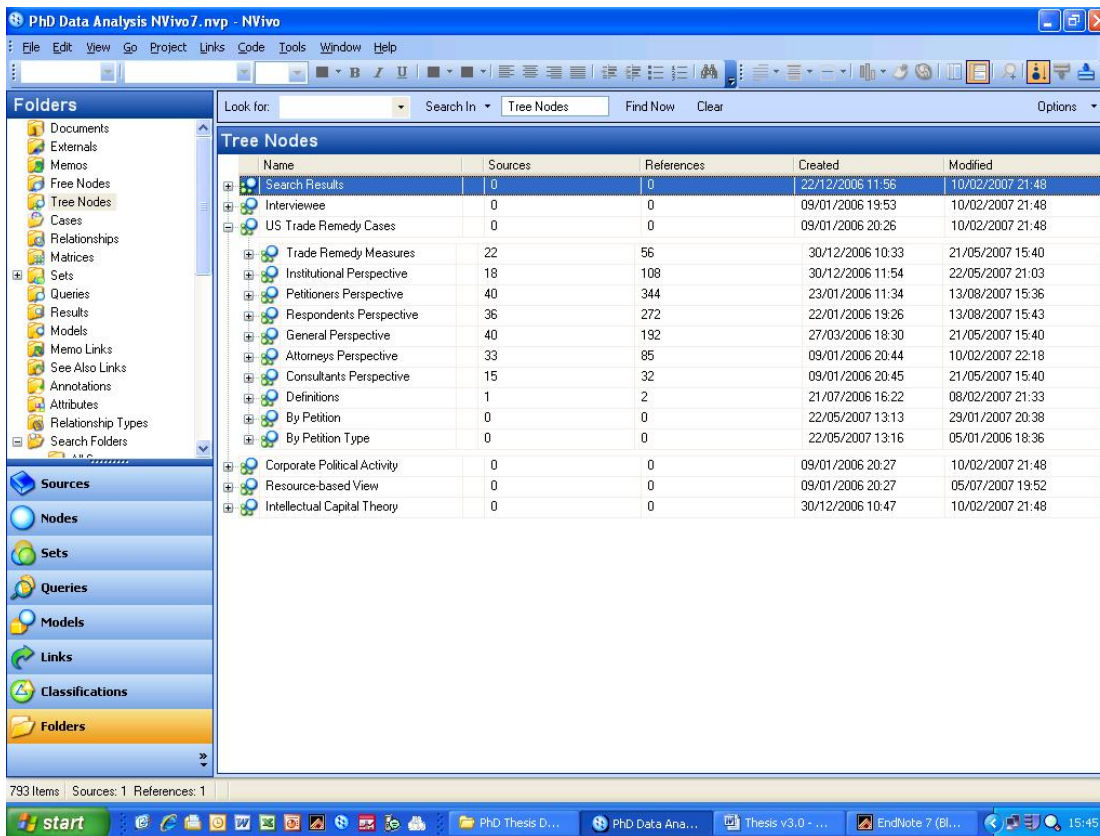


Figure 11: Screen Shot of Top Level Tree Nodes for PhD in NVivo 7

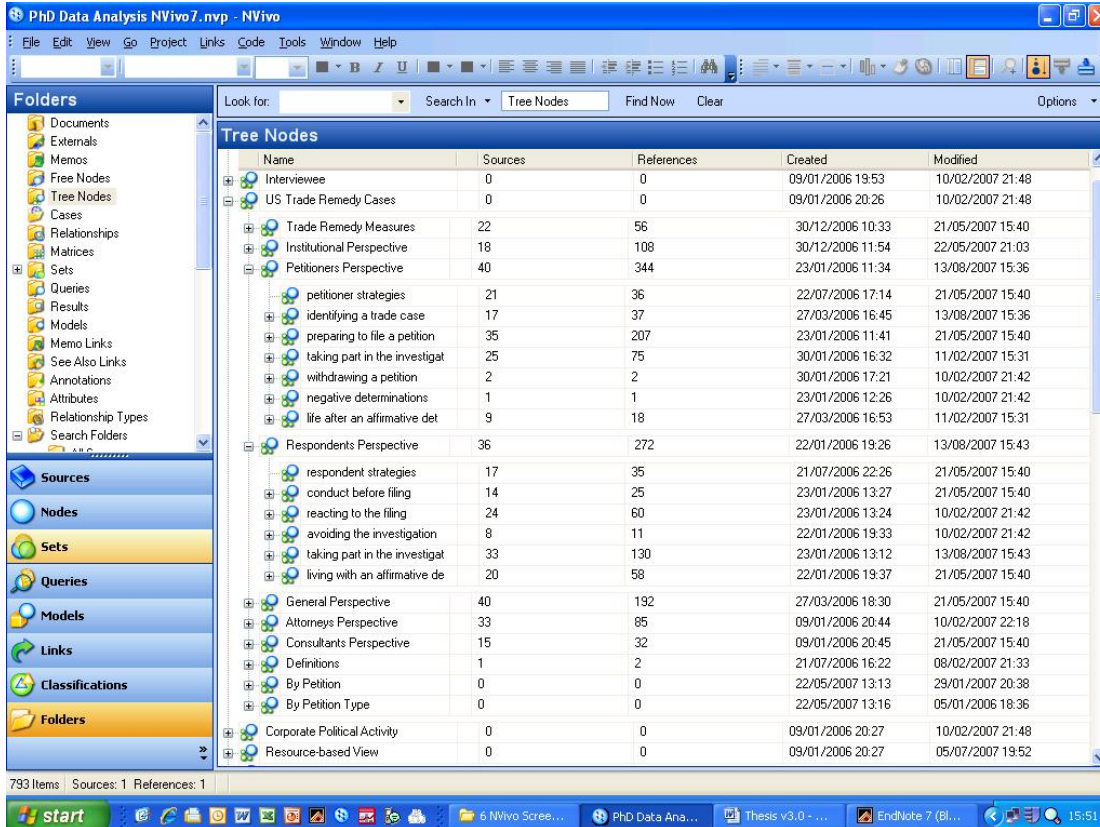


Figure 12: Screen Shot of Petitioner and Respondent Perspective Tree Nodes for PhD in NVivo 7

In this case, document “731-TA-1059-ITC-215291” is a request for proprietary treatment of business proprietary information bracketed in the petitioners’ prehearing brief. Federal Register entries are referred to as follows, “FR 68-65733”. Where “FR 68” refers to volume 68 of the Federal Register and “65733” is the first page of the entry. In this case, “FR 68-65733” is a notice of the institution of antidumping investigation and scheduling of a preliminary phase investigation by the ITC for the Hand Trucks antidumping.

The USCIT was proposed as another source of documents for the cases by some interviewees. Upon investigation and accessing the site after receiving the necessary username and password, it was found that this would not be a useful avenue to pursue and all documentary needs were fulfilled by the other sources discussed above.

## **8.7 Data Analysis**

The two primary types of data collected for the study are notes of interviews conducted with participants in the prosecution of the trade remedy cases and the electronic and paper copy documents from the official record, for each of the five cases, at the ITC and DOC. Both these data types are textual in nature and analysing text involves four main tasks, “(1) discovering themes and subthemes, (2) winnowing themes to a manageable few (i.e. deciding which themes are important in any project), (3) building hierarchies of themes or code books, and (4) linking themes into theoretical models” (Ryan & Bernard, 2003). Themes can be identified inductively from empirical data or from a priori theoretical understanding of the phenomenon being studied (Ryan & Bernard, 2003). The process of discovering themes can be described as coding.

NVivo, a programme that allows a researcher to code text and then retrieve that text (Bryman, 2004) was used to code the interview transcripts. NVivo does not interpret data, it merely takes over many of the mechanical activities associated with the coding process (Bryman, 2004). NVivo was used to identify the different perspectives of prosecuting trade remedy cases in the US. Figure 11 is a screen shot of the highest level of codes used in the analysis and showing the different perspectives of the prosecution of trade cases. These include the institutional, petitioner and respondent perspectives, as well as a general, attorney and consultant perspectives. Figure 12 shows the second level codes which emerged for the petitioner and respondent perspectives in the analysis

of interview data. Each of these codes, which are in keeping with the stages of the process of prosecuting a case, has further child codes for more specific aspects related to the petitioner and respondent perspectives. The coding in this study was primarily inductive in nature, although the prior theoretical model of the process of prosecuting a trade remedy case in the US did influence some coding by suggesting selected themes a priori. A priori codes such as an institutional, petitioner and respondent perspective were used to quickly categorise the majority of interview data and these categories were then further interrogated to inductively identify themes that describe and explain how firms prosecute trade remedy cases.

The Federal Register entries for each of the five cases were used to develop a case timeline and identify the key actors and events for each case. The documents from the official record for the individual cases, where appropriate, were used, where appropriate, to complement the timeline developed for each of the cases with the Federal Register entries.

## **8.8 Conclusion**

This chapter has explained the choice of an interpretivist approach to answer the question of why some firms are able to more successfully prosecute antidumping and countervailing duty cases in the US. The selection of the case study research design has been shown to be adopted in all the literatures used in this study and indeed often called for in the trade remedy literature. The design of the study was explained and the selection of cases justified. The chapter discussed the data collection process and how this data were prepared for analysis. Finally the approach to analysis of the data was explained. Having established the nature and validity of the research approach the study now turns to the application of the theoretical model to understand how firms prosecute trade remedy cases in the US and why some firms may be more successful than others at prosecuting these cases.

## **9 Prosecution of US Trade Remedy Cases**

*“The experienced company, the only benefit is that they are aware that the trade laws exist and the inexperienced companies like we started out saying, they don't know”.*

(Trade Attorney, 2006f)

*Previous experience of the process can be an important factor for how well a company takes part in the process, new respondents often struggle.*

(Trade Attorney, 2005w)

Having described the institutional nature of prosecuting US trade remedy cases in chapter 6, the aim of this chapter is to explain the process from the perspective of the petitioning and responding firms. The chapter provides the descriptive foundation on which the following three analytical chapters are built. Most firms will align their interests with either the petitioning or responding firms in a case and this distinction provides the basic structure for the discussion in this chapter, beginning with the petitioning and then responding firms' perspectives of a case. The other important characteristic of firms is their experience with prosecuting US trade cases and this will also be addressed.

### **9.1 Petitioners' Perspective**

#### **9.1.1 Prosecuting the Pre-Petitioning Phase**

When considering the activity of firms in an US industry during the pre-petition phase, there are two main aspects that need to be understood. First, how do the firms in a US industry identify the possibility for a trade remedy case and secondly how the firms in that industry then go about preparing to file a case with the DOC and ITC. The identification of a possible trade case can again be thought of in two parts. US producers first need to identify that a competitive threat in the marketplace is the result of increased import competition. Then these firms need to identify a trade remedy case as a possible solution to this competitive threat. Having identified a trade remedy case as a strategic option for the firm, the US producers need to prepare a petition for an



antidumping and / or countervailing duty case, which can be thought of in terms of three parts, showing industry support for the petition, showing dumping or subsidisation by the foreign producers or governments respectively and finally showing injury or threat of injury to the US industry by means of the dumped or subsidised imports. The phase also requires the petitioning firms to consider a number of strategic aspects with respect to the filing of a case.

- Petitioner Tasks:**
- 1) Seeking a Solution to Loss in Competitiveness**
    - a) Identify Competitive Threat Due to Imports**
    - b) Identify the Trade Remedy Laws as a Solution**
  - 2) Preparing to File an Antidumping and / or Countervailing Duty Petition**
    - a) Show Industry Support for Case**
    - b) Define the Scope of the Investigation**
    - c) Show Dumping / Subsidisation**
    - d) Show Injury or Threat of Injury**
  - 3) Filing the Antidumping and / or Countervailing Duty Petition**
    - a) Strategic Considerations**

### **9.1.2 Prosecuting the Original Investigation Phase**

The prior experience of firms, both petitioner and respondent, will influence their approach to a case and their ability to take part, the prior learning curve of a petitioner can be a huge advantage, there are always surprises for new industries prosecuting a case (Trade Attorney, 2005t). The logic of an antidumping case is not always common sense and attorneys will help their clients avoid typical mistakes that would harm their case (Trade Attorney, 2005e).

“I think industries where they have been subject to trade remedy cases in

the past are more sensitive and are more aware of the resources that are available to them and how they are supposed to go about it, but otherwise it is extremely confusing to understand these timelines, to understand the information as requested, yes it is selling, sales information, expense information, cost of production information but it is requested in a manner that it usually much more refined than the way [firms] track it”.

(Trade Policy Analyst, 2006)

Petitioning firms have two main goals during the original investigation phase. First they must ensure that the DOC initiates the investigation. Secondly they must then prosecute the four main phases of the original investigation, ensuring the responding firms receive the highest duty rates possible in the DOC investigation and that the ITC determines that the US industry is injured or threatened with injury by reason of imports of the subject merchandise found to be dumped or subsidised. The way in which petitioning firms prosecute a trade remedy case will depend on which parts of the investigation they choose to focus on and how they choose to engage with the two agencies, using the six tasks identified in Table 10.

- Petitioner Tasks:**
- 1) Ensure Initiation of Investigation**
  - 2) Prosecute the Investigation Phase**
    - a) Monitor Calculation of Duties at DOC**
    - b) Prove injury at ITC**

### **9.1.3 Prosecuting the Review Phase**

The review phase can be summarised as a process of ensuring that duty orders are applied correctly and that the original determination of the DOC and ITC were made correctly. From a petitioner’s perspective the review phase is concerned with ensuring that foreign firms that are already subject to a duty margin are complying with that order and prosecuting any appeals or dispute settlement cases that may be initiated by responding firms. In countervailing cases it is important for US industries to keep up

with foreign firm activities to identify possible subsidisation and in antidumping cases foreign firm pricing needs to be watched by petitioning firms (Trade Attorney, 2005i). Petitioners also need to identify any foreign firms that should be subject to the duty order, but are not making cash deposits with US Customs. Respondent firms will use the phase to ensure that the duty order on their exports / imports are applied correctly and seek ways in which to minimise the impact of the duty order on their business. For the first four years of the review phase the attentions of both petitioning and responding firms will be focused on the reviews at the DOC and possible appeals to the CIT or WTO. The DOC reviews are concerned with the evaluation of the actual duty margins that should have been applied during the POR (Trade Attorney, 2005b) and the CIT / WTO processes are concerned with evaluating the original determinations of the DOC and ITC. The POR is the period of time during which a specific review investigates the exports of the subject merchandise to the US by responding firms. Injury is only re-evaluated again once the sunset review is conducted by the DOC and ITC (Trade Attorney, 2005b). The trade lawyers and consultants continue to play an important role during the review phase, through their analysis of the sales and import data. (Trade Attorney, 2005b).

“So you look at the data, you analyse it and you try to see if somebody is cheating on the other side basically.”

(Trade Attorney, 2005b)

“Yes so and I described how respondent law firms can work with importers or with foreign producers to try and minimise their duty exposure.”

(Trade Policy Analyst, 2006)

The review phase also reveals to petitioning firms how effective the duty rates that were determined by the DOC are in practice and what the consequences are regarding alternative strategies available to respondent firms to circumvent the duty orders.

If “the Commerce levy 5% dumping duties, on foreign products from the target countries, ... that may not be enough to really offset the unfair trade as they see it, they may levy 100% duties in which case that stops the trade off all together, but either leads to circumvention or encourages other third

countries that weren't covered by the order to start shipping to the United States.”

(Trade Attorney, 2006f)

The potential for circumvention of duty orders must always be considered by petitioning firms (Trade Attorney, 2005t). There are a variety of strategies available to responding firms to try to circumvent a duty order, two of the most commonly discussed are changing the nature of the product to fall outside the scope of the investigation (Trade Attorney, 2005t) or shifting production to a third country. One of the signs that circumvention may be taking place is if there is no change in the competitive position of the petitioner in the marketplace after a duty is put in place (Trade Attorney, 2005k). The important thing for petitioning firms to do during the review phase is to work on fact finding, the domestic industry needs to investigate and continue to monitor the marketplace (Trade Attorney, 2005k).

“They said that it was over a million dollars already and it was going to be a huge [expense]... to continue to chase the Commerce Department, so that they would get smart about what was going on and start to police it. According to the attorney, and I've never been involved in this before, so I can only repeat, you know, my one time experience of this process, according to the attorney if you don't keep on the heels of the Commerce Department no one is going to [monitor] this stuff.”

(Senior Vice President at US Manufacturer, 2005)

In the US when a person imports a good they must declare what it is and whether duties are due, it is a self regulatory process and sometimes the government catches people not fulfilling their duties or an importer may not realise a duty order is in place and if they get it wrong they are liable (Trade Attorney, 2005k). Petitioning firms are able to address circumvention of duties by firms from the country originally addressed by a trade remedy case, it however becomes more problematic for the petitioning firms when firms in third countries begin shipping the subject merchandise. The petitioning firms may decide to bring another trade case, but there are only so many times that an industry can return to file an antidumping or countervailing duty case (Trade Attorney, 2006f).

“The director of Georgetown Economics services calls it the pillow effect, you punch down the pillow and then something else pops up, so you can punch the pillow and you can get 5 countries but then something else, as soon as that happens, in an import sensitive market, the other countries are going to pop up, there volume is going to expand to fill that void.”

(Trade Attorney, 2006f)

If an US industry however finds that it is becoming involved in a series of antidumping or countervailing duty cases, then it may decide to consider filing a safeguard case as an alternative (Trade Attorney, 2006f).

Making the most of a duty order can be a challenge for the US producers who brought a trade case, the process not only requires a continued financial contribution, but also time from firm staff.

“[T]he [anonymised] market isn’t a big, doesn’t have enough clout, you know, none of the companies produce enough revenues, profits, to be able to spend huge amounts of money trying to stop these imports from coming in and none of the [anonymised] companies here are huge corporations. We don’t have staff that can do this stuff, you know, we’re all about making a product and trying to make a profit, make a living. We just don’t have excess staff to concentrate on these kinds of things, that’s just the way the market is.”

(Senior Vice President at US Manufacturer, 2005)

The degree to which a US producer of the domestic like product is willing to support the efforts of the petitioners during the review phase will depend on factors like the expected cost of doing so and the importance of the product to that firm. One way that the petitioning firms can seek to deal with the cost of the review phase is to either continue using the coalition formed to bring a case or to form a new coalition of US firms with an interests in making the most of an affirmative finding at the DOC and ITC (Senior Vice President at US Manufacturer, 2005). The US producers can also serve as a very important source of market information on the activities of foreign firms and potential circumvention of duty orders (Senior Vice President at US Manufacturer,

2005). The petitioners therefore have the following potential tasks to complete during the review phase of a case.

- Petitioner Tasks:**
- 1) Make the most of any duty order(s) put in place.**
    - a) Prosecute Administrative Reviews**
    - b) Prosecute New Shipper Reviews**
  - 2) Prevent avoidance of any duty order(s) put in place.**
    - a) Prosecute Scope Reviews**
    - b) Prosecute Anti-Circumvention Inquiries**
    - c) Prosecute Changed Circumstances Reviews**
    - d) Prosecute Sunset Reviews**
    - e) Prosecute Appeals to CIT / WTO**

## **9.2 Respondents' Perspective**

### **9.2.1 Prosecuting the Pre-Petitioning Phase**

Foreign producers and exporters of the goods which may become subject to a US trade remedy case have to identify the possibility for a trade case and also decide how they intend to respond to the possibility of a case. These responding firms have “no choice, but to decide whether they are going to participate or not, once they are named in a case” (Trade Attorney, 2005b). Broadly responding firms can adopt one of three approaches for reacting to a filing, they can do nothing, they can seek to avoid the consequences of an investigation and they can prepare for prosecuting the original investigation at the DOC and ITC. This section will focus on those options available to firms where they actively seek to address the trade remedy case.

- Respondent Tasks:**
- 1) Identify the Possibility for a Trade Remedy Case**
    - a) Knowing that You're Dumping or Subsidised**
    - b) Knowing that a Trade Case is Possible**
  - 2) Seek to Avoid the Need to Prosecute the Potential DOC and ITC Original Investigation(s)**
  - 3) Prepare for the Prosecution of the Potential DOC and ITC Original Investigation(s)**

### **9.2.2 Prosecuting the Original Investigation Phase**

Responding firms also have two main goals during the original investigation phase. First they must seek to ensure that the DOC does not initiate the investigation. Secondly, if the respondents fail to prevent initiation of the investigation, they must then prosecute the four main phases of the original investigation, seeking to limit the duty margin they are given by the DOC and attempting to prove that the US industry has not been injured or threatened with injury by the subject merchandise, thereby avoiding the review phase of the case and receiving any duties paid to US Customs since the preliminary DOC determination. Responding firms will have to consider the strength of their DOC and ITC cases and how they can most effectively use their resources for prosecuting a case. The DOC rarely finds no duty being required and the respondents may have a better chance showing no injury at the ITC and so decide to focus their energy there, but an aggressive ITC defence is however expensive (Trade Attorney, 2005m). An important aspect of prosecuting a case from the respondent side is that by taking part in the case foreign firms avoid adverse inference being made by the agencies.

“[In] the furniture case, a lot of the Chinese companies reportedly spent a million dollars apiece to defend, and that is one reason they got the good results. Once you start having that happen, then the US producers become less interested. It used to be bringing a case against China was easy, they

just default and you get a high duty, but now they are much more prepared and they fight hard”

(Trade Attorney, 2005e)

Previous experience of prosecuting a case can be an important factor in how well a company takes part in the process and new respondents often struggle (Trade Attorney, 2005w). The role played by attorneys plays a significant role in how responding firms prosecute a trade case (Trade Attorney, 2005n) and having a law firm that was used previously is helpful (Trade Attorney, 2005i), but they are however a significant financial burden for responding firms (Trade Attorney, 2005n). Responding firms can often misunderstand the role of an attorney in these cases and the quality and consistency of access to the company for attorneys is key (Trade Attorney, 2006h). While the role of attorneys is important, a trade case will also take an enormous amount of a respondent firm’s resources. The firms typically think of the cost of hiring the attorneys to take part in the case, but these attorneys then require the responding firms to do a large amount of work and it is this need for committing large amounts of a firm’s internal resources that respondents don’t take account of, they only consider the financial costs (Trade Attorney, 2006g). It is important that respondents make the case their own problem, if a foreign firm has not gone through an investigation before this can be very difficult for them to do (Trade Attorney, 2005h). This compares to the petitioner’s side where the attorneys do the work for the case (Trade Attorney, 2006g). There will typically be many responding firms, each with their own interests regarding the outcome of a case and they will therefore probably each retain their own attorney (Trade Attorney, 2005t).

**Respondent Tasks: 1) Prevent Initiation of Investigation**

**2) Prosecute the Investigation Phase**

**a) Limit duties received from the DOC**

**b) Prove no injury at ITC**



### 9.2.3 Prosecuting the Review Phase

From the respondent firms' perspective, foreign producers, exporters and US importers, the review phase is about ensuring that trade remedy cases that result in duty orders are addressed in such a way as to minimise their impact and where possible avoid the duty order. In some industries even high duty margins are however not enough to affect a respondent firm's strategy with respect to sales in the US, in the ball bearings case, SKF was assigned an initial 65% margin, but this is a very concentrated industry globally and the difference in margins could be supported by the firm (Trade Attorney, 2005n). Respondent firms have to approach the review phase of the case as a business decision and if they decide to prosecute the phase, then they have to change the company policies either internally or with the help of their attorneys to allow them to deal with the trade remedy measures put in place (Trade Attorney, 2006e). The ultimate goal for responding firms is to avoid the duty order, but they are not always able to identify solutions that will enable them to do this, often due to company history restricting their ability to be innovative (Trade Attorney, 2005q).

“If you are a responding company, you have to decide as a business decision, what are we going to do about this, are we going to stop selling to the US, are we going to pay the duty? Are we going to attempt to not dump? Usually there is some mixture of those reactions”.

(Trade Attorney, 2006e)

For those firms that do not seek to circumvent the duty order and continue shipping to the US, the review phase is all about the deposit rate that a firm faces and cash flow. Firms exporting or importing the subject merchandise to the US begin to deposit cash with US customs with the establishment of the DOC preliminary determination. The deposit rate is then revised with the final DOC determination and if the ITC finds injury, the respondent firms will continue to pay cash deposits with US Customs till the first review, at which time the opportunity to have their duties assessed arises.

“Commerce is looking at historic pricing behaviour one year back, so you are stuck with that, and it's a cash deposit, but you are not stuck with it as a final assessment because you have enough time to alter your pricing

behaviour, change your product mix etc. and thereby when that first review comes around, show that you are not dumping.”

(Economic Consultant, 2006c)

Respondent firms then need to evaluate the margin established for them by the duty order. Firstly to evaluate whether they can absorb the duty rate as a cost of business and still profitably export / import to the US at that rate. Secondly the respondent firms need to consider their duty margin relative to all the other respondent firms subject to the duty order and whether the rate they received has improved or weakened their relative competitive position. Thirdly, in dumping cases the respondent firms that decided at the initiation of the trade case to dump proof their activities, need to evaluate whether their cash flow will allow them to absorb the cost of paying cash deposits to US Customs till the end of the first administrative review. A key consideration for foreign producers and exporters is the importance of the US market to the firm (Trade Attorney, 2005h). With countervailing duty cases the nature of the subsidy that the respondent firms received from their government will determine the ability of the respondent firms to use the administrative reviews to lower or eliminate the benefit from the subsidy, in a similar vein to the dump proofing undertaken in antidumping cases. The key tasks for respondents are therefore as follows:

**Respondent Tasks: 1) Minimise the effect of any duty order(s) put in place.**

**a) Prosecute Administrative Reviews**

**b) Prosecute New Shipper Reviews**

**2) Seek to avoid any duty order(s) put in place.**

**a) Prosecute Scope Reviews**

**b) Prosecute Anti-Circumvention Inquiries**

**c) Prosecute Changed Circumstances Reviews**

#### **d) Prosecute Sunset Reviews**

#### **e) Prosecute Appeals to CIT / WTO**

### **9.3 Firm Experience and Trade Cases**

The majority of this chapter has spoken about the tasks that petitioning and responding firms need to complete to fully prosecute a US trade case. The role of prior experience has been raised explicitly on a few occasions during the chapter, but in this final part of the discussion for this chapter the importance of firm experience in prosecuting a case will be more explicitly emphasised. As in this chapter the following three analysis chapters will draw on the distinction between petitioning and responding firms to structure their arguments, but a second equally important distinction between firms is their prior experience of prosecuting these cases. Firms prosecuting the cases in this study can therefore be considered to fall in to one of four categories, as shown in Table 23 for the primary firms / coalitions prosecuting the five trade cases in this study. The cases selected for this study therefore mostly represent example of firms in industries with little or no experience of prosecuting a case and this distinction will be drawn out in the following chapters as the strategies of firms for prosecuting a case and the resources and capabilities they use are discussed.

### **9.4 Conclusion**

This chapter has briefly introduced the key tasks and aims of petitioning and responding firms during the prosecution of a case and identified firm experience of prosecuting trade cases as a key differentiator for understanding how firms successfully prosecute cases. Drawing on these two characteristics of prosecuting firms, the next three chapters will discuss the nature of firms' corporate political activity during each of the phases of a case, the resources and capabilities they draw on and suggest where firms may be able to exert most influence on the outcome of a case.

Firm Experience of and Position on Cases		Level of Firm Experience with US Trade Cases	
		Experienced	Inexperienced
Firm Support for the Case	<b>Support Case (Petitioner)</b>	Micron (DRAMs) Infineon (DRAMs)	Four Members of the PET Resin Producers Coalition (PET Resin) Twenty-seven Members of the American Manufacturers Committee for Legal Trade (Wooden Bedroom Furniture) Gleason (Hand Trucks) Mercury (Outboard Engines)
	<b>Against Case (Respondent)</b>	Hynix (DRAMs) Samsung (DRAMs)	Reliance (PET Resin) SAPL (PET Resin) Futura (PET Resin) Elque (PET Resin) Dongguan Lung Dong (WBF) Lacquer Craft (WBF) Markor (WBF) Dorbest Group (WBF) Shing Mark (WBF) Starcorp (WBF) Techlane (WBF) Section A Respondents (WBF) Huatian (Hand Trucks) Taifa (Hand Trucks) Xinghua (Hand Trucks) True Potential (Hand Trucks) Section A Respondents (Hand Trucks) Yamaha (Outboard Engines)

**Table 23: Classification of Main Prosecuting Firms by Support for Case and Prior Experience of Trade Cases**

Source: Appendix B



## 10 Pre-petition Phase

*“Typically companies in the petitioning industry see underselling in the marketplace and find foreign competition. Often the companies have no knowledge of the [antidumping and countervailing duty] laws. They might conduct an internal investigation, or have house lawyers, or their regular counsel will be able to represent them or refer them to a law firm which could.”*

(Trade Attorney, 2005i)

*“No foreign producer is actually thinking about dumping before the petition is filed. It is only too natural for business people to charge different prices in various markets.”*

(Trade Attorney, 2006g)

The pre-petition phase of a case is for all intents and purposes closed to respondents wishing to proactively prosecute it. The trade remedy institutions only make provision for potential petitioners to proactively engage with the DOC and ITC, leaving responding firms with a choice between doing nothing and adopting one of a number of potential reactive strategies. Chapter 10 is the first of three chapters that seek to understand how firms prosecute the pre-petition, original investigation and review phases, respectively, and why some firms might be more successful at doing so compared to other firms. Unlike the following chapters, the official record for a case includes only one document with respect to this phase, the petition filed with the DOC and ITC to initiate an original investigation. Therefore unlike the next two chapters, which seek as far as possible to use the official record of the cases to structure the discussion of how firms prosecuted a phase, this chapter draws on the petitions only and supporting findings from the interviews conducted with trade attorneys and economists. This chapter is petitioner focused, but addresses respondents’ activities to the degree possible, in many ways reflecting the actual prosecution of case. The chapter therefore seeks to show how the petition in each of the cases was framed, the information used to do so, the implications of the individual aspects of the petition for the original investigation of a case and the strategies available and resources and capabilities required for firms to prosecuting the phase.

## 10.1 Case Experience

Chapters 11 and 12 draw on the decisions of the DOC and ITC during the original investigation and various administrative reviews to discuss the outcomes of the phase for individual firms and why some firms might be considered to have prosecuted the phase more successfully. The only outcome to the pre-petition phase that the record allows specific comments on is the initiation of the five cases. The petitioners in all the cases were successful by this measure. As is often the case with phenomena like trade remedy cases, which are extremely sensitive issues and done confidentially, it can be very difficult to gain an understanding about unsuccessful actions because they are rarely public knowledge. The focus of this study is however on fully prosecuted cases and why firms have been successful at achieving their preferred policy outcomes. This section briefly addresses the general outcomes for responding firms in this respect and then turns to the experience of petitioners in the five cases.

The most successful outcome of the pre-petition phase for respondents would be if no petition is filed, none of the cases in this study represent this situation. Second best outcomes include respondents recognising a potential case early enough to take action that would enable them to avoid its affects, by for example seeking out alternative markets or shifting the location of their production activities. Alternatively, respondents for whom the US market is important enough to accept the cost, time and disturbance of prosecuting a case, early detection of a US industry preparing a petition may provide sufficient time for the respondents to adjusting their sales practices at home and in the in the US in the case of an antidumping cases or change their use of subsidisation in preparation for prosecuting a case fully. It is only once the petition is filed that respondents actually gain the ability to proactively prosecute a trade case.

While petitioners can have a number of potential strategic goals in mind when bringing a case, for example buying time or harassing foreign competitors, this study will focus on the most straightforward of these, where petitioners are seeking to have duties imposed on imports at the end of the original investigation to alleviate ongoing competitive pressures from specific imports. In this context successful prosecution of this first phase will be the initiation of the original investigation phase by the DOC and ITC. Under the US trade remedy laws, the DOC is the administering agency for these

trade cases and is responsible for their initiation decision upon receipt of a properly filed petition, additionally, although it rarely does so the agency also has the authority to self initiate a case (USITC, 2007a; p.II-4). At first glance most petitions follow a fairly standard format, even the Outboard Engines petition which has a different format to the other four cases has the same content, to ensure that the DOC and ITC receive the information they need to make the initiation and other early decisions. As part of the initiation decision the DOC, if it deems it necessary, can also request additional information to clarify aspects of a petition.

The manner in which each of a petition's sections is written and the arguments they include can also seem fairly standard, but will typically contain nuances that significantly affect the later prosecution of a case. Examples of these nuances include the period of imports that will be investigated and use of allegations of below cost sales and critical circumstances, which respectively alter the way a case is investigated and the imports subject to duties. The framing of the scope of the investigation is one of the most prominent and important examples, as it determines the firms that will be included in the foreign and domestic industries and thereby the nature of the arguments and information required for showing industry support, dumping / subsidisation and injury determinations. Throughout the next three chapters this thesis adopts a working assumption that firms will submit documents to the DOC and ITC that reflect their preferences and put forward their strongest case.

The Hand Trucks case is the only one out of the five cases that does not have an example of petitioners either failing to convince the DOC of part of their arguments or firms successfully arguing for a tailored approach to their case, see Table 24. This would seem to suggest that Gleason was the most successful petitioner in this phase; Mercury however did even better in the Outboard Engines case, having all its arguments accepted, including an argument for adopting a cost case methodology for the dumping calculation. In the DRAMs case Micron had more mixed success, the firm filed a scope of investigation that departed from prior agency precedent and it was rejected, but successfully argued for an amended period of investigation for that countervailing duty case. The petition filed by the AFMCLT in the Wooden Bedroom Furniture case was in contrast the only petition that failed to show industry support, resulting in the DOC surveying the domestic industry to determine support for the case. In the PET case, the



US PET Resin Producers Coalition unsuccessfully argued for critical circumstances, which the tone of the petition would suggest was one of the key goals of the petitioners. These examples cover all of the major variations that a trade remedy petition may exhibit and will be discussed in turn.

	<b>DRAMs</b>	<b>PET Resin</b>	<b>Wooden Bedroom Furniture</b>	<b>Hand Trucks</b>	<b>Outboard Engines</b>
<b>Showing Industry Support</b>					
DOC Accepted Petitioner’s Argument for Support	Yes	Yes	No	Yes	Yes
<b>Defining the Scope of the Investigation</b>					
DOC Adopted Petitioner’s Definition	No	Yes	Yes	Yes	Yes
<b>Showing Dumping / Subsidisation</b>					
DOC Accepted Dumping / Subsidisation Argument	Yes	Yes	Yes	Yes	Yes
<b>Showing Injury or Threat of Injury</b>					
DOC Accepted Petitioner’s Argument for Injury	Yes	Yes	Yes	Yes	Yes
<b>Special Allegations</b>					
DOC Accepted Argument for Amended POI	Yes	-	-	-	-
DOC Accepted Critical Circumstances Argument	-	No	-	-	-
DOC Accepted Argument of Below Cost Sales	-	-	-	-	Yes

**Table 24: Aspects of Petitions for which the DOC Required Clarification**

Source: (USGPO, 2007; 67 FR 70927; 70968 FR 65875; 70968 FR 68591; 70969 FR 75316; 70969 FR 21086)

### 10.1.1 Industry Support

The AFMCLT’s failure to convince the DOC that they met the fundamental criteria of representing 25% of total US production of the domestic like product and accounting for more than half the production of domestic firms expressing either support or opposition for the petition (US Government, 1994; Sec 702(c)(704)(A) and 732(c)(704)(A)). The petition shows that the AMFCLT was unable to identify the firms

that constituted the US industry, on whose behalf they wanted to file the petition, in “any government report, industry report, or other source that [set] forth either the identity of all U.S. producers of wooden bedroom furniture or the quantity or value of U.S. production of wooden bedroom furniture as defined in the petition” (King and Spalding LLP, 2003; p.3). The petition instead made extensive use of the knowledge of industry experts, in particular Mr. Wyatt Basset, to produce a ‘comprehensive’ list of producers and other information on the sales and product mix for wooden bedroom furniture in the US to show industry support (King and Spalding LLP, 2003). This argument was however not accepted by the DOC and the agency decided to survey the industry, issuing 264 questionnaires to domestic producers (A-570-890-ADI, 2005; Doc 0076) and received 104 responses that showed the petitioners being supported by 57% of the domestic producers expressing support for the petition (USGPO, 2007; 68 FR 70230), thereby meeting the statutory requirements.

The structure of the US wooden bedroom furniture industry, comprising a very large number of firms almost certainly contributed to the difficulty the AFMCLT had with showing support. The size and concentration of an industry have been considered as important in the existing literature as indicators of influence with politicians (Olson, 1965), but there seems reason to believe that it can also serve as a barrier to prosecution of a trade case as shown above. The larger the industry becomes and the less concentrated production, the greater the amount of effort that will be required on the part of the firms leading the drive to prosecute a trade case, and their legal counsel, to organise an industry to meet the two measures of industry support. These industry characteristics will also influence one of the main hurdles for petitioning firms to show industry support, collecting sufficient documentary evidence of support (Attorney, 2006). Even though the AFMCLT collected a total of 11 statements of support for their petition in addition to the support of the 27 firms that were members of the coalition, in comparison to the two collected by Gleason and the one by the US PET Resin Producers Coalition, industry support was only shown after the DOC had surveyed the industry.

The solution to this coordination problem is to attempt to organise the petitioning industry as the AFMCLT did by establishing an ad hoc committee to prosecute the case. In contrast to the experience of the AFMCLT, the PET Resin case shows how a smaller

industry was able to successfully make use of an ad hoc committee with regard to showing industry support. The US PET Producers Coalition had four of the seven known domestic producers of PET resin as members, and the support of a fifth, enabling it to show that five of the seven known producers supported the case (Howrey Simon Arnold & White, 2004; p.6 & Exhibit 2). The ad hoc committee also enabled these firms to share BPI through their legal counsel, enabling the petitioners to use confidential firm data to show the volume and value of PET resin production for the supporting firms and public information on the production capacity of the remaining two firms to show support for the case (Howrey Simon Arnold & White, 2004). The role of industry concentration and the propensity for collective action in CPA has received significant attention in the literature (Hansen, Mitchell, & Drope, 2005, Hart, 2003, Olson, 1965). Micron, Gleason and Mercury, although making use of trade union support in some cases, effectively prosecuted their cases individually. These firms successfully went through the stages of identifying the domestic industry producing the domestic like product, providing production volume and value data for these firms, as well as evidence of support for the petition where present (Crowell & Moring, 2003, Dewey Ballantine LLP, 2004, Hale and Dorr LLP, 2002). In the process of doing so the firms discussed issues such as the nature of the products, how best to measure their value and which firms should be included in the domestic industry, using a variety of sources of information, both internal and external to the firms (Crowell & Moring, 2003, Dewey Ballantine LLP, 2004, Hale and Dorr LLP, 2002).

In a similar manner to the AFMCLT, Gleason sought to show industry support for the case by using internal company data, research on the internet and Hoover's online business database to identify eleven US producers of hand trucks (Crowell & Moring, 2003). Gleason was also not able to identify any publicly available data on the volume or value of US production of hand trucks, one reason may be that both industries have a large number of private firms, and instead relied on internal production data and knowledge of the US market to estimate this data and so establish industry support for the case (Crowell & Moring, 2003). Howard L. Simon, who described one of his major responsibilities at Gleason as "collect[ing], digesting[ing] and [using] market information to make informed decisions about how to grow Gleason's customer base and increase [the firm's] market penetration" (Crowell & Moring, 2003; exhibit 4, p.1)

provided an affidavit to the petition explaining how Gleason calculated domestic shipments of hand trucks and market shares of the 11 companies identified (Crowell & Moring, 2003). Sources of information included Gleason's staff experience, sales people, buyers and service organisations in the US industry (Crowell & Moring, 2003). Having made the necessary calculations Gleason was able to show support for the petition from two other US producers, Harper Trucks Inc. and Magline Inc., who had been contacted by the trade attorneys retained by Gleason (Crowell & Moring, 2003), as part of the argument for industry support.

Petitioners experience with showing industry support shows a need for information from both internal and external environments of the firm. The importance of information in the prosecution of trade cases and the ability of firms to gather information from a wide variety of sources is a theme that will repeat throughout the remaining discussion. To understand why a firm might be able to more successfully prosecute a case it is critical that one always remember that decision making at the DOC and ITC is based on the information of the official or administrative record of a case. The prosecution of a US trade case is at its simplest the attempt of a firm to ensure that this record reflects its policy preferences.

### **10.1.2 Scope of Investigation**

The full final text of each of the investigations' scope, are included in Appendix F, section 15.6. The scope of a case is largely descriptive in nature, but also includes specific US HTS subheadings for the subject merchandise. The descriptive part is however held to be the definitive determinant of the scope of an investigation and it can be used to include and exclude specific products, typically based on their physical properties. Table 25 shows that petitioners drew on their knowledge of internal manufacturing processes, the physical characteristics of the product, its technical qualities and uses to define their scopes. The cases seem to show that petitioners broadly approach the shaping of the scope for their case in the same way, providing a broad scope and then used exclusions to more narrowly define the subject merchandise, always ensuring they provided US HTS subheadings and suggested scope text to the DOC.

	<b>DRAMs</b>	<b>PET Resin</b>	<b>Wooden Bedroom Furniture</b>	<b>Hand Trucks</b>	<b>Outboard Engines</b>
Identify Country of Origin	Y	Y	Y	Y	Y
Manufacturing Process Discussed	Y	-	-	-	-
Physical Characteristics Discussed	Y	Y	Y	Y	Y
Technical Characteristics Discussed	Y	Y	-	-	Y
Uses for Product Discussed	Y	Y	Y	Y	Y
Included All Types of Product	Y	Y	Y	Y	Y
Scope Included Products	Y	Y	Y	Y	Y
Scope Excluded Products	Y	Y	Y	Y	-
Assembled or Unassembled	-	-	-	Y	Y
Provided for Future Versions of Product	Y	-	-	-	-
US HTS Subheadings Provided	Y	Y	Y	Y	Y
Petition Included Suggested Text for Scope	Y	Y	Y	Y	Y

**Table 25: Petitioners Approaches to Defining Scope of Investigation**

**Source: (Crowell & Moring, 2003, Dewey Ballantine LLP, 2004, Hale and Dorr LLP, 2002, Howrey Simon Arnold & White, 2004, King and Spalding LLP, 2003)**

In the DRAMs case Micron proposed a scope of investigation that departed from prior agency precedent for DRAMs cases and it was rejected. This was the only one of the five petitions' scope of investigation that had part of the language proposed by the petitioners rejected by the DOC (USGPO, 2007; 67 FR 70927). Micron argued that the DRAMs manufacturing process could be divided into 'fabrication' and 'assembly and testing' and that Korea should be considered the country of origin for DRAMs that were fabricated in Korea, whether assembled in Korea or not, as well as for DRAMs fabricated outside, but assembled, in Korea, as they all benefited from the subsidisation (Hale and Dorr LLP, 2002). The DOC determined not to include "[p]rocessed wafers fabricated outside Korea, and assembled into finished semiconductors in Korea" in the

scope language, as the “country of fabrication confers country of origin” and had previously “specifically excluded wafers produced in a third country that are assembled and packaged in Korea” (USGPO, 2007; 67 FR 70927). Micron’s argument that the countervailing duty case required a different approach to the previous antidumping cases due to the “fundamental differences between the two types of proceedings” (USGPO, 2007; 67 FR 70928), was unsuccessful and Micron lost the opportunity to broaden the number of DRAMs that could potentially be subject to a duty order. Micron’s attempt to introduce a scope which contradicted prior agency practise in DRAMs cases, shows that knowledge of the antidumping and countervailing duty laws, regulations and practice can be important to the outcome of a case. Micron would most likely have been aware that they were going against accepted DOC practise, but the tactic offered the opportunity to significantly broaden the potential range of imports subject to future duties.

The US PET Resin Producers Coalition was very careful in how it defined of the scope of the investigation, ensuring that film-grade and fibre grade PET resin would not be included in the domestic like product and firms producing these products were therefore not included in the domestic industry and industry support calculation (Howrey Simon Arnold & White, 2004). A further class of PET resin that the petitioners sought to keep outside the scope was recycled PET (RPET), due to its lower quality and issues of contamination, where RPET was added to PET the product was however included in the scope (Howrey Simon Arnold & White, 2004). The petitioners also excluded producers of special engineered and compound resins, firms that did not produce PET resin, but acted as toll converters, firms that produced extruded products, plastics and metals fabricators or trading companies (Howrey Simon Arnold & White, 2004). The scope of the investigation was specific to all types of bottle-grade PET resin, typically classified under USHTS subheading 3907.60.0010 and often incorrectly under 3907.60.0050. The PET coalition did not make use of any external materials in presenting the proposed scope of the investigation and would seem to have relied on internal expertise.

The AMCFLT initially appear to have adopted a broad scope definition including any furniture used in the bedroom, made from a variety of ‘types’ of wood products and sold in suites / collections (King and Spalding LLP, 2003). But having provided the US HTS subheadings they believed the subject goods to be imported under, the scope

definition is again addressed in greater detail, with a clear list and description of about 39 individual products to be included in the scope and an additional list of around 46 products not included in the proposed scope (King and Spalding LLP, 2003). The discussion of the scope used no external materials and seems to have relied on specialist knowledge of the petitioners, showing the importance of internal knowledge of the product and market in developing an effective scope of investigation.

Gleason define the scope of the investigation in a very specific manner with respect to the physical attributes of the hand truck, leaving more scope with respect to the materials that the hand trucks were manufactured from and the uses to which they were put (Crowell & Moring, 2003). A hand truck was identified as exhibiting “four general physical characteristics: (1) a frame; (2) a handling area; (3) two or more wheels; and (4) a projecting edge or edges perpendicular, or at an angle, to the frame” (Crowell & Moring, 2003; p.6). Any product incorporating these four characteristics was argued to be within the scope of the case, unless specifically excluded (Crowell & Moring, 2003). Gleason excluded two types of finished products and two types of parts from the case and concluded the section with suggested text for the Federal Register entry if the case was initiated, including US HTS subheadings (Crowell & Moring, 2003).

Mercury chose to describe outboard engines as having three main parts, “a powerhead assembly, or internal combustion engine; a midsection assembly, by which the outboard engine is attached to the vehicle it propels; and a gearcase assembly, which includes a transmission and propeller shaft, and may or may not include a propeller” (Dewey Ballantine LLP, 2004; exhibit I-1, p.1). The engines were then further classified by the number of strokes the engine took to complete a powercycle, by the power output of the engine and the fuel the engine used. Mercury included assembled and unassembled outboard engines, as well as powerheads sold separately within the scope of the investigation, specifically identifying two-stroke, direct injection two-stroke, and four-stroke engines in the scope (Dewey Ballantine LLP, 2004). Mercury also provided HTSUS subheadings for the products (Dewey Ballantine LLP, 2004).

### **10.1.3 Period of Investigation**

The period of investigation (POI) determines the start and end dates for selecting imports of the subject merchandise for investigation by the two agencies. Micron

successfully argued for an amended POI for its countervailing duty case, see Table 26. In countervailing duty cases the DOC normally “relies on information pertaining to the most recently completed fiscal year for the government and exporters or producers” (USGPO, 2007; 67 FR 70930), but “may rely on information for any additional or alternative period that [the DOC] conclude[s] is appropriate” (USGPO, 2007; 67 FR 70930). The POI for Micron would normally have been for the fiscal year 2001, but Micron was able to have this extended to include the first six months of 2002. All three antidumping cases had the normal POI according to DOC regulations relying on the four most recent fiscal quarters for the Outboard Engines case and the two most recent fiscal quarters in the two nonmarket cases (DOC ITA, 2007f; 19 CFR 351.204(b)(351)). Filing a petition to give the petitioners as strong a case as possible requires knowledge of the trade laws and regulations, although even then agency regulations can be misinterpreted. In the Outboard Engines case Mercury’s attorneys were expecting a POI that started a quarter earlier than the one adopted by the DOC (A-588-865, 2004; FV1-0010).

The importance of the POI lies in the universe of transactions that the DOC considers in its subsidy and dumping calculations and is one of the strategic considerations petitioners will make when deciding on the date when to file with the agencies. The manner in which the POI is determined means that in countervailing duty cases petitioners have almost a year within which to file their petition, before a new POI becomes subject to investigation, while in dumping cases this period is 3 months long. Both the DRAMs and PET Resin cases were filed in the last two months before a new fiscal year would be selected by the DOC as the POI, the Korea fiscal year runs from 01 January to 31 December and the Indian one from 01 April to 31 March. Micron filed its case with time to spare, while the US PET Producers Coalition filed with seven days to go before the selected POI would have become ineligible. In the two China cases the petitioners waited at least a month after the date for including the third quarter of 2003 in the POI, in contrast to the Outboard Engines case where Mercury filed within eight days of the last quarter of 2003 being included in the POI, see Table 26.



	<b>DRAMS</b>	<b>PET Resin</b>	<b>Wooden Bedroom Furniture</b>	<b>Hand Trucks</b>	<b>Outboard Engines</b>
<b>Date Filed</b>	Friday 01/11/2002	Wednesday 24/03/2004	Friday 31/10/2003	Thursday 13/11/2003	Thursday 08/01/2004
<b>DOC POI</b>	01/01/2001 to 30/06/2002	01/01/2003 to 31/12/2003	01/04/2003 to 30/09/2003	01/04/2003 to 30/09/2003	01/01/2003 to 31/12/2003
<b>ITC POI (final phase)</b>	01/01/2000 to 31/03/2003	01/01/2001 to 31/12/2003	01/01/2001 to 30/06/2004	01/01/2001 to 30/06/2004	01/01/2001 to 30/09/2004
<b>ITC Hearing</b>	Tuesday 24 /06/2003 68 FR 47607	Tuesday 15/03/2005 70 FR 24119	Tuesday 09/11/2004 69 FR 77779	Thursday 07/10/2004 69 FR 69957	Tuesday 14/12/2004 70 FR 8822
<b>Date of Extension of Initiation Decision</b>	-	-	Wednesday 19/11/2003 (68 FR 65876)	-	-
<b>Revised Date of Final Submissions for DOC Initiation Determination</b>	-	-	Wednesday 26/11/2003 (68 FR 65876)	-	-
<b>Initiation Date</b>	Wednesday 21/11/2002 (67 FR 70929)	Tuesday 13/04/2004 (69 FR 21083)	Wednesday 10/12/2003 (68 FR 70228)	Wednesday 03/12/2003 (68 FR 68592)	Wednesday 28/01/2004 (69 FR 5317)

**Table 26: Key Dates in Selected Cases**

**Sources: Appendix B; (USGPO, 2007)**

#### **10.1.4 Showing Dumping / Subsidisation and Injury and /or Threat of Injury**

The arguments for showing dumping and injury are again information intensive exercises, with the need to base allegations on evidence requiring firms to access sources both inside and outside the firm. The petitioners all succeeded in meeting the tests to show subsidisation or dumping and injury or threat of injury to the domestic industry. The petitioners all substantially followed the same approach to these two tasks, in accordance with the relevant statutory and regulatory requirements. Micron identified first Hynix and Samsung as accounting for practically all Korean production of DRAMs through “a leading market analyst, Semico Research Corp.” (Hale and Dorr LLP, 2002; p.13) and therefore also being the primary beneficiaries of any

subsidisation. Micron then used financial statements, the news media, investment industry reports, press releases and Korean politicians' statements to build the case for finding subsidisation of Hynix (Hale and Dorr LLP, 2002; p.14-119), see Table 27. Micron was able to produce far less evidence of the degree to which Samsung had received subsidisation, leaving the distinct impression that this case was predominantly about the ongoing support of Hynix by the Korean Government and less so about Samsung. The nature of the Korean DRAMs industry and the US trade remedy statutes however meant that regardless of whether Micron had extensive evidence of subsidisation for Samsung, as the largest Korean producer, Samsung was always going to be selected as a mandatory respondent in any potential case.

To show injury or the threat of injury Micron collected information regarding imports of the subject merchandise to the US from the rest of the world, by volume and value, using US census data and identified Samsung Semiconductor, Inc. (SSI) and Hynix Semiconductor America Inc. (HAS) as the only two importers of the subject merchandise from Korea. Micron was then left with the task of providing the required factual information for showing material injury, threat of material injury, or material retardation, and causation of this injury as a result of the Korean DRAM imports.

Micron's petition was set out according to the injury and causation measures used by the ITC and included market research, financial and statistical data to support the firm's claims in terms of changes in the conditions of competition, the growth in imports, the changes in price due to the imports, the effect of the imports on the domestic industry and the threat of injury. Most crucially of all though Micron was able to provide documentary evidence of lost sales due to import competition believed to be from Hynix, as well as other evidence of sales lost to imports of DRAMs from Korea generally (Hale and Dorr LLP, 2002; p.148-150).

Description of Alleged Countervailable Subsidy	Alleged Beneficiaries		
	Hynix	Samsung	Korean DRAM Industry
<b>Government of Korea's Bailout of Hynix Semiconductor</b>			
a. Syndicated Bank Loan of 800 Billion Won	Yes	-	-
b. 22.7 Billion Won Citibank Loan	Yes	-	-
c. KDB Fast Track Program	Yes	-	-
d. May 2001 Bailout	Yes	-	-
e. 680 Billion won Bond Guarantee	Yes	-	-
f. October 2001 Bailout	Yes	-	-
g. D/A Financing	Yes	-	-
<b>Other Subsidies</b>			
1. Preferential Loan Programs			
a. Fund for Industrial Technology Development	Yes	-	Yes
b. Fund for Promotion of Science and Technology	Yes	?	Yes
c. Fund for Promotion of Informatization	Yes	?	Yes
d. Fund for Rental Housing	Yes	?	Yes
e. Fund for the Promotion of the Defense Industry	Yes	?	Yes
f. Long-Term Usance Loans	Yes	?	Yes
g. Export Industry Facility Loans ("EIFLs")	Yes	?	Yes
h. Short-Term Export Financing	?	?	Yes
i. Export Credit Financing From Export-Import Bank of Korea	Yes	Yes	Yes
j. Loans From the Energy Savings Fund	?	?	Yes
k. Fund for Machinery Made In Korea	Yes	?	Yes
2. R&D Support	?	?	?
3. Tax Programs			

a. Reserve for Overseas Market Development . (Former) Article 17 of TERCL	Yes	Yes	-
b. Technological Development Reserve Funds- (Former) Article 8 of TERCL	Yes	Yes	-
c. Tax Credit for Capital Investment in Facilities for Technology and Human Resources Development-Article 11 of RSTA	?	?	-
d. Reserve for Export Loss-(Former) Article 16 of the TERCL	Yes	Yes	-
e. Tax Credit for Investment in Facilities for Productivity Enhancement under Article 24 of RSTA	Yes	Yes	-
f. Special Taxation Provisions Relating to Corporate Restructuring	Yes	Yes	-
g. Miscellaneous Investment Tax Credits- Articles 10. 18.25.26. and 71 of RSTA	?	?	Yes
h. Foreign Investment Promotion Act (Formerly Foreign Capital Inducement Law (FCIL))	?	?	Yes
4. Other Benefits			
a. Duty Drawback on Non-Physically Incorporated Items and Excessive Loss Rates	?	?	Yes
b. Export Insurance	?	?	?
c. Electricity Discounts Under the Requested Load Adjustment Program	?	?	Yes
d. Targeted Assistance Programs Existing Prior to POI But Believed to Provide Continuing Effects	?	?	Yes
5. Subsidies to Samsung	-	Yes	-
6. Subsidies Found During the Investigation	Unknown		

**Table 27: Countervailable Subsidies Alleged by Micron in DRAMs Petition**

**Source: (Hale and Dorr LLP, 2002)**

The US PET Producers Coalition was unable to provide data on the relative percentage of imports to the US for each of the four foreign firms they identified as producing PET resin and could only say that they accounted for at least 5% of US imports of PET resin. While petitioners make a stronger case with firms specific evidence, the US PET Producers Coalition was able to use data from the ITC Dataweb (USITC, 2008b), to provide data on the total volume and value of imports under US HTS subheading 3907.60.0010 for the period between 2000 and 2003 at the country level (Howrey Simon Arnold & White, 2004). The petitioners used this data to attempt to link the EU trade cases to the increased imports to the US again in this argument. In a similar vein, as a result of lacking data on the actual subsidisation of the foreign firms the petitioners turned to prior investigations of the GOI subsidy programmes, information on the programmes themselves and where possible the recent EU determination, to build the case for subsidisation (Howrey Simon Arnold & White, 2004).

To show injury the petitioners built a case on the bases of healthy growth in demand for PET resin in the US and an inability on the part of US producers to price to reflect changes in the cost of volatile raw material prices and inability to reap benefits from capacity expansion by DAK, Nan Ya and M&G between 2000 and 2003. Additionally Wellman was argued to have reduced planned expansion of capacity due to depressed prices (Howrey Simon Arnold & White, 2004). These arguments were substantiated by news media articles and firms' press releases. The petitioners went on to argue, using import data that the responding firms were using aggressive pricing strategies and achieving significant import penetration into the US market. The petitioners' belief that the EU duties on the subject merchandise had caused significant trade diversion were repeated again in the injury argument. The petitioners' made use of import data and internal pricing data to argue that the commodity nature of PET resin meant that competition took place mostly based on price and that the average price per lb. had broadly been falling (Howrey Simon Arnold & White, 2004). The PET Coalition members were able to provide evidence of lost sales and revenues to imports and used extensive BPI to argue the injury case (Howrey Simon Arnold & White, 2004). Employee declarations, respondent press releases and a variety of news media articles were used to further strengthen claims of the threat of injury from future capacity

expansion in India and the export oriented nature of the respondent firms (Howrey Simon Arnold & White, 2004).

The AMCFLT was able to identify around 130 Chinese firms believed to be producing wooden bedroom furniture for export to the US, a first step for showing dumping by the foreign industry (King and Spalding LLP, 2003). As with the inability to identify all the US producers, this left a large degree of uncertainty with respect to the actual strength of the petition. Neither was it possible for the petition to provide information that would enable estimates to be made about “the percentage of exports accounted for by each exporter during the most recent 12 month period” (King and Spalding LLP, 2003; p.9) making the identification of possible mandatory respondents difficult. The petitioners were able to identify 165 importers of the subject merchandise (King and Spalding LLP, 2003). Using import data it was however possible for the AMCFLT to show the total value of imports of the subject merchandise for two calendar years before the petition was filed almost doubling in value from approximately \$565m in 2001 to \$958m in 2002 (King and Spalding LLP, 2003), also see appendix D. This lack of clear data on exports of wooden bedroom furniture did however not prevent the calculation of dumping margins for the petition, due to the classification of China as a nonmarket economy.

The normal formula for calculating dumping margins is to calculate the ‘normal value’ of the imports, subtract the US price at which they are sold by the respondent, and divide the answer by the US price (DOC ITA, 1998, Howrey Simon Arnold & White, 2004), see Figure 13. This calculation is however subject to a variety of adjustments to take account of case specific circumstances, see Figure 13, which have been the subject of much criticism (Boltuck & Litan, 1991, Lindsey & Ikenson, 2003). China’s nonmarket economy status allowed the AMCFLT to use a constructed value for the normal value of the subject merchandise, using surrogate values for the cost of production for wooden bedroom furniture from India. The AMCFLT calculated the dumping margins in this case by successfully purchasing six different products from Chinese firms, this gave them invoices with a US sales price, next they identified the factors of production required to produce those six products and finally they used surrogate values for the factors of production for producing the products (King and Spalding LLP, 2003).

## Calculating Dumping Margins

**Standard Calculation**

$$\frac{\text{Normal Value} - \text{Export Price}}{\text{Export Price}}$$

Normal Value (NV): The price at which a responding firm sells its goods in its home market.

Export Price (EP): The price at which a responding firm sells its goods in the US.

**Nonmarket Calculation**

$$\frac{\text{Constructed (Surrogate) Normal Value (CV)} - \text{Export Price}}{\text{Export Price}}$$

In the case of nonmarket economies the constructed value of respondents home market sales price is calculated using values for the factors of production used to produce the subject merchandise from a surrogate country, in the case of China this is almost always India (King and Spalding LLP, 2003).

**Constructed Export Price Calculation**

$$\frac{\text{Normal Value} - \text{Constructed Export Price (CEP)}}{\text{Constructed Export Price}}$$

A distinction is made between sales by a respondent to an unaffiliated purchaser before exportation of the subject merchandise and sales made by a seller in the US affiliated to the respondent. The first case uses a normal export price, the second requires a constructed export price (DOC ITA, 1998).

**Cost Case Calculation**

$$\frac{\text{Constructed (Cost-based) Normal Value (CV)} - \text{Export Price}}{\text{Export Price}}$$

In certain circumstances a responding firms export price will be compared to the price the firm charges in another export market or as in this example, “to the firm’s cost of producing the merchandise, taking into account the selling, general, and administrative expenses, and profit” (DOC ITA, 1998; chp. 6, p.2).

**Figure 13: Explanation of Dumping Calculations**

The calculation of the constructed value involved identifying the factors of production required to make the six imported products were identified by disassembling the imported products acquired by the petitioners, industry knowledge, and Indian Government import statistics, International Monetary Fund data were used to calculate adjustments for inflation and currency conversions, labour wages were calculated based on DOC regulations, the International Energy Agency's (IEA) publications were used to calculate the cost of electricity and finally the financial accounts of an Indian furniture manufacturer, Indian Furniture Products Ltd. Were used to calculate general expenses and profit margins (King and Spalding LLP, 2003). The export price was calculated using a Chinese respondent's sales invoices for the six products the petitioners purchased (King and Spalding LLP, 2003). The AMCFLT calculated potential dumping margins of between 158.74% and 440.96% (King and Spalding LLP, 2003).

The manner in which the AMCFLT sought to show injury or the threat of injury provides a good example of the types of information firms use for this argument. They started by showing how domestically and imported wooden bedroom furniture were similar with respect to six 'like product factors' the ITC usually considers and how the US government classifies the products under one NAICS industry code (King and Spalding LLP, 2003). The key argument made by the AMCFLT however was that wooden bedroom furniture should not be thought of as separate items, but as suites (King and Spalding LLP, 2003). This determined how the DOC would gather data for the dumping calculation and prevented foreign producers from having the option of adjusting the prices of individual units in a suit to circumvent a duty order. Having established the domestic like product, and thereby identifying the domestic industry, the AMCFLT turned to the injury claims. The injury argument used import and domestic production data to show the growth of imports in the US market, arguing that the volume of dumped imports was significant, "both in absolute terms and in relation to domestic production and domestic consumption" (King and Spalding LLP, 2003; p.26), see Table 28 for types of statistics used. The loss of competitiveness was linked to imports using examples of lost sales and revenue as required by the ITC, provided a list of US plant closures and US Department of Labour data on workers eligible for Trade Adjustment Assistance (King and Spalding LLP, 2003).



<b>Description of percentage change for each period</b>	<b>Period 1</b>		<b>Period 2</b>	
	<b>2000</b>	<b>2002</b>	<b>Jan-Jun 2002</b>	<b>Jan-Jun 2003</b>
Increase in value of dumped imports for each period	-	121%	-	54%
Dumped imports as a percentage of the value of domestic production	13%	44%	34%	67%
Dumped imports share of apparent domestic consumption	8%	23%	16%	30%
Domestic producers market share	68%	46%	58%	40%
Reduction in domestic producers average unit value for each period	-	10%	-	-
Reduction in US industry's domestic production capacity for each period	-	20%	-	25%
Petitioner's capacity utilisation	85%	65%	74%	58%
Decline in petitioner's employment of production and related workers for each period	-	20%	-	16%
Decline in petitioner's number of hours worked for each period	-	25	-	24
Decrease in petitioner's net sales value for each period	-	23	-	24
Decrease in petitioner's operating income for each period	-	75	-	78
Petitioner's operating profit margin	12%	3%	6%	1%
Decrease in petitioner's cash flow for each period	-	60%	-	80%
Decrease in petitioner's capital expenditure for each period	-	50	-	45

**Table 28: Example of Statistics used by AMCFLT to Show Injury**

**Source: (King and Spalding LLP, 2003)**

Before making the required dumping and injury arguments Gleason identified the domestic like product for the case, China as the country from where the imports originated, the Chinese producers Gleason believed were dumping in the US and sixteen firms that were believed to be importing the subject merchandise (Crowell & Moring, 2003). The domestic like product was identified by relying on the six factors the ITC usually considers “to define the ‘domestic like product’: (1) physical characteristics and uses; (2) the manufacturing process; (3) interchangeability; (4) channels of distribution; (5) customer and producer perceptions; and (6) where appropriate, price” (Crowell & Moring, 2003; p.10). While Gleason was able to provide details of three Chinese manufacturers, the firm was unable to provide firm specific import data for these firms (Crowell & Moring, 2003).

Given China’s nonmarket economy status by the DOC, Gleason relied on data from India to calculate a constructed normal value as a proxy for Chinese hand truck home market sales as part of showing dumping (Crowell & Moring, 2003). It is in these calculation methodologies that interpretation of rules and selection of surrogate data create room for firms to present a case that reflects their policy preferences. Gleason identified imports of hand trucks to the US from India using import statistics and retained an external researcher in India to identify “whether hand trucks were produced in India in significant quantities” (Crowell & Moring, 2003; p.19). The researcher was unable to identify any organised data on the subject, but did identify an industry in India producing ‘sugar bag trolleys’, which closely matched hand trucks as described in the petition, with potentially hundreds / thousands of producers of these ‘sugar bag trolleys’ (Crowell & Moring, 2003).

Having identified an Indian industry producing a similar product Gleason used samples of two hand trucks purchased from a Chinese manufacturer, Qingdao Huatian Hand Truck Co, Ltd. (Qingdao Huatian) to identify the factors of production required to produce these two products (Crowell & Moring, 2003). Gleason relied on the most recently available Indian import statistics to value direct materials in the production process, determined labour wages according to accepted DOC regulations and practice, established surrogate values for electricity and gas, determined a value to recovered scrap, calculated surrogate values for packing materials and packing labour and used the latest financial statements for an Indian producer of hand trucks to derive ratios for

factory overhead, selling general and administrative expenses, and profit (Crowell & Moring, 2003). To complete the dumping calculation Gleason required an export price to the US and this was determined using price quotes from Qingdao Huatian (Crowell & Moring, 2003). Gleason estimated “margins of dumping ranging from 370.7 percent to 472.5 percent” (Crowell & Moring, 2003; p.23).

Gleason began the section for showing injury or the threat of injury by stating the firm’s understanding of how the ITC determines whether an US industry is injured by reason of the imports being investigated, by considering “the volume of the subject imports, their effect on prices for the domestic like products, and their impact on domestic producers of the domestic like product (but only in the context of U.S. production operations)” (Crowell & Moring, 2003; p.24). Gleason explicitly used the US trade remedy statutes throughout the section to structure the firm’s injury argument and analyse the import data for the subject merchandise, showing why increased imports were significant and providing preliminary evidence that imports may have been responsible for domestic price depression and suppression (Crowell & Moring, 2003). Gleason also drew on internal sales data for the injury argument, substantiated by an affidavit of Jay Kvasnicka, Corporate Vice President of Sales and Marketing at Gleason, as well as internal profitability and capital expenditure data (Crowell & Moring, 2003). To show that there was a threat of material injury Gleason used import statistics and an extract from Qingdao Taifa Group Co. Ltd.’s catalogue showing the firm’s size and capacity expansion (Crowell & Moring, 2003).

To show dumping Mercury identified Japan as the country of exportation and the five producers in Japan believed to be producing and exporting outboard engines to the US (Dewey Ballantine LLP, 2004). Mercury used US import data to show the volume and value of the subject imports for the most recent three year period and identified Yamaha and Honda as the two largest Japanese producers (Dewey Ballantine LLP, 2004). Mercury also believed that at least one if not more of the Japanese firms were importing outboard engines through their US subsidiaries (Dewey Ballantine LLP, 2004). Mercury used a variety of sources of information for calculating Yamaha and Honda’s Normal Value, including internal knowledge supported by employee affidavits (Dewey Ballantine LLP, 2004). Because Mercury believed that the responding firms were using US subsidiaries to import the subject merchandise, the dumping calculation required

Mercury to calculate a constructed export price instead of the normal export price (Dewey Ballantine LLP, 2004), see Figure 13. This required Mercury to collect additional information regarding Yamaha and Honda's selling activity for the dumping calculation. Mercury additionally made allegations that Yamaha was selling one of its models of 4 stroke engine at below the firm's cost of production (Dewey Ballantine LLP, 2004). This required additional information taken from internal Mercury knowledge on the costs of producing a similar engine and financial accounts of Yamaha to calculate a cost of production for the foreign firm (Dewey Ballantine LLP, 2004).

Mercury showed injury or the threat of injury in the context of recent implementation of Environmental Protection Agency (EPA) air pollution standards that had required US firms to phase out the industry's long-term core product, the "the traditional carburetted 2-stroke engine" (Dewey Ballantine LLP, 2004; Volume 2, p11). Mercury argued this had required the firm to invest heavily and the need to recoup this investment meant that the dumping by Japanese firms was proving even more of a challenging to US producers and causing material injury to the US industry (Dewey Ballantine LLP, 2004). Additionally excess Japanese capacity and the growing volume of imports presented the threat of additional material injury (Dewey Ballantine LLP, 2004). Mercury defined the domestic like product using the ITC standard six factors for this analysis, arguing that all outboard engines were part of a single domestic like product (Dewey Ballantine LLP, 2004). When making the argument that powerheads should be included in the domestic like product, as a semifinished product, Mercury used the ITC's five factor test for these issues (Dewey Ballantine LLP, 2004). Mercury used a number of trade publications to identify the domestic industry as consisting of Mercury and Bombardier Recreational Products (BRP) (Dewey Ballantine LLP, 2004). Mercury sought to show injury by using import statistics to show import penetration and Yamaha investor presentations to show how their export strategy was focusing on larger engines (Dewey Ballantine LLP, 2004). Furthermore Mercury used its market knowledge to explain how engines are predominantly sold through OEMs and highlighted the importance of discounting in this process, to alert the ITC to how this would affect its calculations (Dewey Ballantine LLP, 2004). Mercury used OEM documentation on sales policies to show the lack in price competitiveness on the part of Mercury (Dewey Ballantine LLP, 2004). Mercury suggested three products for which the ITC should

collect data, showed price suppression and depression and the adverse affect that imports had had on the industry using internal information (Dewey Ballantine LLP, 2004). Finally using the statute, Mercury argued that the threat of future industry also existed (Dewey Ballantine LLP, 2004).

#### **10.1.5 Critical Circumstances and Cost Cases**

The allegation of critical circumstances or a cost case provide examples of how petitioners' ability to present evidence to the DOC to support claims for an amended calculation methodology can significantly alter the nature of the original investigation. Petitioners who are unable to gather the required data or adequately present it to the agency will struggle to successfully prosecute a case.

The petitioners in the PET Resin case were unsuccessfully in meeting the DOC criteria for a critical circumstances allegation to be accepted (USGPO, 2007; 69 FR 21088). Had the US PET Producers Coalition been successful they would have benefited from "limited retroactive imposition of duties" on the subject merchandise (USITC, 2005a) imported into the US during the 90 days before the DOC preliminary determination (DOC ITA, 1998). Given that there are strong indications that this case was to a large degree filed in response to trade diversion as a result of EU trade defence measures, the failure of the petitioners to make the argument for critical circumstances must have been a disappointment. A successful prosecution of this allegation would have resulted in the foreign producers facing an unexpected charge on earlier exports to the US that may have influenced the strength of their cash flow positions and future strategic choices.

Mercury successfully made the argument for a cost case, alleging that the responding firms were not only dumping, but also selling the foreign like product at below their cost of production in Japan during the POI (Dewey Ballantine LLP, 2004). As was shown in Figure 13 a cost case requires the DOC to calculate the constructed normal value of subject merchandise and this requires the collection additional information from respondents through section D of the antidumping questionnaire. A case becomes more difficult for respondent firms if sales below cost of production allegations are made by petitioner and the outcome of the case becomes more uncertain (Trade Attorney, 2005). If a cost case is being prosecuted and the responding firm is large, then often an independent certified public accountant (CPA) will be hired to consult on

the case and to work with the company (Trade Attorney, 2005b), but with smaller cases / companies the attorneys may do the work themselves (Trade Attorney, 2006h). Either way the successful argument for this type of case by Mercury would almost certainly have increased the burden on Yamaha during the original investigation.

## **10.2 Corporate Political Strategy**

The lack of a common institutional environment for prosecuting this phase results in the petitioning and responding firms having different perspectives on the phase, see Figure 14. Both US and foreign firms have a number of choices with regards to how they address the changed competitive environment as a result of import competition. As was argued, it is conceivable that significant import competition may go unnoticed by US producers competing with the foreign goods, but it has to be said unlikely. There are also a number of opportunities where US firms may recognise import competition but not the potential for a trade case, opting to do nothing or pursue market oriented strategies for example. Foreign firms will undoubtedly know that they are having success in the US market and from their perspective it is a matter of them recognising that they might be exporting in such a manner that leaves them open to an antidumping case or that the subsidies they have received could result in a countervailing duty case against them. Both US and foreign firms throughout the phase have the option of doing nothing, when the US producers choose to do so it is unlikely a case will be brought, even though the statute does provide alternative initiation opportunities such as the DOC self initiating a case. When potential respondents choose to do nothing it has no direct effect on the likelihood of a case being filed, but also leaves the firms unprepared should this happen.

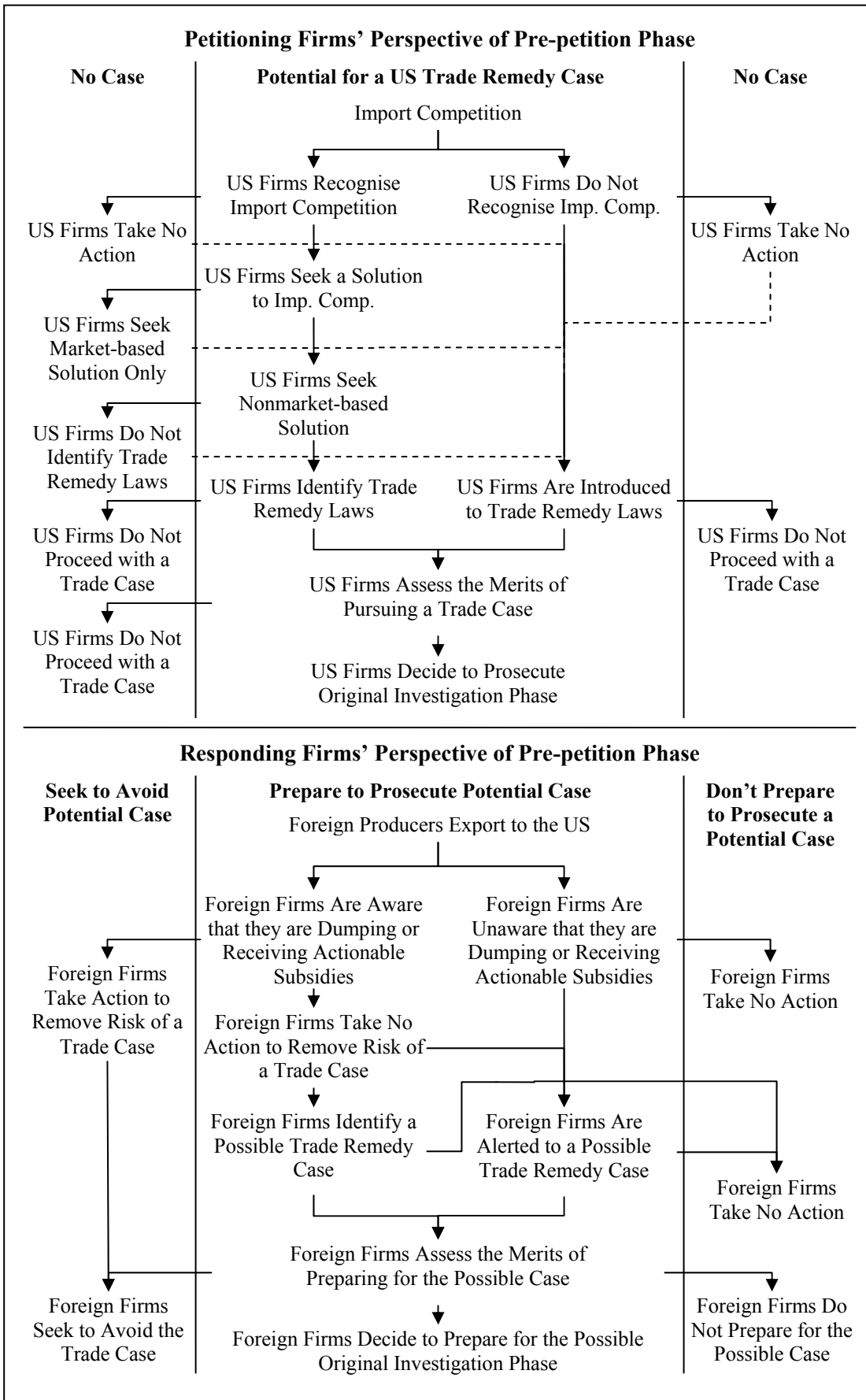


Figure 14: Petitioner and Respondent Strategic Choices During the Pre-petition Phase

Firm experience with US trade cases is a key differentiator in how firms prosecute this phase, and indeed the remaining two phases of a case (Trade Attorney, 2005b). Firm experience will potentially determine how firms identify import competition as possibly falling foul of the US trade laws, influence how much firms know about the laws and prosecuting cases and the degree to which firms are prepared for prosecuting a case, in terms of the network of external experts a firm has to support it and with regard to the firms internal resources. In some experienced industries, trade cases often become ‘a fact of life’, such as for firms in the bearings or steel industries. The firms in these industries will make the prosecution of a trade case part of an integrated strategy, developing systems that firm employees use for monitoring pricing behaviour and subsidisation (Trade Attorney, 2005b).

Trade remedy cases can become viewed as a cost of doing business for firms in some industries (Trade Attorney, 2005o) and these firms will be very aware of the affect of the nonmarket environment on their performance (Trade Attorney, 2006i). In these industries cases can become part of an integrated strategy on the part of firms (Trade Policy Analyst, 2006). Petitioners in these industries will most likely have developed long-term relationships with trade attorneys in Washington DC (Trade Attorney, 2005u, 2006c, 2006f). The US semiconductor industry which brought the DRAMs case has for example previously filed a number of antidumping cases against industries in Japan, Korea and Taiwan (see Table 29), the ITC record of current duty orders in place however shows that the DRAMs & DRAM Modules from Korea is the only active DRAMs duty order at this time (USITC, 2007d). The previous cases show that the petitioner Micron retained Gilbert B. Kaplan of Hale and Dorr LLC as lead attorney in the prosecution of the recent DRAMs cases (USITC, 2007b; ITC Doc 31680, 36848, 188187)<sup>4</sup>.

Further evidence of the relational approach adopted by Micron is provided by two letters<sup>5</sup> (USITC, 2007b; ITC Doc 207914 & 207917) informing the ITC that Micron had changed counsel from Hale and Dorr LLP (Now Wilmer Cutler Pickering Hale and

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<sup>4</sup> For example in the review of DRAMs of 1 Megabit and Above from Korea during 2000, as well as the prosecution of the original investigations of DRAMs of 1 Megabit and Above from Taiwan and DRAMs & DRAM Modules from Korea

<sup>5</sup> In the DRAMs and DRAM Modules from Korea case.



Dorr LLP) following the move of Gilbert B. Kaplan, the lead attorney on that case, and Cris R. Revaz, Esq., Bonnie B. Byers, a trade economist, and Rebecca L. Woodings, an international trade specialist, to King & Spalding LLP. Chris R. Revaz was also part of the legal team that prosecuted other cases<sup>6</sup> with Micron (USITC, 2007b; ITC Doc 31680, 36848, 188187). This provides strong evidence of a relationship between the firm and key nonmarket specialists, especially the lead attorney that represents the firm.

<b>Year Filed</b>	<b>Type</b>	<b>ITC / DOC Case No.</b>	<b>Description</b>	<b>Country</b>	<b>Outcome</b>
1985	AD	731-TA-270 A-588-503	64K DRAMs	Japan	Affirmative (Revoked 22/10/1993)
1986	AD	731-TA-300 A-588-505	256K and Above DRAMs	Japan	Suspended (07/08/1986)
1992	AD	731-TA-556 A-580-812	DRAMs of 1 Megabit and Above	Korea	Affirmative (ITA revoked 02/11/1999)
1999	AD	731-TA-811 A-583-832	DRAMs of 1 Megabit and Above	Taiwan	Negative
2003	CVD	701-TA-431 C-580-851	DRAMs & DRAM Modules	Korea	Affirmative

**Table 29: Trade Remedy Cases Prosecuted by US Semiconductor Industry between 1980 - 2006**  
**Source: (DOC ITA, 2007d, USITC, 2006)**

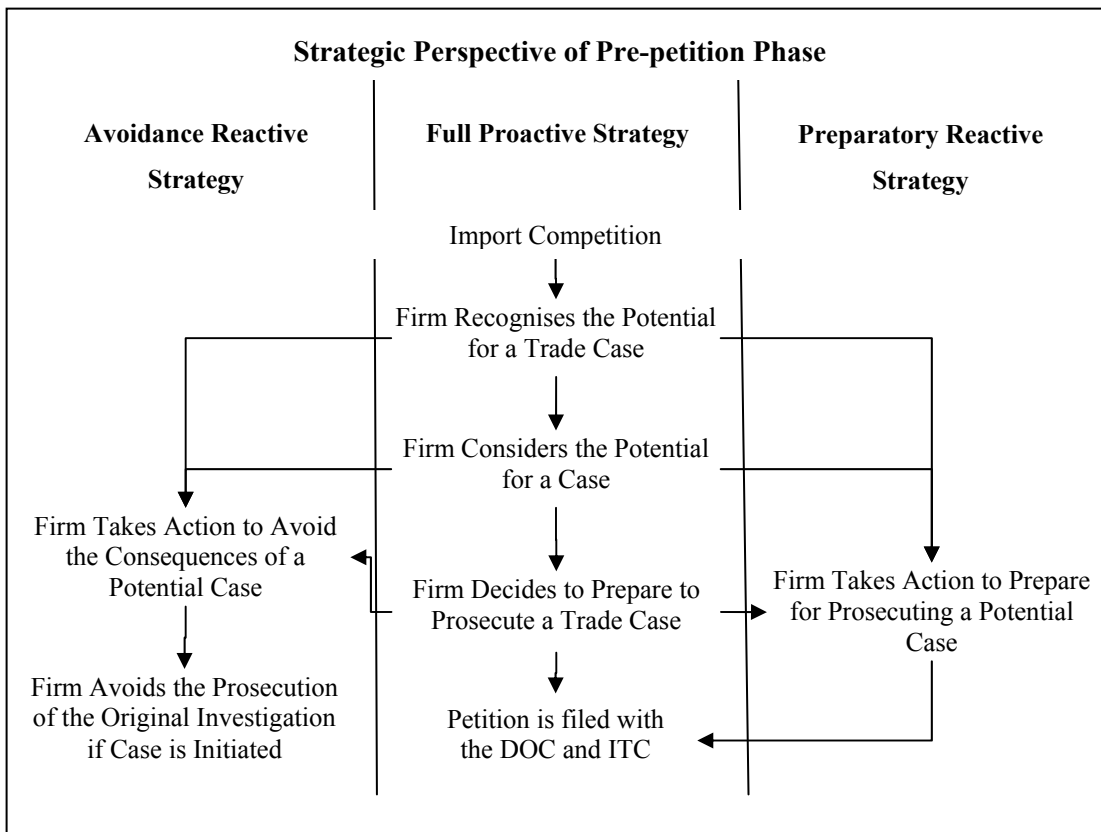
When inexperienced US producers identify import competition and decide to seek a solution to their loss of competitiveness, they will need to identify the trade remedy laws as a potential solution to their loss in competitiveness. These firms may become aware of the possibility for a trade remedy case through their own initiative or they may be approached by an external expert such as a trade attorney or economist who educates them about the possibility (Trade Attorney, 2006b). Where firms do identify the trade laws themselves, they may have drawn on a variety of internal and external resources

<sup>6</sup> Namely DRAMs of 1 Megabit and Above from Korea and the original investigation of both DRAMs of 1 Megabit and Above from Taiwan and DRAMs & DRAM Modules from Korea

and sources, including in house attorneys (Trade Attorney, 2006f), word of mouth (Trade Attorney, 2006b), the news media (Trade Attorney, 2006f), local, state and federal government employees or politicians (Trade Attorney, 2006f). But inevitably at some point they get in contact with the trade attorneys that prosecute these cases and the attorneys educate them about the cases (Trade Attorney, 2005u).

Inexperienced respondent firms might be alerted through industry rumours (Trade Attorney, 2005a, 2005e, 2005m), the larger the petitioning industry the more difficult it becomes to keep a case quiet (Trade Attorney, 2005e), trade attorneys may alert them to a potential or actual case (Trade Attorney, 2005h, 2005i), or the petitioners may proactively signal their intent (Trade Attorney, 2005e, 2005m) as part of their strategy hoping to ‘naturally’ influence trade flows. On other occasions when the petitioners adopt a strategy of keeping the potential case ‘quiet’, there may be no opportunity for a reactive strategy, as the first time that respondent firms will be aware of the case is when it is filed with the DOC and ITC (Trade Attorney, 2005n, 2005p, 2006g, Trade Policy Analyst, 2006). An US importer may become aware of a case when its shipments became stuck in customs and subject to unexpected duties (Director at US Importer, 2005). The level of the preliminary DOC duties can often be very high and cause significant disruption to importers business and uncertainty about their future business strategies (Director at US Importer, 2005).

The remainder of this section focuses the strategies adopted by experienced and inexperienced firms, whether domestic or foreign, during this phase when the final outcome is a trade case being filed with the DOC and ITC. This approach retains the desired focus on how firms prosecute a trade case from start to finish. The strategies adopted by both petitioning and responding firms can be discussed in terms of three broad approaches, a full proactive strategy, an avoidance reactive strategy and a preparatory reactive strategy, see Figure 15. The adoption of a full proactive strategy is only available to US producers considering the possibility of filing a petition, due to the institutional nature of the phase. US producers, other US firms, foreign producers and other foreign firms and the foreign governments of the countries a case will be brought against have the option of doing nothing or adopting either the avoidance or preparatory reactive strategies, when they are aware of the potential for a case to be brought.



**Figure 15: Standardised Firm Strategic Choices During the Pre-petition Phase**

### 10.2.1 Proactive Approach

Only US interests representing a domestic industry, almost always US producers, are able to proactively prosecute the pre-petition phase of a case, as the only provision for direct contact with the agencies during this phase is pre-petition counselling. Hillman, Keim & Shuler (2004) argue that a proactive corporate political strategy seeks to engage with government decision makers, by for example providing information. The pre-petition phase provides potential petitioners with access to the DOC and ITC, and their staff, through pre-petitioning counselling while the case is being prepared and with the actual filing of the antidumping or countervailing duty petition at the end of the phase. The US firms that adopt a proactive strategy for this phase, and their supporters, form the petitioning interest group for a case. The US firms / interests that provide only support for a case are arguably pursuing a preparatory reactive strategy for the pre-petition phase, as they will no doubt be aware of the nature of the ITC injury investigation and the submissions that will be expected of them, see heading 10.2.2. The proactive corporate political strategies adopted by petitioners in the five cases in this study are broadly summarised in Table 30. These strategies can be differentiated in

terms of their approach to CPA, the level of participation by individual firms and the three CPA strategies in Hillman & Hitt's (1999) taxonomy.

The proactive strategy adopted by Micron exhibited a relational approach to prosecuting trade cases, Micron had made extensive use of trade remedy cases in general and against Hynix and Samsung's activities in Korea, see Table 11. Micron however prosecuted the case individually, using information and constituency-based strategies. The twenty-seven members of the AFMCLT and four firms in the US PET Producers Coalition adopted a transactional approach, participate collectively and used information and constituency-building strategies. The PET Resin case is interesting in that an affiliated industry had previously filed a number of cases against imports of PET Film, see Table 11, but the firms in this case had not participated. It is difficult to comment on the degree to which this informed the choices of the US PET Producers Coalition. Both Gleason and Mercury used transactional approaches to prosecuting trade cases, choosing individual levels of participation and drew on information and constituency-based strategies. Neither the limited record for this phase of the cases or material collected during the interviews for this study indicated the use of financial incentive strategies as playing a role in this phase of a case, as will be discussed in the resource-based view of the phase, money acts primarily as an indirect financial CPA resource enabling firms to gain access to those resources and capabilities they need to prosecute a case. An example may be the knowledge of external attorneys with regard to the DOC and ITC processes.

Petitioning Firms / Groups	Level of Engagement		Approach to CPA		Participation Level		Strategy Type		
	Proactive	Reactive	Transactional	Relational	Collective	Individual	Information	Constituency-building	Financial Incentive
Micron	Yes	-	-	Yes	-	Yes	Yes	Yes	-
US PET Producers Coalition	Yes	-	Yes	-	Yes	-	Yes	-	-
American Furniture Manufacturers Committee for Legal Trade	Yes	-	Yes	-	Yes	-	Yes	Yes	-
Gleason	Yes	-	Yes	-	-	Yes	Yes	Yes	-
Mercury	Yes	-	Yes	-	-	Yes	Yes	Yes	-

**Table 30: CPA Strategies of Petitioning Firms in Selected Cases**

The information strategies adopted by firms are related to a variety of aspects of the trade cases, including showing industry support, showing dumping / subsidisation and proving injury. Two aspects of the information strategy pursued by petitioners that are not easily accessible by the record for a case are the use of pre-petition counselling and the decision to file a petition. Pre-petition counselling offers petitioners the opportunity to identify “any deficiencies in the petition which, if not corrected in time, may delay or prevent initiation of the investigation. A draft petition also enables both agencies to begin preliminary work in preparation for the actual filing” (USITC, 2007a; p.I-4). The degree to which the petitioners included in this study made use of this counselling is unclear, but some broad comments are made possible by the interview data collected. Making use of this service not only allows petitioners to sound out the agencies on the strength of their case, but also begins to build a relationship with the agencies by giving them notice of a potential case.

The decision to file a petition is typically only taken by the petitioners once they have prepared a complete petition (Trade Attorney, 2005t) and marks the final point for

prosecution of the phase. Issues that the petitioners may consider addressing in the preparation and filing of a case may include a number of different aspects of firm activity and the DOC and ITC investigation procedures. These include the timing of a filing, customer, public and investor relations. Petitioners have the advantage of determining the date on which a petitioning is filed (Trade Policy Analyst, 2006) and they can wait for as short or long a period to file the document. This creates uncertainty from the respondents perspective, as they will never be quite sure if the petition will be filed, but can also create opportunities for responding firms to address the potential case if the petitioners wait too long, as will be discusses further below. The purpose of the petitioners careful consideration of the date of filing is because it determines what data the DOC and ITC will use in their investigations, see Table 26 for case experience, by determining the POI (Trade Attorney, 2005l).

The importance of the timing of a filing, however, goes beyond ensuring that the petitioning industry files at a time which ensures the strongest injury case. Due to the administrative nature of the original investigation and strict deadlines adhered to by the DOC and ITC, the petitioners are able to for example ensure that the deadline for briefs to be filed following the ITC original investigation hearing is after a weekend (Trade Attorney, 2005t), thereby buying a few more critical days during the early stages of an investigation process with very tight deadlines. The PET Resin petition was the only one not to be filed on a Thursday or Friday, see Table 26. The effects of these tactics will emerge during the prosecution of the original investigation. All but one of the cases had their hearings on a Tuesday, see Table 26, the Hand Trucks case being the exception with the hearing being held on a Thursday. An extension of these sorts of strategic considerations is to include foreign holidays in the decision, in a number of countries there are certain holiday periods when foreign firms and governments might be less well prepared for addressing a new antidumping or countervailing duty filing in the US (Trade Attorney, 2006g). Interestingly in the Hand Trucks case the period for quantity and value questionnaire responses coincided with the Chinese Spring Festival when the respondent businesses were closed (A-570-891-ADI, 2005; Doc 55 p63). This tactic seeks to prevent the firms in the foreign industry being able to most effectively challenge the first decision deadline in the original investigation, the DOC decision to initiate an investigation, which is made after only twenty days (Trade Attorney, 2006g).

The filing date can also significantly change the universe of respondent firms' sales to be considered when calculating a dumping margin and thereby ensure the strongest case possible for petitioners (Trade Attorney, 2005m).

Customer relations remain one of the key concerns for petitioning firms and will remain a general strategic concern that may not always be able to be addressed by careful use of the scope of an investigation to exclude key customers from the effects of a case. Ultimately a trade case will affect a petitioner's customers negatively and the petitioners need to decide how important this reaction is to them. Petitioners do not necessarily need to tell their customers they're going to file a case in advance, but should as soon as they do file (Trade Attorney, 2005q). Ultimately dealing with customers and their reactions to a case is a business issue and attorneys would seem not to play a role in it as it is a business issue (Trade Attorney, 2005e). Sales people were argued to play an important role in educating customers about their reasons for filing a case (Trade Attorney, 2005g). Typical arguments include the need to fight unfair trade practices and that customers might lose a domestic supplier if the case is not brought (Trade Attorney, 2005g). This can be a very important task for petitioning firms, because responding interests might seek to secure US customers as witnesses at the ITC hearing (Trade Attorney, 2005g).

There is a public relations side to the cases as well. Publicly traded companies in the US industry face the further concern of how investors will react to the firm arguing at the ITC that it is unable to compete and has suffered injury. One of the common strategies for dealing with the fact that a petition is being filed is to argue that a 'level playing field' needs to be restored (Trade Attorney, 2005d). There is also the issue of free riders, the dynamics and politics of which can be quite tricky. For example a competitor might oppose a petition to gain favour with a customer (Trade Attorney, 2005d).

The constituency-based aspects of the proactive strategy are related to petitioners' need to show industry support for their petition, as discussed above. While the details of this have already been dealt with in sufficient depth, it is worth noting that petitioners only have to show support for their case during the initiation determination of the DOC. Once industry support has been accepted by the agency and the case is initiated it cannot be revisited. In the Wooden Bedroom Furniture case there were in fact US

producers that withdrew from the AFMCLT ad hoc coalition during the original investigation and this could have affected the AFMCLT's standing as representing the industry had it taken place before the DOC initiated the case. Because the original investigation had already been initiated in this case when the firms withdrew it did not have a direct impact on the prosecution of the case, but serves to highlight the highly contested nature of the case.

### **10.2.2 Reactive Approach**

As was noted earlier two reactive strategies can be identified for this phase; the first can be described as an avoidance reactive strategy and the second as a preparatory reactive strategy. In the avoidance strategy firms determine that it is in their best interest to take actions that will allow them to avoid prosecuting the original investigation of a case and / or the effects of any potential future duties. In the preparatory strategy firms decide that the US market / foreign product is so important to their operations that their best interest is served by prosecution of the original investigation to prevent / have reduced duties being put in place on the imports subject to the case. Adoption of a reactive strategy is the only option available to foreign firms and those US firms that are opposed to a case being brought. These firms will collectively form the respondent interest group. US firms / interests who support a case but do not wish to proactively prosecute this phase also adopt a preparatory reactive strategy.

It should however be noted that respondents typically prefer to adopt a 'wait and see' strategy, doing nothing till a case is filed with the agencies (Trade Attorney, 2005e). At the same time respondent attorneys emphasised that early action was key to a successful prosecution for respondents (Trade Attorney, 2005w), even if that only meant having attorneys ready for the potential case, but not preparing for it. One of the most important determinants of foreign firm participation in the prosecution of a case is based on the importance / value of the US market to a firm (Trade Attorney, 2005d, 2005k, 2005l, 2005o, 2006h). Responding to a petition typically costs about US\$500 000. If the value of a respondents business in the US is less than \$3m, there is a question if it is worth taking part for that foreign firm (Trade Attorney, 2005n). The importance of the US market internationally means it could however be tough for foreign producers to ignore a petition (Trade Attorney, 2005i). If the US is a respondent's market of choice, then



they will need to prepare for the potential case, but if the US market is not important to the firm, then they may choose not to prosecute the case (Trade Attorney, 2005l) and pursues an avoidance strategy.

While both US and foreign firms may consider pursuing an avoidance reactive strategy in response to a potential case that they become aware of, they will find themselves doing so in different ways. There are strong importing interests in the US (Trade Attorney, 2005k) and their motivations will include considerations of ample sources of supply, what the substitute products and country situation is for the subject merchandise (Trade Attorney, 2005d). US importers will not have the same public relations concerns as petitioning firms and will probably have the support of customers, but are also generally more price sensitive with respect to the cost of taking part in a petition, they are more 'dollar focused' (Trade Attorney, 2005d). For the US firms (importers, distributors and retailers for example) an avoidance strategy is concerned with seeking out alternative sources of supply for the products likely to be subject to the case and future duties, while foreign firms (producers and exporters) for whom the US market is important, but do not wish to prosecute a case, will be developing strategies to export their goods in such a way as not to be subject to any future duties, enabling them to avoid prosecuting the original investigation. For the foreign firms the most common strategy is to relocate production to a country not named in the case.

Respondents adopting an avoidance reactive strategy need to think outside the trade remedy case for the solution to their situation, they could shift production for example, depending on the type of product (Trade Attorney, 2005g) and this is an example of circumvention of the duties. Circumvention of duties can be both legal and illegal. If a whole factory is moved from one country to another it is OK, it depends on how much work is done though, it is customs fraud if no work is done in a second country (Trade Attorney, 2005k). Adopting this strategy however is only suitable for respondents with low sunk costs and therefore face a low cost to shift production facilities. This could however lead to a wave of petitions, such as in the pipe tube case (Trade Attorney, 2005n). Alternatively, respondent firms may take the decision to stop shipping certain products, or may established US production facilities (Trade Attorney, 2005o). The ability of respondents to consider this approach to circumvention is largely determined by the nature of the manufacturing process and product. Industries with high sunk costs

and produce a product that is difficult to ship, due to its cost to weight rate ratio for example, will find it difficult to relocate (Trade Attorney, 2006c).

US importers are the firms that actually pay the duties and are to a large degree the real victims in a trade case (Trade Policy Analyst, 2006) and the complications of duties on their goods will often lead them to step out as the importer of record for the subject merchandise and the foreign exporter will step in to keep importing the goods to the US (Trade Attorney, 2005h). One of the main reasons for independent importers making this choice is that the retrospective nature of the US system leaves a lot of uncertainty around what the actual duties for the subject merchandise will be during the review phase.

Foreign firms and US firms will also approach the prosecution of a preparatory strategy in different manners due to the nature of the institutional environment for trade cases. Potential respondents (foreign producers and exporters) will need to consider how they prepare for the potentially invasive original investigation of the DOC, which will require them to submit substantial sales and production data for both their home market and US activities for the POI, as well as the ITC injury investigation. US firms that oppose the case (producers, importers, distributors, retailers etc.) and intend to prosecute the case in support of the responding firms will need to prepare for the ITC injury investigation and, depending on how fully they wish to prosecute the case, the DOC investigation.

Pre-emptive action on the part of foreign respondents before a case is filed does happen, but it is rare. It can be hard to motivate a client the first time they are subject to an investigation (Trade Attorney, 2005m). When considering the strategic options available to foreign firms considering the possibility of trying to avoid prosecuting a trade remedy case brought by a US industry or the effects of a case, it is important to remember the basic principles upon which the cases are founded. In antidumping cases the issues for respondents revolve around their US price, home market price and cost of manufacturing (Trade Attorney, 2005f). Countervailing duty cases fundamentally address situations where foreign firms have historically received a sum of money which has given them an advantage when exporting their goods and that subsidy has not been

WTO compliant. The nature of a case will determine the alternatives available to firms seeking to avoid prosecuting a case.

“[T]here are all sorts of strategic alternatives available to a company that is basically the target of a dumping case or a [countervailing duty] case.”

(Economic Consultant, 2006c)

It is possible for attorneys on rumours of an antidumping petition to go ahead and ‘dump proof’ a respondent company as part of a strategy looking forward to the first administrative review if the petitioners succeed with the case (Trade Attorney, 2005l). In antidumping cases, accounting systems are key, by keeping home market prices low, a company may be able to avoid an antidumping petition (Trade Attorney, 2005f). If respondents face antidumping duties they can deal with it by watching their pricing and their legal counsel can give them advice and help develop programmes for this purpose. This is possible due to the retrospective nature of the US antidumping laws, but this strategy will require the responding firm to tie-up significant financial reserves till the first administrative review, when the firms will then aim to show they had not been dumping since the DOC preliminary determination and their deposits with US customs will be returned to them. Yamaha is reported as having indicated that “[t]hey were going to adjust their home market prices, they announced to their US customers that they would not change their US prices, and they would get around this dumping order” (Economic Consultant, 2006c). In countervailing duty cases the responding firms have less opportunity to take proactive actions to influence the potential outcome of a case. The historic nature of subsidies and the long-term benefits that they provide responding firms can make it difficult to follow strategies as described above for dumping cases. Another preparatory reactive strategy that respondents might adopt is to attempt to challenge the petitioners claim to represent the domestic industry (Trade Attorney, 2006g). This is however only very rarely successful, the only case was the crude oil petition, but there were issues about imposing duties on this product. It is however believed that this was a way to avoid a petition (Trade Attorney, 2006g).

### **10.3 Resource-based View**

Three capabilities emerge as being of important to firms for prosecuting an US trade case, in rough order of use through the phases of a case, these are the capability to

gather information, the capability to build and shape the administrative record and the capability to align business practices with US trade remedy institutions. All these capabilities contribute to a greater or lesser extent to the prosecution of the pre-petition phase, depending on the individual firms and the CPA strategy they have adopted. This section will discuss the use of these capabilities for the different types of firms during this phase and then focus specifically on the capability to gather information, as it is during the pre-petition phase that this capability is most prominent. The capability to build and shape the administrative record and the capability to align business practices with US trade remedy institutions will be discussed in greater depth in chapter 11 and chapter 12, in connection with the prosecution of the original investigation and review phases respectively, where they are most central to firm success.

### **10.3.1 Capability to Gather Information**

The individual petitions for the cases in this study are substantial documents covering hundreds of pages, see Table 32, and draw on a wide variety of sources of information; the sources used in the five cases are summarised in Table 31. For both petitioning and responding firms the capability to gather information has three parts, the capability to gather organisational information from firms' internal environment and the capabilities to acquire market and nonmarket intelligence from the two external environments of the firm (Baron, 1995a, 1995b). The capability to gather organisational information is concerned with accessing information related to the internal activities of firms, classified as BPI by the DOC and ITC, typically related to production, sales and accounting functions data. The capability to acquire market intelligence is concerned with the environment where economic exchange takes place, the marketplace. The capability to acquire nonmarket intelligence with the environment which hosts the social, political and legal institutions that affect a firm, characterised by interests, issues, information and institutions (Baron, 1995b). These capabilities remain important to firms throughout the prosecution of a trade case, but are central to the prosecution of the prepetition phase of a case, especially with respect to petitioners.

Petitioning and responding firms that prosecute the pre-petition phase in many ways need to draw on the same resources and capabilities during this phase and indeed the entire process of prosecuting a case. They will combine both internal and external and

competitive and corporate political resources and capabilities to enable them to collect market and nonmarket intelligence. Market and nonmarket intelligence also broadly falls into one of two categories, being either public in nature or BPI, internal firm data is almost always BPI. This may seem a simple statement, but it has significant consequences for the capability of firms to collect and use the necessary information required for prosecuting a case. A great deal of the information that is required could lead to antitrust allegations if firms freely shared it amongst themselves and firms need to guard against this possibility. The petitions also show that petitioners draw on both internal and external resources to prepare a petition, see Table 32, although the individuals associated with the filing of a petition represent only a part of the number of people that would have been active in the preparation of the document.

The most fundamental of the resources used by firms is money and it is an internal indirect financial corporate political resource in the prosecution of trade cases. Being able to finance the prosecution of a case is a hurdle that both petitioners and respondents need to overcome and can often be a decisive factor when firms are considering their strategic alternatives. The main expense that firms face is retaining the external attorneys, economic and accounting consultants that support firms in the prosecution of a case. While the decisions of the DOC and ITC are based ‘on the facts’, the ability to retain legal counsel and other specialists enables firms to make the most of the facts as they stand. The capability to gather internal firm information allows petitioning firms to make their injury arguments and better understand how the foreign industry might function. This capability is facilitated by trade attorneys as external organisation resources, but relies on internal expertise of a firm’s sales, production and accounting staff.

	DRAMS	PET Resin	Wooden Bedroom Furniture	Hand Trucks	Outboard Engines
<b>Information Used in Petition</b>					
<b>Types of Business Proprietary Information</b>					
US Industry Lost Sales Data	Yes	Yes	Yes	Yes	Yes
US Petitioner(s) Production Data	Yes	Yes	Yes	Yes	Yes
<b>Mix of Public / Business Proprietary Information</b>					
Firm Staff Statements / Declarations	Yes	Yes	Yes	Yes	Yes
General Foreign Market Intelligence	Yes	Yes	Yes	Yes	Yes
General US Market Intelligence	Yes	Yes	Yes	Yes	Yes
US Industry Production Data	Yes	Yes	Yes	Yes	Yes
External Industry Expert Statements / Declarations	-	-	-	Yes	?
<b>Types / Sources of Public Information</b>					
Firm Financial Reports / Statements	Yes	Yes	Yes	Yes	Yes
Firm Websites	Yes	Yes	Yes	Yes	Yes
Industry Publications	Yes	Yes	Yes	Yes	Yes
US DOC Decisions / Determinations / Data	Yes	Yes	Yes	Yes	Yes
US DOC / ITC Regulations	Yes	Yes	Yes	Yes	Yes
US Harmonized Tariff Schedule (HTSUS)	Yes	Yes	Yes	Yes	Yes
US Import Data / Statistics	Yes	Yes	Yes	Yes	Yes
US Trade Remedy Laws	Yes	Yes	Yes	Yes	Yes
News Media	Yes	Yes	Yes	-	Yes
Foreign Firm Documents / Sales Literature	Yes	-	Yes	Yes	Yes
Industry Association Publications / Statements	Yes	-	Yes	-	Yes
IMF Statements / Research / Reports / Data	Yes	-	Yes	Yes	-
US Customs Rulings / Publications	Yes	-	Yes	-	Yes
Market Research Reports	Yes	Yes	Yes	-	-
Firm Press Releases	Yes	Yes	-	-	Yes
Foreign Legislation / Policies	Yes	Yes	-	-	-
Foreign Government Websites	Yes	Yes	-	-	-
Foreign Government Agency Reports	Yes	Yes	-	-	-
Financial Analyst Reports	Yes	Yes	-	-	-
Financial Market Documentation	Yes	-	-	-	-
Foreign Government Committee Reports	Yes	-	-	-	-
Foreign Politician Statements	Yes	-	-	-	-
OECD Statements / Research / Reports	Yes	-	-	-	-
US Inland Revenue Service Publications	Yes	-	-	-	-
Firm Business Reports	-	Yes	-	-	-
US ITC Decisions / Determinations	Yes	-	-	-	Yes
US Federal Reserve Data	-	-	Yes	Yes	Yes
Foreign Government Import Data / Statistics	-	-	Yes	Yes	-
Samples of Subject Merchandise	-	-	Yes	Yes	-
US Court of International Trade Rulings	-	-	Yes	-	-

**Table 31: Information Used in Petitions**

**Source: (Crowell & Moring, 2003, Dewey Ballantine LLP, 2004, Hale and Dorr LLP, 2002, Howrey Simon Arnold & White, 2004, King and Spalding LLP, 2003)**

	CVD Cases		AD Cases		
	DRAMs	PET Resin	Wooden Bedroom Furniture	Hand Trucks	Outboard Engines
Number of Petitioning...					
Firms	1	4	26	1	1
Petitioning Coalition	No	Yes	Yes	No	No
Supporting Trade Unions	-	-	5	2	-
Argument Made for...					
Critical Circumstances	-	Yes	-	-	-
Cost Case	-	-	-	-	Yes
Total Pages of...					
Petition	151	100	41	31	35-50
Exhibits	1900	614	264	273	400
People Involved in Filing Petition					
Attorney(s)	4	3	3	4	3
Law Firm Economist(s)	1	-	-	-	-
Economic Consultant(s)	1	1	-	2	-
Accounting Consultant(s)	-	1	-	-	-
Firm President / CEO / Chairman	-	-	7	-	-
Firm Chief Financial Officer(s) (CFO)	1	-	-	-	-
Senior Vice President	-	-	-	1	-
Divisional General Counsel	-	-	-	-	1
Firm Assistant Section Manager(s)	-	1	-	-	-
Firm Business Director(s)	-	2	-	-	-
Firm Business Operations Manager(s)	-	1	-	-	-

**Table 32: Key Aspects of Petitions Filed for Selected Cases**

**Source: Appendix B and C, (Crowell & Moring, 2003, Dewey Ballantine LLP, 2004, Hale and Dorr LLP, 2002, Howrey Simon Arnold & White, 2004, King and Spalding LLP, 2003)**

The capability to gather market intelligence can draw on a wide range of resources, including firm staff, trade attorneys, ad hoc associations, economic consultants, accounting consultants and market researchers. Firm staff are an internal resource providing expertise related to the sales activities of firms, the production function in the firms and the accounting systems used by firms. In the prosecution of every case there will also be a lead person from within each firm that remain the driving force for the case. The petitions filed in by the petitioners in this study's cases would seem to indicate that lead was taken by Micron's Chief Financial Officer (CFO) in the DRAMs case, firm assistant section managers, business directors or business operations manager(s) in the PET Resin case, firm presidents, CEOs or chairmen in the Wooden Bedroom Furniture case, a senior Vice President at Gleason in the Hand Trucks case and Mercury's divisional general counsel in the Outboard Engines case, see Table 32. Typically the respondents North American sales person is key in a foreign firm's prosecution of a trade case and will usually remain the driving force throughout the case (Trade Attorney, 2006g). They are typically the person who identify that the case is taking place, but will generally not understand the accounting issues in the petition and therefore other respondent employees will also needed. They do need to be fairly senior people though and will typically remain the driving force throughout the case for the responding firm (Trade Attorney, 2006g). This lead person does not directly contribute to the collection of information but is a key organisational resource for the prosecution of the case.

Trade attorneys serve as an external source of expertise and as an organisational resource for both petitioning and responding firms during the pre-petition phase. With respect to firms capability to acquire market and nonmarket information attorneys educate inexperienced clients about the trade remedy laws and the nature of prosecuting a case. The attorneys will work with staff as an organisational resource to enable firms to collect the information required to prepare for a case. In the case of petitioners this will be the preparation of a petition and for responding firms this would be in respect of activities like dump proofing for example. Trade attorneys will also often play a key facilitating role with the establishing of ad hoc associations, which are an external organisational resource created by groups of petitioning firms to enable them to more effectively organise an industry.



	Typology of Political Resources									
	Internal (I) / External (E)	Expertise	Financial Resource	Relational Resource	Organizational Resource	Reputation with Other Non-market Actors	Public Image	Support of stakeholders	Recreational Skill	
<b>Constitutive Resources and Capabilities</b> (Capabilities are bolded and the resources bundled to enable that capability are indented below the capability. Other resources are shown individually, where they are not bundled together. Where an explanation of a resource or capability is required it is included in brackets.)										
<b>General Resources and Capabilities</b>	-	-	-	-	-	-	-	-	-	-
Money	I	-	X	-	-	-	-	-	-	-
<b>Capability to Gather Organisational Information</b>	-	-	-	-	-	-	-	-	-	-
Trade Attorney	-	-	-	X	-	-	-	-	-	-
Firm Staff	I	X	-	-	X	-	-	-	-	-
Lead Individual	I	-	-	-	X	-	-	-	-	-
Sales Staff	I	X	-	-	-	-	-	-	-	-
Production Staff	I	X	-	-	-	-	-	-	-	-
Senior Managers	I	-	-	-	X	-	-	-	-	-
Accounting Staff	I	X	-	-	-	-	-	-	-	-
<b>Capability to Acquire Market Intelligence</b>	-	-	-	-	-	-	-	-	-	-
Firm Staff	I	X	-	-	X	-	-	-	-	-
Lead Individual	I	-	-	-	X	-	-	-	-	-
Sales Staff	I	X	-	-	-	-	-	-	-	-
Ad hoc Association	E	-	-	-	X	-	-	-	-	-
Trade Attorneys	E	X	-	-	X	-	-	-	-	-
Economic Consultants	E	X	-	-	X	-	-	-	-	-
Accounting consultants	E	X	-	-	X	-	-	-	-	-
Market Researchers	E	X	-	-	-	-	-	-	-	-
<b>Capability to Acquire Nonmarket Intel.</b>	-	-	-	-	-	-	-	-	-	-
Firm Staff	I	X	-	-	-	-	-	-	-	-
Trade Attorneys	E	X	-	-	X	-	-	-	-	-

**Table 33: Resource-based View of Capabilities to Acquire Market and Nonmarket Intelligence**

The use of an ad hoc association plays an important role in enabling firms to gather business proprietary information together for trade attorneys to analyse. This was done by the AFMCLT and US PET Resin Producers Coalition, is to form a coalition of firms who then prosecute the case. Using a coalition to prosecute the case in larger industries not only helps to show industry support, but also significantly reduces the cost of organising the industry and also provides petitioners with greater access to industry data and thereby a clearer understanding of the strength of their case.

Economic consultants provide external expertise to firms regarding the ITC injury determination and were retained by the petitioners in the DRAMs, PET Resin and Hand Trucks cases to prepare their petitions. These economists provide expertise for analysing data to show injury, but with respect to the capability to collect market intelligence they also have access to a number of key data sources required by petitioners. Accounting consultants similarly provide external expertise to firms regarding the calculations required in below cost cases and with regards to subsidisation calculations. They facilitate the collection of internal firm data for understanding how to make the below cost case allegations and use data on foreign firms' activities to substantiate a below cost allegation.

In the Hand Trucks case a market researcher was used to identify a domestic industry in India that the petitioners could gather data on to construct the normal value for Chinese producers. These researchers are an external resource with expertise on a market that the petitioners need to know more about to successfully prepare a petition. Inexperienced petitioners and respondents will need to acquire nonmarket intelligence to identify the possibility for a US trade case, experienced firms will already be aware of the trade laws. For petitioners this is recognition of the trade laws as a possible solution to a loss in their competitiveness against imports of a specific product. From a respondents perspective it is the recognition that government support they have received or their sales practices in the US could possibly lead to a trade remedy measure being issued for a product they produce. In countervailing duty cases both experienced and inexperienced petitioners will need to acquire nonmarket intelligence to identify the relevant subsidisation programmes benefiting respondents. Firms may either actively seek out this information in their nonmarket environment or may passively receive it when approached by an external actor, such as a trade attorney. The capability to gather

nonmarket intelligence relies on two key resources, a person or group in the firms that identifies the possibility for a trade case and the trade attorneys that specialise in prosecuting these cases. The lead person from the firm's staff provides an organisational resource that enables both inexperienced and experienced firms to identify the trade remedy laws and potential cases. The trade attorneys are an external resource that firms can draw on to make sense of the trade remedy laws and prosecution of a case.

### **10.3.2 Capability to Build and Shape the Administrative Record**

The proactive strategy of petitioning firms makes the first contribution to building and shaping the administrative record for a case, with the filing of their petition. As has been discussed above the scope of an investigation is one of the key ways in which petitioners do this, but it has also been shown that date of filing also determines what the agencies look at in their determinations and the petitions in the selected cases also show that petitioners further seek to influence how the record will develop by proposing products to the ITC for collecting pricing data on that will be used in the injury determination. The AFMCLT proposed two representative wooden bedroom furniture suites for which the ITC could collect pricing data for the injury determination (King and Spalding LLP, 2003). Gleason ended its petition with an indication of three products for the ITC to collect pricing data, arguing they were "representative of those [products] involved in direct competition between the domestic producers and Chinese importers in the U.S. hand truck market" (Crowell & Moring, 2003; p.30). While Mercury proposed three products for which pricing data could be collected (Dewey Ballantine LLP, 2004).

### **10.3.3 Capability to Align Business Practices with US Trade Remedy Institutions.**

The reactive strategies of responding interests and the capability to align business practices with the US trade remedy institutions are intricately linked. As was discussed above some responding firms do begin to develop / use this capability during the pre-petition phase, but it is rare and a fuller discussion of the capability is left to the next two chapters.

#### 10.4 Potential Bias in the United States Investigation Process

Two types of potential bias emerge as being targeted by petitioning firms and affecting the ability of responding firms to prosecute the pre-petition phase of a case. The first is a type of industry demand bias and the second an example of regulatory process bias.

Pressure	Bias Type	Present in Phase
Political Supply Pressure	Government Policy Bias	?
	Political Lobby Bias	?
Industry Demand Pressure	Industry Capture Bias	?
	Indirect Rent-Seeking Bias	Yes
Regulatory Process Bias	Administrative Bias	No
	Statutory Bias	Yes

**Table 34: Potential for Feaver & Wilson’s (2004b) Decision-making Bias in Original Investigation Phase**

Industry demand bias can be seen in the indirect rent-seeking bias for petitioning firms, when they get the first opportunity to build and shape the administrative record with the submission of the petition to the DOC and ITC. Regulatory process bias is also present in the statutory bias that only allows petitioners the opportunity to proactively prosecute the phase.

#### 10.5 Conclusion

This chapter has shown that the prosecution of the pre-petition phase is an information intensive experience, with firms drawing on both internal and external resources to gather the information they require to prosecute it. Where petitioners have been less successful in the filing of their petitions this was generally the result of insufficient data or evidence to support their arguments and meet the DOC criteria. The capability to gather information and its three constitutive capabilities, the capability to gather organisational information, the capability to gather market intelligence and the capability to gather nonmarket intelligence are argued to be central to the successful prosecution of the preliminary phase of a US trade case. These capabilities are enabled by resource configurations that include firm staff and external experts. The capability to

gather information is the foundation upon which the successful prosecution of the remainder of a case is built for all firms adopting a proactive strategy.

## 11 Original Investigation Phase

*“[N]ot only do the companies have to spend a lot of money on attorneys and economists, but they have to invest a lot of their own time too in people, they have to dedicate people to come to the hearings and testify, and there is some internal time and expense and you have to be a company whose CEO is on board, so he points to somebody and says you are in charge of this, you have got to respond to these lawyers when they need something, you can’t just hire a law firms and turn away from it, and pay the bills and turn away from it, you have got to be really fully invested in it.”*

*(Trade Attorney, 2006f)*

*“I don’t know if there is a scientific way to take a look and say well which companies or which industries or which countries have been successful in defending themselves and what are the attributes of the companies, countries or industries. A lot of it has to do with the data itself, with the information itself. Most of these companies don’t know that they are dumping. It is just a product of a very badly flawed methodology in most cases.”*

*(Trade Policy Analyst, 2006)*

The bifurcated nature of the original investigation, with the calculation of respondents’ duty rates assigned to the DOC and the determination of injury or the threat of injury to the ITC is central to understanding the phase. Both petitioning and responding firms are able to prosecute these two investigations, but the institutional nature of the DOC and ITC are designed to respectively focus on the foreign and domestic industries when gathering the information on which the agencies base their determinations. The importance of the bifurcated process has been recognised in the existing literature on US trade remedy cases (DeVault, 1993, Hansen, 1990, Hansen & Prusa, 1997) and is often used to justify a focus on outcomes during the ITC final phase injury determination, as a finding of injury at this stage of a case effectively imposes duties on the foreign producers of the subject merchandise and is equated with success for petitioning firms. This study adopted the same approach in chapter 6 when seeking to provide a broad introduction to the outcomes of US trade cases.

The ITC injury determination is however only the broadest measure of firm success during this phase and this study now seeks to draw attention to the importance of the DOC investigation as a significant influence on determining the successful prosecution of a case for all firms. The widely adopted approach of using the outcome of the ITC final investigation to determine what constitutes successful prosecution of a case has three significant implications with respect to understanding the outcomes of original investigations in US trade cases. Firstly it creates a perception that imposition of duties is always a successful outcome for petitioners. Secondly, it reduces the DOC determination to another binary outcome, foreign producers are or are not subject to a duty, and therefore all foreign firms experience the outcome of the DOC investigation in the same way, so a finding of injury by the ITC is an unsuccessful outcome for all respondent firms. Thirdly, it dismisses one of the most intensively prosecuted aspects of most trade cases from being studied. When as has been noted before the dumping calculations at the DOC have received significant criticism from a number of authors (Blonigen, 2006a, Devault, 1990, Lindsey & Ikenson, 2003). To understand why a firm can be considered to have successfully prosecuted this phase, it is therefore necessary to understand the interaction of the outcomes at the DOC and ITC with respect to how a case affects individual firms and how firms prosecuted the phase.

Chapter 6 also explained that a trade case can end with no duties being imposed if the DOC initiation determination is negative, a finding of no injury is made after either of the ITC investigation phases or if a finding of no dumping or subsidisation is made after the DOC final investigation. The reason why the case can't end after the preliminary DOC investigation is that this stage of the case serves to collect the information which the DOC requires to make its final determination. The decision to initiate a case and the first injury determination are successfully prosecuted for petitioners if they are affirmative and not in the interest of the responding firms. While this decision is being made, respondents will still face broadly the same incentives regarding the agency decisions, as there will still be uncertainty over the individual duty rate they will receive.

Once a case progresses to the DOC preliminary determination, and respondents get an idea of the duty rates they can expect to receive, the perception of what successful prosecution of the phase will be for individual firms is no longer as simple as for the

first two agency decisions. The reason for this is that the DOC calculates a number of different types of duty rates for individual firms, which are dependent on which class of respondent a firm is selected as by the DOC. For example three different duty rates were calculated in the DRAMs case, five in the PET Resin case, nine in the Wooden Bedroom Furniture case, five in the Hand Trucks and two in the Outboard Engines cases. The results for individual responding firms was however effectively only one rate of 44.29% in the DRAMs and 19.98% in the Outboard Engines cases and a range of rates between 6.15% - 19.97% in the PET Resin, 2.32% - 198.08% in the Wooden Bedroom Furniture and 26.49% - 383.6% in the Hand Trucks cases, see Table 36.

Understanding the significance of these duty rates to outcomes of a case for individual firms is simplest if we begin with a discussion of the Outboard Engines and PET Resin cases. Both these cases were brought against countries considered by the DOC to operate market economy systems. In these cases the DOC calculates duty rates for firms selected as mandatory respondents and then uses these individual rates to calculate a weighted average duty rate for all other firms from that country producing the subject merchandise. The PET Resin case illustrates the typical case well, the DOC calculated the four individual duty rates between 6.15% and 19.97% and the weighted average 'all others' rate was calculated as 14.55%. The Outboard Engines case followed exactly the same methodology, except that the DOC selected only one mandatory respondent, Yamaha, and so the 'all others' rate was a weighted average of that rate, resulting in all responding firms facing a duty rate of 19.98%. The DRAMs case, another market economy case, provides the final example required for understanding investigations of market economy cases. The DOC calculated three duty rates in this case, one for each mandatory respondent, Hynix and Samsung, and an 'all others' rate. On this occasion Hynix received a duty rate of 44.29% and Samsung a rate of 0.16%. The duty rate for Samsung was however below a minimum rate required for a foreign firm to be subject to a duty order if issued, a de minimus rate. The effect was that the all others rate was again the same as the rate for only mandatory respondent subject to the duty order.



	Countervailing Duty		Antidumping Duty		
	DRAMs	PET Resin	Wooden Bedroom Furniture	Hand Trucks	Outboard Engines
DOC Selection of Mandatory Respondents	No	No	Yes	Yes	Yes
Mandatory Respondents	2 Firms	4 Firms	7 Firms	4 Firms	1 Firm
‘Section A’ Respondents	N/A	N/A	120 Firms	2 Firms	N/A
All Others Rate	None	Unknown	N/A	N/A	4 Firms
PRC Wide Rate	N/A	N/A	Unknown	Unknown	N/A

**Table 35: DOC Selection of Mandatory Respondents and Respondent Types**

**Source(s):** See Appendix B

**Note:** N/A = Not Applicable

Both the Wooden Bedroom Furniture and Hand Trucks case were brought against China, a country designated as a nonmarket economy by the DOC. A country is considered to have nonmarket economy (NME) status<sup>7</sup> when it is determined by the DOC not to “operate on market principles of cost and pricing structures” (DOC ITA, 1998; p.41). To receive an individually calculated duty rate during the DOC investigation, as a mandatory or ‘section A’ respondent, a Chinese firm needs to “demonstrates that its export activities are independent of government control” (DOC ITA, 1998; p.42).

<sup>7</sup> “The Department considers the following factors about a foreign country in making these decisions: (1) the extent to which the currency is convertible; (2) the extent to which wage rates are determined by free bargaining between labor and management; (3) the extent to which joint ventures or foreign investment are permitted; (4) the extent of government ownership or control of means of production; (5) the extent of government control over allocation of resources and over price and output decisions of enterprises; and (6) other factors the Department considers appropriate. (Section 771(18)(B) of the Act.)” (DOC AD Manual, p.41)

		<b>Petition Calculations</b>	<b>Prelim Duties</b>	<b>Final Duties</b>	<b>Difference (Final – Lowest Rate in Petition)</b>
<b>CVD Cases</b>	<b>DRAMs from Korea</b>				
	Hynix	N/A	57.37 %	44.29 %	N/A
	Samsung	N/A	00.16 %	00.04 %	N/A
	All Others	N/A	57.37 %	44.29 %	N/A
	<b>PET Resin from India</b>				
	Mandatory Respondents	21.03-44.55 %	-	-	-
	Reliance	-	30.24 %	19.97 %	- 01.06 %
	SAPL	-	19.13 %	19.08 %	- 01.95 %
	Futura	-	01.62 %	06.15 %	- 14.88 %
	Elque	-	12.02 %	12.41 %	- 08.62 %
	All Others	-	24.01 %	14.55 %	- 06.48 %
<b>AD Cases</b>	<b>Wooden Bedroom Furniture from China</b>				
	Mandatory Respondents	158.74-440.96 %	-	-	-
	Dongguan Lung Dong	-	07.04 %	02.32 %	- 156.42 %
	The Dorbest Group	-	11.85 %	07.87 %	- 150.87 %
	Lacquer Craft	-	04.90 %	02.66 %	- 156.08 %
	Markor Tianjin	-	08.38 %	00.83 %	- 157.91 %
	Shing Mark	-	06.59 %	04.96 %	- 153.78 %
	Starcorp	-	30.52 %	15.78 %	- 142.96 %
	Techlane	-	29.72 %	PRC-Wide	39.34 %
	Section A Respondents	-	12.91 %	6.65 %	- 152.09 %
	PRC-Wide	-	198.08 %	198.08 %	39.34 %
	<b>Hand Trucks from China</b>				
	Mandatory Respondents	370.70-472.50 %	-	-	-
	Xinghua	-	216.36 %	PRC-Wide	12.90 %
	Taifa	-	31.87 %	26.49 %	- 344.21 %
	True Potential	-	24.62 %	33.68 %	- 337.02 %
	Huatian	-	74.88 %	46.48 %	- 324.22 %
	Section A Respondents	-	76.15 %	32.76 %	-337.94 %
	PRC-Wide	-	346.94 %	383.60 %	12.90 %
	<b>Outboard Engines</b>				
	Yamaha	21.90-52.10 %	22.52 %	19.98 %	- 1.92 %
	Honda	19.10-41.60 %	-	-	-
All Others	-	22.52 %	19.98 %	- 1.92 %	

**Table 36: Duty Rates for Five Cases**

**Sources: Appendix B; (Crowell & Moring, 2003, Dewey Ballantine LLP, 2004, Hale and Dorr LLP, 2002, Howrey Simon Arnold & White, 2004, King and Spalding LLP, 2003)**

The ‘section A’ rate is one of two new duty rate classes created when a country is designated as having NME status, the name refers to the fact that firms need to complete section A of the DOC questionnaire to prove their status, the other rate is an economy wide or in the case of a China case, a PRC-wide rate. The ‘section A’ rate is equivalent to the ‘all others’ rate in a market economy case and the PRC-wide rate is a punitive duty rate for all other Chinese producers of the subject merchandise.

For firms, successful prosecution of a trade case may be the result of achieving the absolute outcomes at the DOC initiation, ITC prelim, DOC final and ITC final determinations that either bring an end to a case or result in it progressing and ultimately a duty order being issued, see Figure 5. But when a duty order is issued, the relative duty rates for individual responding firms will still significantly influence what is considered to be a successful prosecution of the case for both petitioners and respondents. The next section begins by discussing the outcomes of the cases in this study for individual firms.

### **11.1 Case Experience**

The original investigation of the DRAMs case, the first of the two countervailing duty cases, was prosecuted by four firms, Micron, Infineon, Hynix and Samsung (Appendix B). Apart from the support provided to Micron by Infineon, the contribution of other interests to the phase of the case seems to have been limited to US and Korean politicians. During the ITC investigation Micron received support from two members of Congress from Idaho the state in which Micron’s head office is located (USITC, 2003b, 2007b; Doc 189139). Nine US politicians at the federal and state level supported the responding firms in the case (USITC, 2007b; Doc 186994, 187087), they all came from the state of Oregon in which Hynix had facilities with 1000 employees (USITC, 2007b; Doc 187539). The responding firms received political support from the Korean Ministry of Finance and Economy (USITC, 2007b; Doc 184073), the General Assembly of the Government of Korea (USITC, 2007b; Doc 184469), the governor of Chungcheongbuk-Do Province and Chairman of Cheongju Chamber of Commerce and Industry, Korea (USITC, 2007b; Doc 189291). All four firms prosecuted the preliminary ITC and both DOC phases of the case, but only Micron, Infineon and Hynix actively prosecuted the ITC final phase after Samsung received a de minimus duty rate

submitted only an ITC final phase questionnaire (Appendix B and Table 40, Table 41 and Table 42).

In the PET Resin case the USPRPC effectively prosecuted the case against India on its own, with no evidence of other US firms or US politicians contributing to the original investigation. All four mandatory respondents in the PET Resin case took part in the case, although to different degrees, with Reliance and SAPL taking the lead (Appendix B and Table 40, Table 41 and Table 42). The responding firms however also received support from the PET Users Coalition (PETUC), two respondents from the sister cases, Indo-Pet (Thailand) Ltd. (Indo-Pet) and P.T. Indorama Ltd. (Indorama) and the Government of India (GOI) (Appendix B and Table 40, Table 41 and Table 42).

The first antidumping case to be discussed is the Wooden Bedroom Furniture case, which was filed by the AFMCLT a coalition of 27 US bedroom furniture manufacturers and five trade unions (King and Spalding LLP, 2003). The original investigation for the case was characterised by multiple interests, both in support and opposition to duties, both domestic and foreign, and was highly contested. The case has the highest number of firms that are affected by the case, either indirectly or by questionnaire responses, and the largest number of firms actively engaging in the prosecution of the agency investigations (Appendix B). The AFMCLT received significant shows of support from 27 Democratic and Republican politicians from the states of Georgia, Illinois, Indiana, Michigan, Maine, New York, North Carolina, Pennsylvania, South Carolina, Texas, Vermont and Virginia. A total of 579 US furniture retailers also filed letters of support with the ITC during the preliminary phase of the agency investigation (USITC, 2007b; ITC Doc 196774). The seven mandatory respondents received significant support from a host of Chinese and US firms prosecuting the case in opposition to duties being imposed (Appendix B). This included two coalitions of US firms, the Committee for Free Trade in Furniture (CFTF) and Furniture Retailers of America Group (FRA / FRG) and a coalition of Chinese firms, the Coalition of Certain Chinese Furniture Producers (CCCFP). A single US Republican member of Congress from Georgia, Jack Kingston, also showed support against the case.

The Hand Trucks case, filed by Gleason, in contrast to the Wooden Bedroom Furniture case against Chinese firms, shows no political support either for or against the case

(Appendix B). Gleason was supported by three other US producers of hand trucks and two trade unions (Appendix B). The four mandatory and two Section A respondents in the case were supported by three other active Chinese producers and three US firms prosecuting the case against duties (Appendix B). The China Chamber of Commerce for Import & Export of Machinery & Electronics (CCCIEME), whose members include Huatian, Taifa, Xinghua and Shandong, actively prosecutes aspects of the DOC preliminary investigation and ITC final phase (Appendix B). But the case has far fewer active firms in comparison to the Wooden Bedroom Furniture case.

The Outboard Engines case filed by Mercury against imports from Japan was effectively a case based solely on the activities of Yamaha during the POI (A-588-865, 2004; FV2-0022; 0024; 0026). This resulted in two large North American firms, Mercury and BRP, prosecuting a case against Yamaha, which in turn enjoys active support from the other Japanese producers, Honda, Nissan, Suzuki and Tohatsu (Appendix B). Mercury enjoyed further support from members of three Senators, five Members of Congress, both representing both Republicans and Democrats from Wisconsin, Illinois, Tennessee and North Carolina, and the Governor of Wisconsin at the time, Jim Doyle. The respondents enjoyed support from US boat builders and US boat and marine equipment dealers from a very early in the case, (Appendix B and (USITC, 2007b; Doc 201160)). The Outboard Engines case saw only one mandatory respondent being selected, Yamaha, with the effect that the outcome of the case was completely dependent on the prosecution of the case by the firm. For the other four Japanese firms with an interest in the case this created a situation of dependence on Yamaha and as will be seen in later discussions of this case, these four firms supported Yamaha throughout the case and while the duty rates Yamaha received were in line with the estimates in the petition, Mercury ultimately unsuccessfully prosecuted the ITC injury investigation.

The experiences of the individual petitioning and responding firms introduced above illustrate the varied outcomes of cases ending in both duties and no duties. The outcome of the PET Resin and Outboard Engines cases are examples of the successful prosecution of a case being determined by the final ITC injury determination. These cases were most certainly unsuccessful for the petitioners, as in both these cases the petitioners had successfully prosecuted the DOC phase, with the two most active firms

in the PET Resin case, Reliance and SAPL, and the largest firm in the Outboard Engines case, Yamaha, receiving duties of approximately 19%, but the ITC finding no injury. The respondent Futura in the PET Resin case may however equally have felt that the case had ended unsuccessfully for it, after receiving a rate of only 6.15% and almost certainly a competitive advantage relative to Reliance and SAPL if injury had been found.

This example of the effect duty rates can have on a firms' success at prosecuting a case, however leaves open the question of whether the petitioners in the DRAMs, Wooden Bedroom Furniture and Hand Trucks cases, when duties were imposed, were more successful at prosecuting these cases than the responding firms. In all three cases the answer to this question is both yes and no, as there are a number of responding firms in each of these cases that arguably also achieved success in their prosecution of the phase, even though a duty order was issued by the DOC. Table 36 shows the estimated duty margins from each of the petitions, the preliminary duty rates and final duty rates calculated by the DOC and the difference in the estimated and final duty rates respondents received. A few general observations can be made before discussing outcomes for individual firms. Firstly, the lower estimates of duty rates made in petitions against market economies appear to be relatively accurate, while the estimates in the nonmarket economy cases, which construct normal values for determining actual duty rates, significantly over estimated the final duty rates for the majority of mandatory and section A respondents. In these cases it is the punitive PRC-wide rates that are closest to the original estimates. An early lesson for respondent firms would therefore seem to be that participation pays off. But how do firms prosecute a case and why are some more successful at achieving a favourable policy outcome?

In the DRAMs case Micron successfully had duties of 44.29% imposed on Hynix, but the respondent Samsung was arguably even more successful in prosecuting the case, receiving duty rates so low a rate that they were excluded from the duty order issued by the DOC. If, as was suggested earlier, the case was actually brought primarily to address Korean government support for Hynix, then Micron may surely still have considered the case a success. This outcome does however leave a question mark over the overall effectiveness that the case will have for Micron, as it can easily lead to a situation where

a firm in Samsung's position finds a significant competitor removed from the US market and the opportunity to gain an even larger portion of sales in the US.

Aside from the firm specific outcomes discussed above, the PET Resin case also provides the first, although not the most dramatic, example of where the methodology for calculating duty margins results in firms that did not need to prosecute the case receiving a duty rate, the 'all others' rate, that is lower than the rates of some mandatory respondents. These firms arguable have one of the most successful outcomes to the case, as free riders, they did not have to incur any expenses but received a relatively more favourable duty rate than firms that had to prosecute the case to avoid adverse facts available being used to calculate their individual duty rates.

The antidumping cases repeat many of the themes of the countervailing duty cases, but the two nonmarket economy cases, Wooden Bedroom Furniture and Hand Trucks, provide an added degree of complexity to the outcomes for individual firms. The nonmarket cases add a class of foreign firm, the 'section A' respondents to those firms receiving a separate rate. These firms need to show the DOC that they are free of foreign government control to be eligible for a separate rate equivalent to the all others rate in the market economy cases like those for DRAMs, PET Resin and Outboard Engines. The Section A respondents in the Wooden Bedroom Furniture case provide an extreme example of the benefit that firms that participate in this capacity can gain from the success of mandatory respondents at the DOC. The extremely low rates the mandatory respondents received in the original investigation resulted in a Section A rate of only 6.65%. Amongst the mandatory respondents the most successful firm was Markor Tianji, which received a de minimis rate and was excluded from the duty order. Techlane was the least successful respondent, unsuccessfully prosecuting the DOC final phase and being awarded the PRC-Wide rate of 198.08%. The petitioners on average were not successful during the original investigation of this case.

The mandatory respondents in the Hand Trucks case were not nearly as successful as those in the Wooden Bedroom case, all receiving duty rates of at least 26%. Xinghua was the most unsuccessful of the mandatory respondents in both the preliminary and final phase of the DOC investigation and finally receiving the PRC-Wide rate of 383.60%. Gleason at first glance would probably be considered to have successfully

prosecuted the DOC investigation, given the relatively high rates in this case. But as was pointed out by a US firm that participated in the case, the duty rates that respondents receive need to be interpreted within the context of the value of the products being investigated.

“Taifa got a 27% duty, right, they got the lowest duty rate of all the manufacturers in China and they’re the largest manufacturer, so I was a little baffled by that [outcome]. ... So if you take a twelve dollar hand truck out of China and [at 27%] you’re talking about a \$3.24 duty rate on that, so someone buying a twelve dollar hand truck, it’s going to cost them \$15.24. That does not deter, [not at] fifteen dollars, we can’t [produce a] fifteen dollar hand truck in our factory, neither can Gleason, neither can Harper, neither can Magline, and obviously right down the list of US manufacturers.”

(Senior Vice President at US Manufacturer, 2005)

The Section A respondents in this case did not benefit from successful mandatory respondent prosecution of the DOC investigation, although it must be said the mandatory respondents did again receive duty rates significantly lower than the estimates in the petition. The inclusion of Xinghua’s high preliminary duty rate in the Section A calculation resulted in a very high initial deposit rate for the two Section A respondents, which would have placed a temporary burden on these two firms, but Xinghua’s failure during the final DOC investigation and inclusion in the PRC-Wide rate however resulted in a far better outcome for these firms and raises a potential question over how intentional this outcome was on the part of the Chinese firms. The duty rates in Table 36 and the perceived outcomes of the cases for individual firms however only show the end result of the cases and leave unanswered the questions of how firms came to find themselves in these positions after prosecuting the DOC and ITC investigations and why some firms may have been more successful at doing so.



DOC Case No.	ITC Case No.	Country	Product	Petition Filed with Agencies	Initiation by ITC	Initiation by DOC	ITC Prelim Decision	DOC Prelim Decision	DOC Final Decision	ITC Final Decision	DOC Duty Order Issued
C-580-851	701-TA-431	South Korea	Dynamic Random Access Memory Semiconductors	01 Nov 2002	08 Nov 2002 67 FR 68176	27 Nov 2002 67 FR 70927	27 Dec 2002 67 FR 79148	07 Apr 2003 68 FR 16766	23 Jun 2003 68 FR 37122	11 Aug 2003 68 FR 47607	11 Aug 2003 68 FR 47546
A-570-891	731-TA-1059	China	Hand Trucks and Certain Parts Thereof	13 Nov 2003	21 Nov 2003 68 FR 65733	09 Dec 2003 68 FR 68591	09 Jan 2004 69 FR 1603	24 May 2004 69 FR 29509	14 Oct 2004 69 FR 60980	01 Dec 2004 69 FR 69957	02 Dec 2004 69 FR 70122
A-570-890	731-TA-1058	China	Wooden Bedroom Furniture	31 Oct 2003	10 Nov 2003 68 FR 63816	17 Dec 2003 68 FR 70228	28 Jan 2004 69 FR 4178	24 June 2004 69 FR 35312	17 Nov 2004 69 FR 67313	28 Dec 2004 69 FR 77779	04 Jan 2005 70 FR 329
A-588-865	731-TA-1069	Japan	Outboard Engines	08 Jan 2004	14 Jan 2004 69 FR 2158	04 Feb 2004 69 FR 5316	01 Mar 2004 69 FR 9643	12 Aug 2004 69 FR 49863	04 Jan 2005 70 FR 326	23 Feb 2005 ITC Negative 70 FR 8822	-
A-533-841	731-TA-1077	India		24 Mar 2004	31 Mar 2004 69 FR 16955	20 Apr 2004 69 FR 21082	19 May 2004 69 FR 28948	28 Oct 2004 69 FR 62856	21 Mar 2005 70 FR 13451	06 May 2005 ITC Negative 70 FR 24118	-
C-533-842	701-TA-439	India		24 Mar 2004	31 Mar 2004 69 FR 16955	20 Apr 2004 69 FR 21086	19 May 2004 69 FR 28948	30 Aug 2004 69 FR 52866	21 Mar 2005 70 FR 13460	06 May 2005 ITC Negative 70 FR 24118	-
A-560-817	731-TA-1078	Indonesia	Bottle-Grade Polyethylene Terephthalate (PET) Resin	24 Mar 2004	31 Mar 2004 69 FR 16955	20 Apr 2004 69 FR 21082	19 May 2004 69 FR 28948	28 Oct 2004 69 FR 62861	21 Mar 2005 70 FR 13456	06 May 2005 ITC Negative 70 FR 24118	-
A-583-840	731-TA-1079	Taiwan		24 Mar 2004	31 Mar 2004 69 FR 16955	20 Apr 2004 69 FR 21082	19 May 2004 69 FR 28948	28 Oct 2004 69 FR 62868	21 Mar 2005 ITA Negative 70 FR 13454	21 Mar 2005 ITC Terminated 70 FR 15884	-
A-549-823	731-TA-1080	Thailand		24 Mar 2004	31 Mar 2004 69 FR 16955	20 Apr 2004 69 FR 21082	19 May 2004 69 FR 28948	28 Oct 2004 69 FR 62850	21 Mar 2005 70 FR 13453	06 May 2005 ITC Negative 70 FR 24118	-
C-549-824	701-TA-440	Thailand		24 Mar 2004	31 Mar 2004 69 FR 16955	20 Apr 2004 69 FR 21086	19 May 2004 69 FR 28948	30 Aug 2004 69 FR 52862	21 Mar 2005 ITA Negative 70 FR 13462	21 Mar 2005 ITC Terminated 70 FR 15884	-

**Table 37: Antidumping and Countervailing Duty Original Investigation Summary Timelines**

Source 1: <http://ia.ita.doc.gov/stats/inv-initiations-2000-2005.html>

Source 2: [www.usitc.gov/trade\\_remedy/731\\_ad\\_701\\_cvd/investigations/completed/index.htm](http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/completed/index.htm)

Source 3: [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html)

Note: See Appendix B for a detailed timeline for each of the five cases.

Stage of Phase:	Case						Outboards
	DRAMS	PET Resin	Wooden Bedroom Furniture	Hand Trucks			
Start of Investigation (Petition Filed)	01/11/2002	24/03/2004	31/10/2003	13/11/2003		08/01/2004	
ITC Initiation of Investigation	08/11/2003	31/03/2004	10/11/2003	21/11/2003		14/01/2004	
ITC Prelim - Return Questionnaires	15/11/2002	07/04/2004	14/11/2003	26/11/2003		12/01/2004	
ITC Prelim - Conference	22/11/2002	14/04/2004	21/11/2003	04/12/2003		29/01/2004	
ITC Prelim – Post-conference Briefs	27/11/2002	19/04/2004	04/12/2003	09/12/2003		03/02/2004	
ITC Prelim - Vote	13/12/2002	07/05/2004	09/01/2004	29/12/2003		23/02/2004	
ITC Prelim - Determinations	16/12/2002	10/05/2004	12/01/2004	29/12/2003		23/02/2004	
ITC Prelim - Views	23/12/2002	17/05/2004	20/01/2004	06/01/2004		01/03/2004	
DOC Prelim - Clarification of Petition	13/11/2002	Not Applicable	10/11/2003	Not Applicable		Not Applicable	
DOC Prelim - Critical Circumstances Allegation	Not Applicable	24/03/2004	Not Applicable	Not Applicable		Not Applicable	
DOC Prelim - Determination of Industry Support	Not Applicable	Not Applicable	09/12/2003	03/12/2003		Not Applicable	
DOC Prelim - Determination of Scope	Established	10/05/2004	21/01/2004	04/05/2004		24/02/2004	
DOC Prelim - Selection of Mandatory Respondents	Unknown	Unknown	30/01/2004	06/02/2004		11/03/2004	
DOC Prelim - Nonmarket Economy Related Issues	Not Applicable	Not Applicable	H1 2004	H1 2004		Not Applicable	
DOC Prelim - First Questionnaire Issued	06/12/2002	28/04/2004	30/12/2003	16/01/2004		01/03/2004	
DOC Prelim - Final Questionnaires Returned	28/03/2003	14/08/2004	09/06/2004	Mar-Apr 2004		Unknown	
DOC Prelim - Final Comments Submitted	28/03/2003	Unknown	Unknown	Not Applicable		Not Applicable	
DOC Prelim - Determination	07/04/2003	20/10/2004	24/06/2004	16/06/2004		12/08/2004	
DOC Prelim - Final Comments on Ministerial Errors	14/04/2003	Unknown	29/06/2004	Not Applicable		Not Applicable	

**Table 38: Original Investigation Phases and the Associated Stages for Each Phase (part 1)**

**Note: The dates in this table were selected to show as far as possible firm participation in the process of prosecuting the original investigation and are intended to be indicative only.**

Stage of Phase:	Case:				
	DRAMS	PET Resin	Wooden Bedroom Furniture	Hand Trucks	Outboards
DOC Final - Nonmarket Economy Related Issues	Not Applicable	Not Applicable	Aug-Sep 2004	Not Applicable	Not Applicable
DOC Final - First Questionnaire Issued	08/04/2003	09/09/2004	Not Applicable	01/05/2004	Not Applicable
DOC Final - Final Questionnaire Returned	22/05/2003	Unknown	Not Applicable	30/06/2004	Not Applicable
DOC Final - Response Verification Completed	03/05/2003	17/12/2004	Unknown	30/07/2004	Sep-Oct 2004
DOC Final - Verification Reports	Unknown	26/01/2005	Unknown	Unknown	01/11/2004
DOC Final - Case Briefs	22/05/2003	04/02/2005	06/10/2004	10/09/2004	10/11/2004
DOC Final - Investigation Hearing	06/06/2003	Unknown	19-27/10/2004	17/09/2004	Not Applicable
DOC Final - Determination	23/06/2003	14/03/2005	08/11/2004	06/10/2004	04/01/2005
DOC Final - Final Comments on Ministerial Errors	30/06/2003	25/03/2005	22/11/2004	20/10/2004	Not Applicable
ITC Final - Scheduling of Phase	07/04/2003	30/08/2004	24/06/2004	24/05/2004	12/08/2004
ITC Final - Return Questionnaires	09/05/2003	25/01/2005	15/09/2004	17/08/2004	28/10/2004
ITC Final - Pre-hearing Report	10/06/2003	01/03/2005	26/10/2004	23/09/2004	02/12/2004
ITC Final - Pre-hearing Briefs	17/06/2003	08/03/2005	02/11/2004	30/09/2004	09/12/2004
ITC Final - Hearing	24/06/2003	15/03/2005	09/11/2004	07/10/2004	14/12/2004
ITC Final - Post-hearing Briefs	01/07/2003	22/03/2005	17/11/2004	15/10/2004	21/12/2004
ITC Final - Final Report	10/07/2003	31/03/2005	29/11/2004	28/10/2004	19/01/2005
ITC Final - Record Closing	16/07/2003	06/04/2005	03/12/2004	03/11/2004	25/01/2005
ITC Final - Final Comments	18/07/2003	08/04/2005	07/12/2004	05/11/2004	27/01/2005
ITC Final - Vote	23/07/2003	13/04/2005	22/12/2004	10/11/2004	02/02/2005
ITC Final - End	04/08/2003	03/05/2005	22/12/2004	22/11/2004	17/02/2005
DOC Duty Order	11/08/2003	-	04/01/2005	02/12/2004	-

**Table 38: Original Investigation Phases and the Associated Stages for Each Phase**

Source 1: <http://ia.ita.doc.gov/stats/inv-initiations-2000-2005.html>

Source 2: [www.usitc.gov/trade\\_remedy/731\\_ad\\_701\\_cvd/investigations/completed/index.htm](http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/completed/index.htm)

Source 3: [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html)

Note: See Appendix B for a detailed timeline for each of the five cases.

The cases are similar in many ways, all five cases progressed through the full original investigation phase, see Table 37 for the dates when each of the stages of the phase was completed and a reference to the Federal Register entry summarising firm participation and agency decision making. Table 38, provides a more detailed summary of the prosecution of the phase, showing the individual activities that constitute the prosecution of a trade case in the US. The dates for completion of each activity were taken from the Federal Register record, the DOC and ITC summary records for each of the cases and are as complete as possible. Firms however do not participate in each of these aspects of a case, a number of them are the outcomes of agency determinations marking the progression of a case through the phase, such as the institution of investigations, agency votes and the issuing of determinations. These two tables are of little value for achieving a greater understanding of how firms prosecuted the phase and why they may have been successful. They are however important to include as they situate the five cases in the earlier discussion of the institutional nature of US trade cases and provide a framework for understanding the prosecution of a case. While Table 37 shows the broadest overview of the cases and suggests a similarity in their prosecution, Table 38 suggests that individual cases may have idiosyncrasies in the manner that they were prosecuted.

While the DOC investigation is focused on the foreign firms and the ITC investigation on domestic US firms, the tasks required of prosecuting firms at the two agencies are broadly similar. Although the degree to which petitioning and responding firms are required to engage with the prosecution of a case and the times at which this needs to be done will differ as a case moves between the DOC and ITC phases. Table 39 summarises the basic ways in which firms engage with the two agencies, which primarily including the submission of information by questionnaire, briefs, participation in hearings and general submission of written comments.

<b>Task</b>	<b>DOC Initiation</b>	<b>ITC Prelim</b>	<b>DOC Prelim</b>	<b>DOC Final</b>	<b>ITC Final</b>
Respond to Questionnaires	-	Yes	Yes	Yes	Yes
Respond to Requests for Comments / Information	Yes	Yes	Yes	Yes	Yes
Participate in Conferences / Meetings / Hearings	-	Yes	Yes	Yes	Yes
Submit Briefs in Response to Meetings	-	Yes	Yes	Yes	Yes
Submit Comments in Response to Agency Decisions	-	Yes	Yes	Yes	Yes
Respond to Other Firms' Engagement with Agencies	Yes	Yes	Yes	Yes	Yes

**Table 39: Firm Engagement with DOC and ITC During the Original Investigation**

**Source: Table 38 and Appendix B**

But if the prosecution of the original investigation is based on these six ways of engaging with the agencies, why do firms achieve such different individual outcomes? Why did Samsung do so well in the DRAMs DOC investigation and get excluded from the duty order for the case? Why did Futura in the PET Resin case get a duty rate of 6.15%, when all the other mandatory respondent rates were between 12% and 20%? How did five of the mandatory respondents in the Wooden Bedroom Furniture case get duty rates so low that even the 115 Section A respondents received a duty rate below the highest mandatory respondent rate of 15.78%? Why did Xinghua get a preliminary rate of 216.36% and then the PRC-wide rate of 383.6%, when the other mandatory respondent rates ranged from 26.49% to 46.48% in the Hand Trucks case. How did Yamaha prosecute the Outboard Engines case? Finally, why was no injury found in the PET Resin and Outboard Engines cases, the two cases where the petitioners were arguably most successful at the DOC. The remainder of the chapter seeks to shed light on these questions.

### **11.1.1 DOC Initiation**

The ITC institutes its investigation as soon as the petition is filed with the two agencies, but as the DOC is the official administering authority for the trade remedy case being considered, it is required to consider the strength of the petition in greater detail before

initiating an investigation. The prosecution of the DOC and ITC investigations run simultaneously for the first twenty to forty days of a case and can be a very busy time for firms (Trade Attorney, 2005u). The DOC will consider the scope of the investigation, industry support for the petition, the appropriate injury test in countervailing duty cases, export prices and normal value calculations in dumping cases, allegations and evidence of material injury and causation, the period of investigation for the case and critical circumstances allegations, before initiating an investigation (Trade Attorney, 2005u, USGPO, 2007; 67 FR 70927, 70968 FR 70228, 70968 FR 68591, 70969 FR 21086). The first twenty to forty days is focused on the domestic industry and the petitioning firms and their attorneys will be very busy responding to requests from the DOC and challenges to the petition from the responding firms (Trade Attorney, 2005u).

“It is not uncommon for respondent’s counsel to make a lot of challenges to the scope or to the standing, which requires going back and doing a little reality testing with the domestic industry.”

(Trade Attorney, 2005u)

The scope of the investigation and the standing of the domestic industry are two key aspects of a case that responding firms can use to prevent the initiation of a case and so avoid the original investigation and any potential duties. Micron submitted supplemental information to the DOC on three occasions, the USPRPC once, the AFMCLT amended their petition twice, Gleason amended the petition twice and responded to a DOC request once and Mercury provided two documents of supplemental information.

When petitioners are requested to submit further information to the DOC, it is most often with respect to attempts by the DOC to clarify industry support for the petition (Trade Attorney, 2005b). It was revealed by one interviewee that the respondents in the Wooden Bedroom Furniture case were aware of the case from early on, due to signalling from the petitioners and therefore “were able to prepare for the case and attempt to challenge the petitioners claim to represent the domestic industry” (Trade Attorney, 2006g). It can however be difficult for responding firms to respond within forty days (Trade Attorney, 2005n), but it is important that responding firms do not

waste time and collect the necessary information quickly for the DOC part of a case and participate fully, if the US market is important to the firm (Trade Attorney, 2005w). Even if respondents are not able to prevent the initiation of an investigation by the DOC, the agency will select mandatory respondents very quickly (Trade Attorney, 2005w) and as has been argued above, being selected as a mandatory respondent will significantly affect how a responding firm is required / able to prosecute a case.

### **11.1.2 ITC Preliminary Investigation**

After the DOC initiates an investigating the next hurdle the petitioning firms have to overcome, if the case is to continue, is to convince the ITC during its preliminary determination that material injury is likely to be being caused to the domestic industry by dumped or subsidised goods. The ITC preliminary phase and the later ITC final phase are essentially about the domestic US industry and petitioning firms. For responding firms there are two aspects of the injury determination, which they can address to show no material injury, firstly they can seek to show that the domestic industry has not been injured, or secondly they can seek to show that there is no causation between the injury suffered by the domestic industry and the imports alleged to have caused the injury. The responding firms are trying to develop “an argument that there is no injury to the domestic industry by reason of the imports, so what you are essentially doing is demonstrating what other reason[s] there are that they are having problems. ... But most of [the focus] is on the causation issue” (Trade Attorney, 2005v).

The ITC injury investigation uses identical information for making its determination in both antidumping and countervailing duty cases (Trade Attorney, 2005c). The discussion of the ITC preliminary and final phases in this study does not distinguish between the two types of cases. The ITC collects information from US producers, US purchasers, foreign producers and US importers by questionnaire, but as a petitioner it is important that you fully participate in the prosecution of a case and there is therefore “a fair amount that is going to be required from you as a petitioner” (Trade Attorney, 2005b). One of the key things that petitioners can do to strengthen their case at the ITC is make sure the petition is as complete and accurate as possible, otherwise the Commission will simply come back to the petitioners for further facts till they have all the information they need to make their decisions. Trade attorneys will further support

petitioning firms by helping them to avoid making statements in briefs to the ITC, or in the later ITC hearing, that would harm the strength of their injury case. It was noted by a petitioner's attorney that the prior experience of firms prosecuting a case and their legal counsel, especially for petitioners, could affect how ITC investigating staff respond to the various interests. Respondent firms were argued to historically be treated with greater lenience by the agency staff, although there was also a feeling that this might be changing (Trade Attorney, 2006j).

Because so many respondents wait for the filing of a petition before actively engaging in the process at the DOC and ITC, the first twenty to forty days of prosecuting a case will be very taxing for the responding firms and their counsel. By the time the respondent firms have organised themselves they can often find themselves only ten days away from the ITC preliminary staff conference (Trade Attorney, 2006h). The responding firms can also make a strategic decision to make a 'token' presentation during the ITC preliminary phase, "because the odds of winning at the preliminary stage are so grim in the United States" (Economic Consultant, 2006b) and then focus on the ITC final phase. But while responding firms can make strategic decisions regarding the manner in which they prosecute a case, focus their resources, there are fewer opportunities for individual firms to make business decisions, such as addressing pricing behaviours and so influence the outcome of a case. For the prosecuting firms the ITC preliminary questionnaires, staff conference and post-conference briefs are the most important aspects of these stages.

The ITC preliminary questionnaires are issued to US producers, US importers, the foreign producers (USITC, 2007a) and sometimes US purchasers (Trade Attorney, 2005b, 2006f). The ITC questionnaires, both preliminary and final phase, are the only questionnaires that US producers receive (Trade Attorney, 2005g). The preliminary questionnaires "are [however] very limited, real quick snapshot, give us a general idea of things" (Trade Attorney, 2006c), the final phase ITC questionnaires require far more detail. "At the ITC, it doesn't make any difference whether you are a petitioner or not, [you] have to respond to the ITC questionnaire, for data. And you have to, well you don't have to, but you essentially as a petitioner, better do an ITC brief" (Trade Attorney, 2005b).



It is only at the ITC staff conference, which follows the initial agency data collection by questionnaire, that the petitioners and their counsel hear the respondent companies' arguments [against injury] (Trade Attorney, 2005t). The conference offers the opportunity to both petitioning and responding firms to make their arguments to the ITC staff investigating the potential injury to the domestic US industry and for agency staff to pose questions to the various interests (USITC, 2007a). In the DRAMs case, Micron was represented by firm staff, an economist and attorneys at the ITC preliminary conference, Samsung was only represented by their attorney and Hynix by firm staff and their attorneys. The USPRPC was represented by firm staff, an economist and their attorneys, while Reliance and Indo-PET and P.T. Indorama sent only attorneys and the PETUC sent a political consultant and a member of staff from one of their members. The majority of the interests in the Wooden Bedroom Furniture case attended the conference with firm staff and their attorneys, only one US firm on the respondent side retained an economist at this stage. No foreign respondents attended the conference or were represented at it. Gleason was represented by firm staff, an economist and attorneys, while responding firms chose to send only attorneys to the staff conference. The attendance of the preliminary conference in the Outboard Engines case was extensive, with both petitioning and responding firms attending with firm staff and attorneys and selected firms also retaining economists. See appendix B for full details of attendance.

Prosecuting firms then have the opportunity to file post-conference briefs with the agency of up to fifty pages double spaced text, submitting arguments and information pertinent to the investigation (USITC, 2007a). All the firms that attended the DRAMs and PET Resin cases preliminary ITC conference submitted briefs to the agency. Post-conference briefs were only submitted two of the interests that attended the conference in the Wooden Bedroom Furniture case, but a number of firms / groups saw submission of briefs as the most effective way for them to prosecute this stage of the phase, notably Lacquer and Markor who would emerge as the two Chinese firms that most actively prosecuted the case. Chinese firms submitted a conference brief collectively and the petitioners and primary US respondents also submitted briefs in the Hand Trucks case. Mercury and all five foreign producers submitted case briefs in the Outboard Engines case. Following the staff conference the ITC staff produce a factual report consisting of

“a presentation and analysis of all of the statistical data and other information collected through questionnaires, public documents, field visits, telephone interviews, and other sources” (USITC, 2007a; p.II-10). This report can help attorneys fill in the blanks, as it includes “business confidential information, that individual companies have provided that they know no other company is going to see and then you can look at the staff report and go oh, in fact miracle of miracles there is a bright line distinction here” (Trade Attorney, 2006j). If the ITC preliminary phase results in a decision that there is reason to believe that the US producers are being injured by the subject merchandise, then the case proceeds to the DOC preliminary phase, if no injury is found, the case ends.

### **11.1.3 DOC Preliminary Investigation**

The DOC preliminary investigation consists of clarification of the petition (if required), DOC requests for information / comments regarding various information they require, the determination of respondent types, the issuing of questionnaires, post-conference briefs, the determination of the agency and an opportunity for final comments and allegations of ministerial errors. For responding firms, the determination of respondent type, the questionnaires, post-conference briefs and the opportunity to allege ministerial errors are key moments in the investigation.

The DOC preliminary phase determination makes an initial assessment of appropriate duty rates to serve as temporary deposit rates for imports of the subject merchandise. Countervailing duty and antidumping cases differ in their prosecution by responding firms during this phase in terms of two aspects, firstly the type of firm data required by the DOC to make a determination and secondly the role played by the respondent firms’ government (Trade Attorney, 2005l). The DOC investigation of a countervailing duty case is primarily concerned with financial accounting data, while antidumping cases required information from the respondents’ cost accounting systems (Trade Attorney, 2005l). The additional role of the respondent government submitting information to the official record for a countervailing duty case means that responding firms need to ensure that firm and government questionnaire responses reconcile (Trade Attorney, 2005l).

The DOC preliminary phase is very much focussed on the foreign industry (Trade Attorney, 2005u, 2005v) and there is not really a major requirement to for information from the petitioner (Trade Attorney, 2005w). Petitioning interests may seek to influence the types of questions included in the DOC preliminary questionnaire and the process by which the DOC decides how to structure the questionnaires for respondents can lasts about six months (Trade Attorney, 2006f). General submission of information and comments to the DOC are a normal part of the investigation and process of building the official record, in addition the DOC will also make requests for firms to submit additional information regarding issues such as the scope of a case or the standing of an industry. Nonmarket economy antidumping cases in particular see the DOC requesting information from prosecuting firms as part of the determination of the preliminary duty rate(s). This includes information regarding the selection of a surrogate country, surrogate factor valuations and conversion tables and formulas are part of the DOC's methodology for constructing a normal value price for firms in countries such as China. This was the case in both the Wooden Bedroom Furniture and Hand Trucks cases. The Wooden Bedroom Furniture case saw the AFMCLT, Markor, Lacquer and a number of other firms both supporting and opposing the imposition of duties actively prosecute all of these aspects of the case (Appendix B). In the Hand Trucks case also similarly saw Gleason, Huatian, Taifa and True Potential prosecuting a number of these issues, see Table 42. Firms in all three antidumping cases also prosecuted the product coverage of the DOC investigation and the model matching criteria that would be used to compare foreign producers' home market sales to their export prices. The model matching criteria are used by the DOC to compare a respondent firm's home market sales with the firm's sales in the US for the DOC dumping calculation (Trade Attorney, 2006d). Both petitioning and responding firms will seek to have their preferences reflected in the weight given to the different physical characteristics of the subject merchandise when analysing product similarity (DOC ITA, 1998; Chapter 8, p.6).

Table 40, Table 41 and Table 42 would seem to show that the Federal Register record for the countervailing duty cases includes a far lower degree of additional informational requests by the DOC, in comparison to antidumping cases in general and specifically with respect to antidumping cases targeting nonmarket economy (NME) countries, such as China.

Respondent firms from a NME country not only have to show that they operate independently of government control (Trade Policy Analyst, 2006). The remainder of the discussion of the DOC preliminary investigation will focus on the activity of firms prosecuting the phase fully, focusing on the key activities of mandatory respondent selection, completion of the DOC questionnaires, post-conference briefs and the allegation of ministerial errors after the preliminary determination. The completion of the DOC questionnaires, during the DOC preliminary determination, is the first of the two major tasks for respondents during the DOC investigation, the other being the verification process during the final stage of the DOC process.

As has been described earlier, the respondent status that a firm is assigned determines whether a firm is assigned a separate rate as either a mandatory, or section A respondent. The selection of mandatory respondents was not a critical issue in the two countervailing duty cases, all named respondents in the petitions were selected, but in the three antidumping cases it was an aspect of the cases actively prosecuted by firms (Appendix B). The selection of mandatory respondents in the Wooden Bedroom Furniture case saw the AFMCLT and several Chinese firms submitting comments to the DOC (Appendix B). These firms seem to have largely been unsuccessful in their attempts to be selected as mandatory respondents. In the Hand Trucks case the DOC issued partial Section A questionnaires to “all the producers / exporters named in the petition and to the exporters who comprise the top 70 percent of exporters in terms of quantity” and the Chinese government. In the Hand Trucks case, the agency received 6 responses from producers / exporters and selected the four largest firms after considering resource constraints (USGPO, 2007; 69 FR 29511). In the Outboard Engines case the agency requested quantity and value information from five Japanese firms, using this and US Customs and Border Protection (CBP) data, the DOC decided to select only Yamaha as a mandatory respondent (USGPO, 2007; 69 FR 49864). The implications of these decisions for individual firms were discussed earlier and are reflected in the remaining discussion.

In countervailing duty cases the DOC collected information from the respondent firms and their governments via questionnaire. The mandatory respondents in both countervailing duty cases returned multiple questionnaire responses to the DOC (Appendix B). In a countervailing case the DOC does not collect detailed sales

information, instead the responding firms provide total information on sales or production, depending on the nature of the subsidy (Trade Attorney, 2006c). The DOC countervailing duty calculation is a “long-term thing” (Trade Attorney, 2006c), as the DOC is collecting the information needed to calculate the benefit the firm received from a given subsidy, or subsidy allocation for a given year, for sales of the subject merchandise in that year. This is considerably less demanding a process of data collection for the respondent firms “than providing a sale by sale invoice by invoice database showing every sale you made to the United States, every sale you have made in your home country for the year” (Trade Attorney, 2006c) as required in antidumping cases.

The foreign government in comparison to the respondent firms is expected to provide very detailed information “on the particular programme involved, how much money is billed out to whom, not just to this company, but everyone else because of the issues of countervailability is, is the particular subsidy specific to a particular industry or group of industries” (Trade Attorney, 2006c). The contribution to the case by respondent firms’ government(s) is the one big difference between countervailing duty and antidumping cases (Trade Attorney, 2005i). The Governments of Korea and India both prosecuted the aspects of the DOC investigations that were required of them (Appendix B). For the firms the same types of people as in the antidumping cases will be collecting information internally in the company (Trade Attorney, 2006c) during this phase, but the type of information that the firms need to provide is however not as difficult for the firms to gather. These cases “can be very onerous for the [foreign] government but it is going to be less onerous to the company” (Trade Attorney, 2006c).

The DOC will collect extensive data from the foreign government to be able to make a judgement on the nature of a subsidy programme and the firms in a responding industry need to be, or can be, doing a lot to support their government in what they are doing, or encourage them, in countervailing duty cases (Trade Attorney, 2006c). Therefore in countervailing duty cases, while the respondent firms need to provide firm based data to the DOC, a very important aspect of prosecuting the DOC phase of the case is the firms’ relationship with their government (Trade Attorney, 2005i, 2005j, 2006c). The responding firms need their governments to participate in the investigation and they need to be able to cooperate closely with their government to ensure that the firm and

government responses to the DOC questionnaires reconcile (Trade Attorney, 2005l, 2006c). The manner in which firms in responding industries go about working with their government can vary from one country to another and it really depends on how the government is organised and how much the government is prepared to contribute towards the prosecution of the case. Respondents need to know who in the government they need to be dealing with, “is there one point person in the trade ministry, or should you be going through and working through all the other ministries that could be affected” (Trade Attorney, 2006c).

The importance of the exported product to the respondents’ government can play a role in the degree of cooperation the responding firms can expect from government staff (Trade Attorney, 2005i) and respondent firm contacts in the government could also help a firm gain the support of the respective agencies (Trade Attorney, 2005l). Foreign governments can often be supportive to their firms, but mostly leave the work to the firm’s counsel (Trade Attorney, 2005h). The degree to which the foreign government is prepared to share in the cost of a response with the foreign producers / exporters can also be an important issue, but typically governments refrain from doing so, as it could be seen as a further subsidy (Trade Attorney, 2005i). Where the respondents’ government completes the questionnaires without retaining counsel, it is down to the firms’ counsel to ensure that these responses are correct and this is a burden the firms will have to carry (Trade Attorney, 2006c).

The main issue with respect to the DOC investigation for responding firms in an antidumping case is the ability of the firms to complete the DOC questionnaires accurately, fully and timely, in a process which demands a lot of data in a very short period of time (Trade Attorney, 2005v, 2006d). The questionnaires sent to respondents get into every part of their business and they have to cooperate completely (Trade Attorney, 2005p). Firms need to be forthcoming otherwise adverse information, or ‘facts available’, decisions may be used against them (Trade Attorney, 2005j). The questionnaires can best be thought of as “a really intense audit process” (Trade Attorney, 2006i). Firms may decide not take part because they don’t want to make the information public, but typically firms which do not participate in the petition get higher duty rates (Trade Attorney, 2005j).

The DOC questionnaires have up to five sections, not all of which will necessarily be used (Trade Attorney, 2006c), which broadly cover the same issues as the different sections of the original petition. Section A of the antidumping questionnaire provides the DOC with information about a respondent's organisational structure, how the firm operates, the firm's products, sales and distribution channels, and ownership of the firm (Trade Attorney, 2006c, 2006d, Trade Policy Analyst, 2006). Completion of section A of the questionnaire is reliant on staff in the firm's sales or production department and often in-house attorneys will also contribute to completion of this section (Trade Attorney, 2006d). There is no sales database associated with section A (Trade Attorney, 2006d). Section B of the questionnaire is concerned with the respondent's sales in its home market, including expenses, products sold, customers etc. and section C reports the same type of information, as section B, for the respondent's sales in the US (Trade Attorney, 2006d, Trade Policy Analyst, 2006). Section D of the questionnaire addresses the cost of production for a respondent, as in the Outboard Engines case, and section E is used when there are issues regarding further manufacturing of the imported product (Trade Policy Analyst, 2006), but these sections are only used when required (Trade Attorney, 2006c).

While the sections collect different types of information, there is a degree of consistency in the data between sections and part of the task of attorneys representing both the responding and petitioning firms is to make sure that this is in fact the case (Trade Policy Analyst, 2006). After the initial questionnaires have been issued by the DOC, it is not uncommon to see the DOC issuing supplemental questionnaires to responding firms (Trade Attorney, 2006i). A reason why the DOC will issue the supplemental questionnaires is to explore potential inconsistencies in a firm's response, alternatively the agency may be seeking to get further information from respondents who did not complete the questionnaires fully (Trade Attorney, 2006i, Trade Policy Analyst, 2006).

“So supplemental questionnaires are based on pulling at those kinds of threads, trying to reconcile what might be apparent inconsistent answers in the questionnaire. They might also be because the responses were not particularly responsive and they didn't completely answer the question.”

(Trade Policy Analyst, 2006)

It is the completion of sections B and C that require the respondent firm to provide the DOC with an extensive electronic database of all their sales activities. “[T]he company is required to report on a transaction specific basis, very detailed information, not only about the transaction itself, including invoice dates, quantity, price etc., but also very detailed information about the product” (Trade Attorney, 2006d). The formula that the DOC uses to calculate the dumping margin can be very sensitive to changes in the data that is included in a DOC data submission. The dumping determination is a chaotic business and a small change can have a big affect, in one example a successful argument to raise the respondents home market price by one cent reduced the tariff rate by more than half, due to the way that different sales are included in the calculations of the dumping margin (Trade Attorney, 2005r).

In both countervailing duty and antidumping cases, the initial margin that a firm receives will be very important. The reason for this is that once this duty rate has been determined, respondents will have to make cash deposit with US Customs at that duty rate for all imports of the subject merchandise it exports to the US from that date. This duty rate will apply to those goods till the final duty rate for that firm is determined, after which all imports of that merchandise will result in cash deposits at that new rate. Once a respondent has a high margin, the problem is that no one will buy the product and if no one buys the product the respondent can't get a administrative review to try and have the rate revised downward and additionally a respondent is then not able to finance the cost of taking part in process from its US sales (Trade Attorney, 2005n). This system can place a significant cash flow burden on responding firms that continue to export to the US (Director at US Importer, 2005). For importing firms, one of the most important aspects of this role of the duty rate is the speed of communication between the DOC and Customs (Director at US Importer, 2005) and having staff such as a customs broker that can deal with this aspect of a case can be a big advantage.

The preliminary determination is followed by the opportunity to allege ministerial errors in the DOC preliminary duty rate calculations, for both respondents and petitioners and so get the rate adjusted according to their interests. Dorbest successfully adjusted the preliminary duty rate through ministerial errors allegations in the Wooden Bedroom Furniture case, with the rate going from 19.24% to 11.85%. Starcorp and Techlane however found that the petitioners were able to use the process to have their duty rates



revised upward from 24.34% to 30.52% and 9.36% to 29.72% respectively (69 FR 47418). All the mandatory respondents and the petitioners filed allegations of ministerial errors in this case, see Table 41. Even if the DOC does not find dumping or subsidisation meriting duty margins, the investigation continues to the DOC final investigation. It is the only time during the investigation that the case will proceed even if a 'negative' determination is made.

#### **11.1.4 DOC Final Investigation**

The DOC may still issue supplemental questionnaires during the final phase of its investigation, but the main activity for this phase of an investigation is the verification of mandatory and voluntary respondent questionnaire responses. Firms in the DRAMs, PET Resin, Wooden Bedroom Furniture and Hand Trucks cases all completed questionnaire responses in the final DOC investigation (see Appendix B and Table 40, Table 41 and Table 42). In countervailing duty cases the DOC will also verify questionnaire responses by the respondent governments. The verification process is followed by the DOC issuing verification reports for each respondent and the opportunity for prosecuting firms to file case briefs on issues arising from the verification process. The DOC also offers the possibility of a final investigation hearing, which is the second important aspect to the phase, but optional. This is followed by the final DOC duty rate determination and the associated opportunity for firms to file comments regarding alleged ministerial errors in the calculation of the individual firm rates.

The verification process is an audit of the information provided to the DOC by the different responding interests prosecuting the trade case and a lot of respondents can find the process obtrusive and insulting, but if they don't join the process they could lose the US marketplace (Trade Attorney, 2005p). The only mandatory respondent to unsuccessfully participate in the verification process was Techlane in the Wooden Bedroom Furniture case, which resulted in the firm being subject to the PRC-wide rate of 198.08%. There is a perception that the DOC assumes that firms from some countries are lying to them and they can cause offence in how they do the verification and the attorney will need to explain to clients that they should not take it personally, the DOC staff are just doing a job, and the reason for this approach may be based on prior

experiences of verifying firms from these countries (Trade Attorney, 2006g). Until verification has been completed the outcome of the DOC investigation remains uncertain (Trade Attorney, 2005r). Petitioning firms will often give the DOC advice on issues to consider, when the DOC sends a team to foreign sites to verify information in the investigation (Trade Attorney, 2005i). At end of the verification process the DOC issues a verification report for each of the parties that were visited.

From a firm perspective the verification is again a cooperative effort between the firm's staff and the attorney representing the firm, the process can last up to two weeks and will require all the people that put together the questionnaire to be available and all the data to support the submission (Trade Attorney, 2006e). Attorneys will visit their clients before verification and help them prepare for the process and seek to spot any errors in earlier submissions to the DOC, so that they can raise them before the DOC identifies them (Trade Attorney, 2006e).

“[S]o because I am going to come out, if Commerce is going to audit, February, starting February 6th, I am going to come out a week before, January 30th, and spend a week at your site and I'm going to practise, in other words I am going to play Commerce, you are going to show me all your data and I am going to go through everything so when Commerce gets there, we are ready... So you are talking a pretty intense kind of effort with your lawyer and with a team relative to the size of the company.”

(Trade Attorney, 2006e)

Prosecution of the verification process is helped if the responding industry is sophisticated and the responding companies have people who are used to US business culture, some respondents think they can fool the investigators, but this is rarely the case and they need to understand that they strengthen their case by playing by the rules (Trade Attorney, 2006g). Having respondents with people who can speak good English can be important for the verification process (Trade Attorney, 2006g). The Accounting staff in the responding firms are able to get data and understand how the data has been stored and then provide it in the form the DOC wants it, while sales people who understand the product and market are also important (Trade Attorney, 2006g). The staff need to be able to present this information, explain how transactions where

organised for example, to the DOC in a meaningful and personal way (Trade Attorney, 2006g). The end of the audit process marks the stage by which most responding firms have learnt what they need to about the DOC investigation and for firms looking to the review phase, prosecution of the DOC original investigation is a necessary learning process (Trade Policy Analyst, 2006).

The issuing of verification reports and filing of case briefs by prosecuting firms is followed by the DOC final investigation hearing, if one of the prosecuting interests has requested a hearing. No hearing was held in either the DRAMs or PET Resin cases, although the USPRPC did request one, but then withdrew the request, after which Reliance requested a hearing, but the USPRPC questioned the request as it was after the required deadline for making these requests and no hearing was held. In the Wooden Bedroom Furniture case firms used the DOC hearing to discuss arguments made about whether the Chinese industry was eligible for market Oriented (MOI) status, therefore duties should be calculated using normal methodologies, additionally the selection of the surrogate country, financial ratios, surrogate values and the selection of the mandatory respondents were also all discussed (Appendix B). The hearing in the Hand Trucks case was attended by all the firms prosecuting the case, while no hearing was held in the Outboard Engines case.

Almost all mandatory respondents in the five cases submitted case briefs to the DOC, but a hearing was only used in the two China cases. The hearing can be important for the prosecution of a case, as it offers the prosecuting firms' attorneys the opportunity to speak to DOC staff about issues of concern, but the individual firms do not usually attend these meetings (Trade Attorney, 2006b). Following the DOC hearing, the DOC makes its final determination and provides an opportunity for prosecuting firms to make any allegations of ministerial errors in the calculation of the duty margins. Micron and Hynix submitted allegations of errors in the DRAMs case, Reliance in the PET Resin case, the AFMCLT, Dongguan Lung, Dorbest, Lacquer and Shing Mark in the Wooden Bedroom Furniture case, Gleason, Taifa, True Potential and Huatian in the Hand Trucks case and Mercury, BRP, and Yamaha in the Outboard Engines case. Hynix was able to reduce its duty rate from 44.71% to 44.29% and Samsungs rate was unchanged. In the Wooden Bedroom Furniture case the allegations resulted in changes for most of the mandatory respondent firms, but only really affected the outcome of the case for

Dorbest and Lacquer. Dorbest's rate was reduced from 16.70 % to 7.87% and Lacquer from 6.95% to 2.66% (USGPO, 2007; 69 FR 67317 & 70 FR 330). But once again some of the biggest winners from the prosecution of the case by the mandatory respondents were the section A respondents, whose rate as a result of these changes was reduced from 8.64% to 6.65% (USGPO, 2007; 69 FR 67317 & 70 FR 330). In the Hand Trucks case the revisions were again both positive and negative for individual firms, True Potential however faced a rate almost 10% higher at 33.68% (USGPO, 2007)(69 FR 65411). The allegations of errors in the Outboard Engines case seem to have come to nothing.

Before moving on to the ITC final investigation phase of a case, a few aspects of the DOC investigation still merit some attention. Firstly two possible variations on the basic countervailing and antidumping duty cases should be discussed, these are the critical circumstances allegation for both types of case and secondly the 'below cost of production' antidumping case and finally the use of adverse facts merits attention.

A 'cost case' is a version of an antidumping investigation, where the petitioners allege that the responding firms are not only dumping, but actually selling the goods in the US market at below their cost of production. Yamaha was required to complete this questionnaire as Mercury successfully argued for a cost case. This type of case requires the DOC to collect additional information from respondents through section D of the antidumping questionnaire and a case becomes more difficult if sales below cost of production allegations are made by petitioner, due to the fact that value construction takes place to determine the normal value of the subject merchandise, and the outcome of the case becomes more uncertain (Trade Attorney, 2005l).

“If there is an allegation of sales below cost and now the company has to respond to a section D questionnaire that will increase the workload on the company significantly, if the company doesn't have a viable home market, and they have to go to a cost comparison, then they have to do a section D response, and that is very burdensome on the company.”

(Trade Attorney, 2006h)

If a cost case is being prosecuted and the responding firm is large, then often an independent certified public accountant (CPA) will be hired to consult on the case and to work with the company, but with smaller cases / companies the attorneys may do the work themselves (Trade Attorney, 2005b, 2006h). Yamaha did not retain both legal and outside consultants to prosecute their case (Appendix B). The firms will give attorneys the data for the questionnaire response, but to accurately and effectively complete the questionnaires the firms need to have knowledge of the DOC methodologies, to ensure the data is presented as favourably as possible.

Another aspect to trade cases that can significantly affect the outcome of a case for individual firms at the DOC is when they are unable to provide the required information to the DOC and the agency uses ‘facts available’ for their calculation. The lack of data on the part of respondents can be an aid to the petitioners (Trade Attorney, 2005k), for example, in the Wooden Bedroom Furniture case Techlane had an initially very low duty rate and in the Hand Trucks case Xinghua did not prosecute the DOC final investigation successfully, as the firms couldn’t produce the required data their companies rate went up.

“Sometimes the respondent just doesn’t have the information that they want, that the Commerce Department wants, and they will give a fairly broad, broad brush answer, Commerce will pick more at it, pick more at it, until they can come to conclusion that well they don’t know, we are not going to get this information from them so this is something we are going to have to substitute facts available”.

(Trade Policy Analyst, 2006)

### **11.1.5 ITC Final Investigation**

The ITC final investigation determines the outcome of cases almost 90% of the time (USITC, 2008a). This chapter opened with arguments about a need to recognise the importance of the DOC dumping or subsidisation determinations, but once these have been made and firms find themselves facing an explicit duty rate, the ITC final injury determination is the final opportunity for firms to change the outcome of the investigation. Petitioning firms will seek to prove injury, some respondents will stand

back from preventing injury being found and other respondents will try to show no injury and avoid duties. From a firm perspective the four activities of importance are the ITC final questionnaires, response verification, the filing of briefs and the ITC hearing (Trade Attorney, 2005t). The ITC final investigation is a focused on the domestic US industry, “the decision as to whether the foreigners are doing anything wrong, has already been made by Commerce and the ITC can’t look at that at all” (Trade Attorney, 2006c). Respondents participate in the investigation, but “the ITC’s analysis doesn’t really hinge so much on the respondent company’s data, so the respondent company’s recourses aren’t really taxed other than paying” (Trade Policy Analyst, 2006). Respondents will be relying on their attorneys in this part of the case.

The ITC issues questionnaires to US producers, purchasers of the subject merchandise and domestic like product, US importers and foreign producers (Trade Attorney, 2006c). The documents available online (USITC, 2007b) and the Federal Register (USGPO, 2007) does not always provide sufficient data to identify all the firms that responded to ITC questionnaires. These questionnaires were returned in all the cases, but we can only be certain that all the firms prosecuting the two countervailing duty cases returned questionnaires, see Table 40, Table 41 and Table 42. In the Wooden Bedroom Furniture case it is clear the petitioners returned a response, while there is evidence of most of the key responding firms returning responses in the Hand Trucks and Outboard Engines cases. The burden these questionnaires place on firms can be illustrated by the fact that the completion of the domestic producer (petitioner) questionnaire is estimated to take anywhere from 20 hours to 120 hours to complete, depending on how complicated the company’s books and records are (Trade Attorney, 2006f). This is however very little compared to the sales and cost data respondents have to collect for the DOC questionnaires (Trade Attorney, 2006f).

There are two aspects to the prosecution of a case through these questionnaires, firstly trying to shape the information they will request and secondly submitting a response to build the official record at the ITC. The most important thing for a firm wishing to shape the information the questionnaires collect, will be an attorney that is in a relationship which allows them to comfortably approach staff at the ITC and make suggestions of the types of issues that should be covered in the questionnaire content (Government Agency Employee, 2006), so that they reflect the firm and attorney’s

knowledge of market conditions. This is part of an ongoing dialogue that attorneys may have with ITC staff as they seek to ensure that the agency collects the data they believe is required to make their case (Economic Consultant, 2006a). This is important for the prosecuting firms, as the questionnaire responses form the foundation for the ITC staff report and it is important for the different interests to have their ‘story’ portrayed in that report. Knowing what to put into the questionnaire comes back to having the firm help the attorneys understand what’s going on in an industry, but it can be a risk in asking the ITC to include certain questions, as the firms and their attorneys can never be sure what the actual response will be (Trade Attorney, 2005v). One interviewee argued that the success they’d had in the Outboard Engines case was partly for this reason.

“In fact in the outboard engine case, we were successful partially because of the comments we made on the questionnaire, the information we asked the Commission staff to develop, because if we hadn’t had the detailed information, we could never have made the arguments we did, you can make all these sophisticated arguments but if you don’t have the data to support it, if they haven’t collected the data then it is basically of no use.”

(Trade Attorney, 2005v)

After the questionnaire responses have been received by the ITC, the agency staff investigating the case will visit US producers and verify the data submitted in a similar process that which the DOC conducts with respondent submissions. The ITC verification is typically focused on the US firms who responded to the questionnaires, due to the practicality of visiting foreign firms (Trade Attorney, 2005v). The quality of a company’s accounting system is critical to the verification process, it needs to be flexible, as the ITC will often spot check for verification of data (Trade Attorney, 2005t). The ITC verification process can take several days of going through a company’s books and revisions are always required (Trade Attorney, 2005t). This activity will be conducted by ITC staff and firms being verified will need to make their accounting staff available for this process (Trade Attorney, 2006f). The firms will also be supported by their attorneys and often an economic or accounting consultant (Trade Attorney, 2006f).

After the verification of questionnaire responses, the ITC produces a pre-hearing report on the information collected on the record to date and provides the prosecuting interests the opportunity to file pre-hearing briefs regarding their position on issues related to the investigation and then holds the final investigation hearing. Prehearing briefs were submitted by Micron, Infineon and Hynix in the DRAMs case, the USPRPC, Reliance, SAPL and PETUC in the PET Resin case, the AFMCLT, Maria Yee, CCCFP, FBI, FRG, Lacquer, Markor and the CFTF in Wooden Bedroom Furniture, for the Hand Trucks case by Gleason, Liberty Diversified Products (Safco) and the CCCME and final by Mercury, BRP, Yamaha, Honda, Nissan, Suzuki and Tohatsu in the Outboard Engines case.

The ITC investigation does not consider individual firm positions, but instead asks how imports have affected the domestic US industry as a whole and as such the US industry needs to show a united front and for petitioning firms it is very important that all US producers respond to the ITC questionnaires. This can be difficult in larger industries or industries with many small firms and trade associations can sometimes help to provide some coordination in this respect. The larger industries face a coordination problem, while the smaller firms will probably not have the resources to spare for participating in the prosecution of a case (Trade Attorney, 2005v). The clearest opportunity for identifying the degree of industry organisation is at the ITC hearing. The hearing presents firms with the most direct opportunity for making their case to the final decision makers at the ITC, the six Commissioners, it might be the opportunity to turn a vote, but the hearings are also very useful for informing the contents of the post hearing briefs (Trade Attorney, 2005d). In the DRAMs case Micron and Infineon attended the ITC hearing individually as part of those interests supporting the imposition of duties, with only Hynix opposing the duties. In the PET Resin case the US producers continued to collectively prosecute the case through their ad hoc association, the USPRPC (see Appendix B). Reliance and SAPL both attended the hearing as part of the opposing interests and were supported by the PETUC (see Appendix B). The Wooden Bedroom Furniture case saw the petitioners continue to use their coalition as well, while the opposing interests were able to show opposition from both US and Chinese firms. The Lacquer and Markor formed a coalition with the CFTF to represent their interests at the hearing and the CCCFP also continued to cooperatively prosecute the case, while the



FRA, FBI, Guangzhou Maria Yee Furnishings, Ltd. (Maria Yee) joined the responding interests individually at the hearing (see Appendix B). Gleason made the case for duties on hand trucks individually at the ITC hearing and was opposed by Safco and a coalition of the Chinese producers and the CCCME. Mercury was able to form a coalition including a trade union, boat builders and sellers, as was Yamaha, while a number of other respondents joined the opposing interests individually, including all the other Japanese producers / exporters (see Appendix B).

It is common to have company representatives, it would be surprising if they weren't, but typically not a CEO type, but more production type people, hands on level of management (Trade Attorney, 2005d). For both petitioning and responding firms, the requirements for successfully prosecuting the ITC hearing are fairly similar. Firms will have to provide witnesses from across the company to speak to the Commissioners about their submissions and arguments regarding injury. The attendance of senior managers, such as CEOs, is seen as an especially important signal to the Commissioners that the case is important to the firms and from a petitioner's perspective that the injury is significant to the firm (Trade Attorney, 2006b, 2006e). Attorneys play an important role in preparing their clients staff for appearing at the ITC hearing (Trade Attorney, 2006e). The ITC Commissioners, however, ask probing questions and CEOs can be too high up to be effective (Trade Attorney, 2005d). So while the attendance of senior managers is considered important for conveying the seriousness of the case to the prosecuting firms, functional roles and especially those that are able to address Commissioners questions about the actual data are argued to be preferred by the Commissioners, such as sales managers (Trade Attorney, 2005d), accounting and production managers and possibly an import / export manager (Trade Attorney, 2005n). Firms will therefore often have a broad range of representatives at the hearing (Trade Attorney, 2005u). For responding firms it is also important to, as far as possible, find US representatives for the ITC hearing (Trade Attorney, 2005e).

One of the most important witnesses that either petitioners or respondents can present to the Commissioners is a US purchaser of the subject merchandise. But the purchasers need to have a 'good' story that supports the arguments of the interests on whose behalf they are testifying (Government Agency Employee, 2006). US purchasers will typically step back from a trade case and when they testify it really changes the dynamics of the

case and this can often depend on industry contacts (Trade Attorney, 2005m). It is a good thing for the petitioner if only lawyers attend the ITC hearing (Trade Attorney, 2005m). US purchasers who buy from foreign and domestic suppliers can be especially powerful witness.

“It is more powerful if it is somebody who is buying from both and you can get them to speak for your side, because then it is like, if it somebody who only buys from the importer, it is still good to hear from them because you want to hear from a customer who sees the marketplace from a different perspective than a supplier, even if there is a close relationship there, they still see the marketplace differently”

(Government Agency Employee, 2006)

The ITC hearing is followed by the submission of post-hearing briefs by prosecuting firms, which offer the different interests the opportunity to address issues that emerged during the hearing and make final arguments about their position. Micron, Infineon and Hynix again submitted briefs, but only the USPRPC, Reliance and the PETUC did in the PET Resin case, while the AFMCLT, Lacquer, Markor, the CFTF and FRG did in the Wooden Bedroom Furniture case, Gleason, Safco and CCCME did in the Hand Trucks case, while Yamaha was the only main prosecuting firm in the Outboard Engines case not to file a post-hearing brief (see Appendix B). It was argued that “when you are doing a brief on these things, at the end of the presentation of the facts, you shouldn’t have to really argue the legal case, because by the time you have convinced someone of the facts, it should be self evident what the result is. So what you are trying to do is convince someone of your view of the facts, so that is why you have to develop as much evidence as you can, of course you are limited to what is developed in the Commission questionnaires and that is why you have to know that very well” (Trade Attorney, 2005v).

The majority of the remainder of the ITC investigation takes place internally to the ITC, with the agency issuing a final report, closing the record, firms have the opportunity to offer final comments on the case before the Commissioners vote and then the case ends. At the end of the ITC determination the petitioning industry either receives an affirmative ITC determination and the DOC calculated duty margins are applied to the

subject merchandise or the ITC votes in the negative and no duties are put in place. The institution of the duty margins marks the start of the review phase of an antidumping or countervailing duty case.

## **11.2 Corporate Political Strategy**

Firms can adopt one of three corporate political strategies for prosecuting the original investigation phase, a full proactive strategy, a selective proactive strategy and a reactive strategy. While the capability to gather information is not key to understanding firm success in this phase, it is the foundation on which trade cases are built in every phase. To understand this phase of a trade case it is necessary to appreciate how the administrative record for a case is built at the DOC and ITC and how firms are able to shape it to reflect their policy preferences. The CPA strategy adopted by firms reflects the approach they prefer for building the record and how they believe they are best able to shape this record to reflect their policy preferences.

### **11.2.1 Reactive Approach**

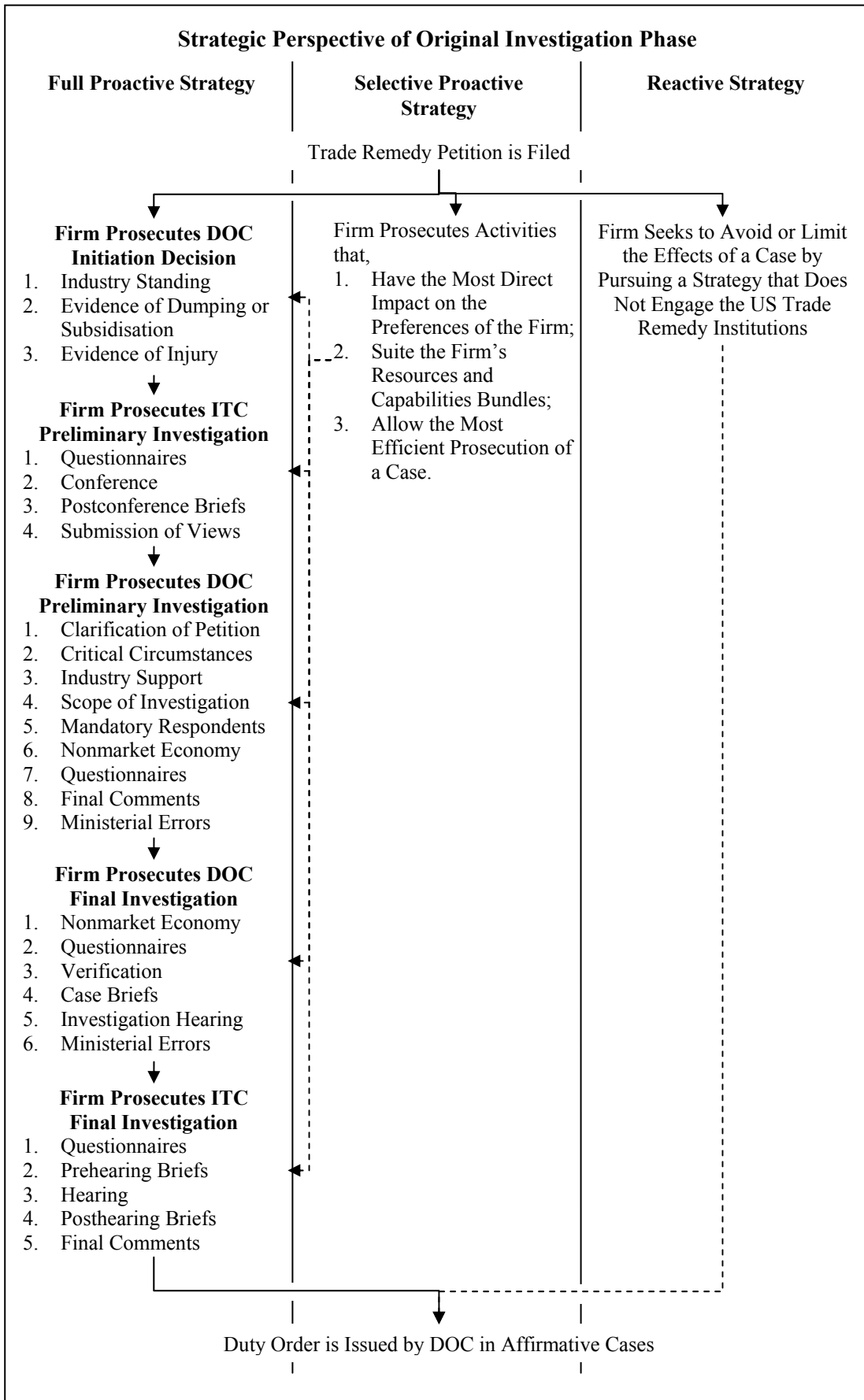
The reactive strategies adopted by firms during the original investigation are again either an avoidance reactive strategy or a preparatory reactive strategy. Firms that adopt an avoidance strategy will again have determined that it is in their best interest to take actions that will allow them to avoid prosecuting the original investigation of a case and / or the effects of any potential future duties during the review phase of a trade case. The tactics that these firms adopt will be the same as discussed in the previous chapter and do not require any further discussion here. The preparatory strategy adopted by firms during the original investigation however differs from the one adopted in the pre-petition phase. These firms will again consider the US market / foreign product as so important to their operations that their best interest is served by prosecution of the review phase to prevent / have reduced duties imposed on the imports subject to an expected duty order. These responding firms will be adopting the reactive strategy because they are either not willing or able to prosecute the original investigation of a case. Some of these firms will not intend to prosecute the review phase, but others will intend to use the available appeals processes through the USCIT, WTO or NAFTA disputes process. Other firms may even currently not be producing the subject

merchandise and consider entering the US market, by using a New Shipper Review to have a favourable firm specific duty determined.

### **11.2.2 Proactive Approach**

Firms that decide that the US market or the subject merchandise is so important to their business, that the cost of proactively prosecuting a trade case is justified by the potential benefit of a favourable policy outcome, have the possibility to decide the degree to which they wish to do so. Figure 16 shows the full original phase investigation and the aspects of each stage in the investigation with respect to which firms can choose to engage with the agencies. In the strictest sense of the concept as used here, a full proactive strategy would see a firm prosecuting each of the activities that make up the individual stages in this phase. The reality is however that not all trade cases have all of the activities present, as some such as the nonmarket economy related issues and allegations of critical circumstances are not always relevant to a case. Others aspects are however part of every case, such as the completion of agency questionnaires, the possibility of submitting case briefs, agency hearings and alleging ministerial errors to the DOC, for this study a full proactive strategy is therefore adopted when a firm prosecutes all or at least most of these activities at both agencies.

A selective proactive strategy is adopted when a firm only prosecutes those aspects of a case that most directly affect its interests. This approach is available to all firms prosecuting the phase, even mandatory respondents. While mandatory respondents face the possibility of the DOC using adverse facts available in their calculation of a mandatory respondents duty rate if the firm does not complete its questionnaires and verification process for example, if a respondent only does the minimum required in this respect, that would still be a selective strategy.



**Figure 16: Firm Strategic Choices for Original Investigation Phase**



The adoption of a selective proactive strategy may very well be one of the most efficient ways of prosecuting a case for individual firms, if they engage with those aspects of the case that are best suited to the resources and capabilities available to them. Table 40, Table 41 and Table 42 show the aspects of each of the cases that that petitioners, mandatory respondents, section A respondents, foreign governments and selected other firms prosecuted and would seem to indicate that the adoption of a selective approach was favoured by a large number of these firms.

Petitioners would seem to adopt full proactive strategies, as can be seen by the approaches of Micron, the AFMCLT, Gleason and Mercury. The USPRPC approach would however most accurately be described as selective, as the petitioners chose not to engage the agencies with respect to key activities such as the DOC questionnaires and response verification. US firms supporting the prosecution of a case by adopting a proactive strategy, such as Infineon in the DRAMs case and BRP in the Outboard Engines case also seemed to prefer a selective approach.

Responding firms in the selected cases adopted a range of CPA strategy approaches. In the DRAMs case Hynix adopted a full proactive strategy prosecuting the each of the major aspects of the DOC and ITC investigations. Samsung's approach was however selective, with the firm actively prosecuting the case to the point where its duty rate had been determined. After the firm was certain that it would be excluded from the duty order it only did the minimum at the ITC final phase, responding to the agency questionnaire, in a textbook example of how the responding firms' strategic objectives diverged due to the DOC determination.

In the second countervailing duty case Reliance adopted a full approach, as did SAPL, actively prosecuting all or almost all of both the DOC and the ITC final investigations, respectively. Futura, Elque and the Government of India adopted selective proactive strategies; all three these interests prosecuted only those aspects of the case that were required for them to receive a separate duty rate in the case of the firms or meet their obligations as a respondent government. The firms completed the agency questionnaires and allowed the DOC to verify their questionnaire responses. The Indian government also met the DOC for consultations during the preliminary DOC investigation and submitted a case brief during the final DOC investigation.

Case	Firm / Gov Name	Prosecution of Original Investigation by Selected Firms / Interests in the Wooden Bedroom Furniture Case																					
		ITC Prelim			DOC Preliminary							DOC Final			ITC Final								
<p>Note: Where '?' is used in this table, it is intended to denote that there is evidence that firms may have participated in a given activity, but no definitive document to substantiate the claim in the material available.</p>		Questionnaires	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	
		Conference	Y	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Post-conference Briefs	Y	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Wooden Bedroom Furniture	AFMCLT	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Dongguan Lung Dong	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			The Dorbest Group	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Lacquer Craft	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Markor Tiajin	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Shing Mark	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Starcorp	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Techlane	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Section A Firms	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
			Gov. PRC	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Table 41: Prosecution of Original Investigation by Selected Firms / Interests in the Wooden Bedroom Furniture Case

Source: Appendix B



It is interesting to note that the two firms adopting the full proactive approach received the highest duty rates during the DOC investigation. Futura and Elque found themselves in the same position as Samsung when the ITC investigation began, but the ITC found no injury in their final investigation and on this occasion the respondents with the lowest duty rate did not get the opportunity to have their competitive position in the US enhanced relative to the other responding firms.

The respondents in the Wooden Bedroom Furniture case again adopted different strategies for prosecuting the phase. Two firms, Lacquer Craft and Markor Tiajin chose to take a full proactive approach to the prosecution of the phase, even after they had received duty rates of 2.66% and 0.83% they still fully prosecuted the ITC final determination, see Table 40. This included prosecuting the initiation decision of the DOC, as well as aspects such as the determination of industry support, the selection of mandatory respondents, issues relating to the NME status of China, product coverage for the DOC investigation, product (model) matching criteria and factor valuations for the DOC calculations of the constructed normal value during the preliminary DOC investigation. During the preliminary DOC determination the other respondents can be seen to be picking those aspects of the investigation that are of most interest to them, with factor valuations, the scope of the investigation and issues related to the nonmarket status of China. The DOC final investigation was fully prosecuted by most firms, but the ITC final phase was only fully prosecuted by the AFMCLT, Lacquer and Markor, see Table 41.

Respondents prosecuted the Hand Trucks case in much the same way, see Table 41, the only firm that selectively engaged with the ITC preliminary and both DOC investigations was Xinghua and as can be seen in Table 43 the firm was unsuccessful in its prosecution of the case, receiving the PRC-wide rate. The respondents generally do not seem to have made extensive use of the pre- and post-hearing briefs.

Yamaha was the only mandatory respondent in the Outboard Engines case, see Table 41, but the other producers and exporters from Japan also selectively prosecuted the case in support of Yamaha. The fact that the duty rate determined for Yamaha would be valid for all four of the other firms surely played a significant role in preventing free riding. While Yamaha selectively prosecuted the preliminary ITC and the DOC

investigations, see Table 42, the firm fully prosecuted the ITC final determination and was ultimately successful with the support of the other respondents in showing no injury. BRP another North American producer also selectively prosecuted the case for duties in support of Mercury, again focusing on the ITC final investigation.

Table 43 shows the outcomes of cases for petitioners in terms of whether duties were imposed or not and respondents in terms of the duty rates they were eligible for in a given case, the second column from the left then provides a broad assessment of whether the case could be considered a success for a given firm, using the discussion at the start of the chapter. Finally the table relates the individual firm outcomes to the perceived strategy adopted by firms, given the aspects of a case they engaged in, as described in Table 40, Table 41 and Table 42. While a possible link between a particular approach to trade cases and outcomes would probably have been desired by firms expecting to prosecute a case, the reality is that there seems to be no general guidance for how a firm should approach prosecuting a trade case. The outcome of trade cases in terms of success for individual firms is just that, an individual outcome.



		Prelim Duties	Final Duties	Duty Order	Perceived Outcome	Proactive Strategy
<b>CVD Cases</b>	<b>DRAMs from Korea</b>					
	Micron	-	-	-	Successful	Full
	Hynix	57.37 %	44.29 %	Yes	Unsuccessful	Full
	Samsung	00.16 %	00.04 %	No	Successful	Selective
	All Others	57.37 %	44.29 %	Yes	Unsuccessful	-
	<b>PET Resin from India</b>					
	USPRPC	-	-	-	Unsuccessful	Selective
	Reliance	30.24 %	19.97 %	No	Successful	Selective
	SAPL	19.13 %	19.08 %	No	Successful	Selective
	Futura	01.62 %	06.15 %	No	Unsuccessful	Selective
	Elque	12.02 %	12.41 %	No	Successful	Selective
	All Others	24.01 %	14.55 %	No	Successful	-
<b>AD Cases</b>	<b>Wooden Bedroom Furniture from China</b>					
	AFMCLT	-	-	-	Unsuccessful	Full
	Dongguan Lung Dong	07.04 %	02.32 %	Yes	Successful	Selective
	The Dorbest Group	11.85 %	07.87 %	Yes	Successful	Selective
	Lacquer Craft	04.90 %	02.66 %	Yes	Successful	Full
	Markor Tianjin	08.38 %	00.83 %	No	Successful	Full
	Shing Mark	06.59 %	04.96 %	Yes	Successful	Selective
	Starcorp	30.52 %	15.78 %	Yes	Unsuccessful	Selective
	Techlane	29.72 %	PRC-Wide	Yes	Unsuccessful	Selective
	Section A Respondents	12.91 %	6.65 %	Yes	Successful	Selective
	PRC-Wide	198.08 %	198.08 %	Yes	Unsuccessful	-
	<b>Hand Trucks from China</b>					
	Gleason	-	-	-	Unsuccessful	Full
	Xinghua	216.36 %	PRC-Wide	Yes	Unsuccessful	Selective
	Taifa	31.87 %	26.49 %	Yes	Successful	Full
	True Potential	24.62 %	33.68 %	Yes	Unsuccessful	Selective
	Huatian	74.88 %	46.48 %	Yes	Unsuccessful	Selective
	Section A Respondents	76.15 %	32.76 %	Yes	Unsuccessful	Selective
	PRC-Wide	346.94 %	383.60 %	Yes	Unsuccessful	-
	<b>Outboard Engines</b>					
	Mercury	-	-	-	Unsuccessful	Full
	Yamaha	22.52 %	19.98 %	No	Successful	Full
	All Others	22.52 %	19.98 %	No	Successful	Full

**Table 43: Perceived Outcome of Original Investigation and Firm Strategies for Five Cases**  
**Sources: Appendix B; (Crowell & Moring, 2003, Dewey Ballantine LLP, 2004, Hale and Dorr LLP, 2002, Howrey Simon Arnold & White, 2004, King and Spalding LLP, 2003)**

### **11.3 Resource-based View**

As was the case in the pre-petition phase, firms require the capability to gather information, build and shape the administrative record and align business practices with the US trade remedy institutions to be successful during the phase. The nature of the process means that the capability to build and shape the administrative record is by far the most important aspect determining individual firms' outcomes.

#### **11.3.1 Capability to Gather Information**

The importance of being able to gather information was discussed in the previous chapter with respect to firms identifying import competition potentially being subject to a trade case and preparing for a potential case. The information gathering process was part of both proactive and reactive strategies and on balance initiated and done by firms, with guidance of external experts such as trade attorneys or economic consultants. The need to gather information remains important during the original investigation phase. Firms need to gather organisational information from two sources, internally and externally. Firms gather organisational data internally to answer DOC and ITC questionnaires as part of the process of building the administrative record at the agencies. Internal firm resources, such as sales, production and accounting staff contribute by gathering the information required for responding to the agency questionnaires. Firms also need to gain access to the organisational data contributed by all the other firms prosecuting the case and this is done through external resources such as trade attorneys, economic and accounting consultants. These resources are able to view the full record, including all BPI, under APO and thereby prosecute the case in the interest of their clients with knowledge of the full record. Individual firms need to rely on these external experts to gather and use this information on their behalf.

#### **11.3.2 Capability to Building and Shaping the Administrative Record**

The capability to build and shape the administrative record at the DOC and ITC is central to the prosecution of a trade case, as at both agencies the determinations at the end of each stage of an investigation is made based on the official record that has been established. The process of building and shaping this record begins during the pre-petition phase of a case and continues through both the original investigation and review phases. It is arguably however most strongly associated with the original investigation

phase, when inexperienced firms are first exposed to the administrative process at the two agencies and the foundation for prosecuting the review phase is established. Building and shaping the record is an information intensive process, requiring information acquired externally to the firm, from both market and nonmarket sources, and from internal sources. The value of the capability however lies in how it enables firms to submit this information to the two agencies appropriately, i.e. building the record, and also present this information to the agencies in such a way that makes the strongest argument for a firms policy preference.

Money remains a key enabling resource for firms to prosecute a US trade case during the original investigation. Primarily as it enables firms to retain the external attorneys and other consultants that will support them in prosecuting the case. The trade attorneys ensure that firms are able to build the record by meeting deadlines for submissions to the agencies, as they have knowledge of DOC and ITC rules and procedures for submissions. The attorneys and economists help firms to shape the record by taking the information gathered by firm staff and presenting it in the most favourable way possible. Their knowledge can also allow firms to take advantage of administrative procedures and calculation methodologies at the DOC to their advantage. The inclusion or exclusion of data in the database used for calculating duty margins can have significant effects on the final duty rate for example. For a detailed technical discussion of these types of issues see Lindsey & Ikenon (2003).

Table 44 shows the use of law firms and economic consultants by the firms in the five cases. The attorneys support firms throughout the prosecution of a case, while the economic consultants primarily help with injury arguments at the ITC. The table is interesting in that it represents most of the law firms and economic consultants that specialise in these cases. The Outboard Engines case was the only instances where the petitioners did not retain an economist, while there is more variation amongst responding firms in use of economists. Samsung did not retain an economist, which reflects the success the firms had at the DOC and limited participation at the ITC. A firm's employees however also play important roles during the prosecution of a case. During the DOC investigation a responding firm's employees are central to prosecuting a case and senior managers play an important role in ensuring that their firm prosecutes a trade case as effectively as possible (Trade Policy Analyst, 2006). Senior managers

however will delegate the actual practical completion of DOC questionnaires and provision of information required by the agencies to employees with functionally specific knowledge (Economic Consultant, 2006b). The DOC investigation requires a significant contribution from the sales staff, the firm's cost accountants and production managers, because they are the only people in the responding companies that know the detailed sales and production information the DOC needs for their calculations (Trade Attorney, 2006e, Trade Policy Analyst, 2006). The collection of the data for respondents electronic database of all their sales activities is typically a collaborative undertaking between staff from different parts of a firm, who have access to and knowledge of the required information, and the attorneys and consultants hire by the firm to help them prosecute the dumping case (Trade Attorney, 2006d). Attorneys will play a coordinating role in the information collection process, ensuring the information is complete and accurate and in conjunction with consultants finding solutions to any gaps in the submission (Trade Attorney, 2006d). The attorneys arguably have too limited a knowledge of the company and its specific issues and where the information required is to be found (Trade Attorney, 2006d). A key figure relied on by the attorneys in trade cases is the firm / industry expert, who can explain these issues to them (Trade Attorney, 2006i).

<b>Position</b>	<b>Firm / Ad Hoc Coalition Name</b>	<b>Law Firm</b>	<b>Consultant Firm(s)</b>
<b>DRAMs and DRAM Modules from Korea (Countervailing Duty)</b>			
Petitioner	Micron	Hale and Dorr	Economic Consulting Services Lexecon
Supporting Producer	Infineon	Collier Shannon Scott	Georgetown Economic Services
Respondent	Hynix	Willkie Farr & Gallagher	Capital Trade Economists
Respondent	Samsung	Akin Gump Strauss Hauer & Feld	-
<b>PET Resin from India (Countervailing Duty)</b>			
Petitioner	United States PET Resin Producers Coalition	Howrey Simon Arnold & White	Cap Analysis Group GMP
Respondent	Reliance Industries	Step toe & Johnson	Economic Consulting Services
Respondent	SAPL	Cameron & Hornbostel	-
Respondent	PET Users Coalition	-	-
Respondent	Indo-Pet (Thailand) and P.T. Indorama	Coudert Brothers	-
<b>Wooden Bedroom Furniture from China (Antidumping)</b>			
Petitioners	American Furniture Manufacturers Committee for Legal Trade	King & Spalding	Economic Consulting Services
Respondent	Dongguan Lung Dong	-	-
Respondent	The Dorbest Group	Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt	-
Respondent	Lacquer Craft	See Below	-
Respondent	Markor Tianjin	See Below	-
Respondent	Shing Mark	-	-
Respondent	Starcorp	-	-
Respondent	Tech Lane	-	-
Respondent	Maria Yee	Venable Arent Fox	-
Respondent	Naihia Jiantai Woodwork Co.	Willkie Farr & Gallagher	-
Respondent	Value City	Grunfeld, Desiderio, Lebowitz,	-



		Silverman & Klestadt	
Respondent	Brestl Inc. Keller Furniture Lewis & Sons Powell Co. Pride Sasser Home Furnishings Standard Furniture Manufacturing Co.	Mowrey International Group	
Respondent	Furniture Brands Int.	Bryan Cave	-
Respondent	Furniture Retailers of America Group	Hunton & Williams	Nathan Associates
Respondent	Lacauer Craft, Markor Furniture, Committee for Free Trade in Furniture	Wilmer, Cutler, Pickering, Hale and Dorr	Econometrica International
<b>Hand Trucks and Certain Parts Thereof from China (Antidumping)</b>			
Petitioner	Gleason Industrial Products	Crowell & Moring	Economic Consulting Services
Respondent	W.W. Grainger	Sandler, Travis & Rosenberg	-
Respondent	China Chamber of Commerce for Import & Export of Machinery & Electronics	Greenberg Traurig	-
Respondent	Safco Prducts Co.	Katten Muchin Zavis Rosenman	-
<b>Outboard Engines from Japan (Antidumping)</b>			
Petitioner	Mercury Marine	Dewey Ballantine	-
Supporting Producer	Bombardier	Harris Ellsworth & Levin	Capital Trade
Respondent	Yamaha	Willkie Farr & Gallagher	Arthur Consulting Group
Respondent	Honda	Gibson, Dunn & Crutcher	International Trade Resources
Respondent	Tohatsu and Nissan	Adduci, Mastriani & Schaumberg Morgan, Lewis & Bockius	-
Respondent	Suzuki	Buchanan Ingersoll	-
Respondent	Godfrey Marine	Barnes & Thornburg	-

**Table 44: Firm Representation by Attorneys and Consultants**

Source: See Appendix B

While the petitioners do not have specific information that they will be expected to provide to the DOC, there will typically be a requests from the DOC for additional information (Trade Attorney, 2005q), with respect to clarifying the petition or aspects of the investigation the DOC is conducting. There is however very little that the petitioning firms can contribute during the DOC investigation, as all the significant information is confidential and only available to the petitioning firm's attorneys under APO (Trade Attorney, 2005v). The law firm representing a petitioner is however actively involved throughout the process at the DOC and may call on the petitioning firm for technical advice and information on production processes for example (Economic Consultant, 2006b, Trade Attorney, 2005t). The primary role of the petitioners' attorney is to argue the legal issues, such as surrogate values and countries for example, and actively observing the actions of respondents (Trade Attorney, 2005w), challenging issues which go against their clients interests. The petitioners' attorney(s) will seek to ensure that the information submitted to the DOC and the way in which the DOC deals with that information to calculate the preliminary duty margin, are done in a manner which interprets the meaning of the statute and regulations in a manner most favourable to their clients. For petitioners' attorneys to fulfil this role, they too will need to rely on the same types of experts and consultants as the respondents' attorneys. Their aim being to scrutinise the full DOC record and keep the responding firms 'honest'.

During the ITC preliminary investigation the burden of effort at the ITC is for example much more on the attorneys and economists hired by responding and petitioning firms than on the individual firms prosecuting a case (Trade Attorney, 2006f). While the responding firms will have sales people who understand what is required to sell in the US market, they will typically not have the overview of the market required for the injury determination and will not have access to the full confidential record to make the arguments required at the ITC (Trade Attorney, 2005k). The firm staff, especially respondent firm staff, will have a fairly limited role at the ITC, as while they have to complete the agency questionnaires, these are "very high level, total volume of sales and exports to the United States market, answering general questions about product substitutability, things like that" (Trade Attorney, 2006d).

Petitioning firms will typically be represented by a single attorney, this is useful as it can improve coordination amongst the firms and allow fees to be split (Economic Consultant, 2006b). While responding firms may choose to retain their own counsel (Economic Consultant, 2006b) or they may decide to pool their resources in a coalition for fighting the injury case as it is in the interest of all responding firms to find no injury (Trade Attorney, 2006h). These responding firms will then through their coalition be in a position to “hire one law firm, one economist and present a united front” on the issue of injury (Trade Attorney, 2006h). The economic consultants are retained by the firms, often through the law firms, to help prosecute the injury case at the ITC and provide the prosecuting and responding firms with access to the full record through the APO required to make the injury assessment possible (Trade Attorney, 2005b). The economists will however not always be retained as part of the preliminary ITC phase, this will depend of how long respondents have to prepare their case and how complicated the case is, but economists are usually involved in the final phase of the ITC investigation and while it is possible for firms to use an “in-house economist ... most firms use an outside resource.” (Trade Attorney, 2006h)

The attorneys are experienced with respect to working with both firms and the ITC and they are therefore able to reconcile their knowledge of the concerns of the ITC and the business perspective, to develop novel / ‘outside of the box’ arguments for the injury determination (Trade Attorney, 2006j). Making these arguments relies on the attorneys’ knowledge of the law and the information / resources available to the firms. The attorneys rely on the company’s resources, their staff and time, to actually find the required information for making these arguments (Trade Attorney, 2006j). The process of collecting this information and doing the calculations and “number machinations” can become a source of tension between clients and their attorneys (Trade Attorney, 2006j). An experienced attorney will however know what concerns the Commissioners at the ITC have and then explain to firms what information they need to gather to make a successful argument (Trade Attorney, 2006j). The attorneys need to understand the foreign industry at home, in its home market, and of course what it is doing in the US (Trade Attorney, 2005v). Both internal company experts and external industry consultants can educate the attorneys about these issues. This was the case in the outboard engines case, where the attorneys retained an expert, someone who had

previously been working in one of the domestic companies, and he left and he was working as a consultant, so we retained him and worked with him, and then he made some very effective presentations at the ITC” (Trade Attorney, 2005v).

<b>Constitutive Resources and Capabilities</b> (Capabilities are bolded and the resources bundled to enable that capability are indented below the capability. Other resources are shown individually, where they are not bundled together. Where an explanation of a resource or capability is required it is included in brackets.)	<b>Typology of Political Resources</b>								
	Internal (I) / External (E)	Expertise	Financial Resource	Relational Resource	Organizational Resource	Reputation with Other Non-market Actors	Public Image	Support of stakeholders	Recreational Skill
<b>General Resources and Capabilities</b>	-	-	-	-	-	-	-	-	-
Money	I	-	X	-	-	-	-	-	-
Information Technology (IT) Systems	I	-	-	-	X	-	-	-	-
Ad hoc Association	E	-	-	-	X	-	-	-	-
<b>Capability to Build and Shape the Administrative Record</b>	-	-	-	-	-	-	-	-	-
Capability to Gather Information	-	X	-	-	-	-	-	-	-
Sales Staff	I	X	-	-	-	-	-	-	-
Production Staff	I	X	-	-	-	-	-	-	-
Senior Managers	I	X	-	X	X	-	-	-	-
Accounting Staff	I	X	-	-	-	-	-	-	-
Trade Attorneys	E	X	-	X	X	X	-	-	-
Economic Consultants	E	X	-	-	X	-	-	-	-
Accounting consultants	E	X	-	-	X	-	-	-	-
Industry Experts	E	X	-	-	-	-	-	-	-

**Table 45: Resource-based View of Capability to Build and Shape the Administrative Record**

Because of the large amount of information required by the DOC to be submitted as an electronic data set, the nature of a company’s information technology (IT) systems can

play a significant role in the prosecution of the DOC investigation in antidumping cases (Trade Attorney, 2005a, 2005l). Once respondents develop a cost accounting system to produce the required information, they can produce results which strengthen their case, by applying legal accounting principles carefully (Trade Attorney, 2005f). Firms with good accounting and IT systems it will take about a month for a rough margin calculation and if no IT systems are in place then taking part is a leap of faith (Trade Attorney, 2005m). Respondents with no IT systems will only get an idea of their expected duty / margin once the data for the DOC has been produced (Trade Attorney, 2005m). The DOC likes everything broken up, which are product specific (Trade Attorney, 2005m, 2005r). Firms typically think of broad product categories, while the DOC has very specific product definitions, based on 6-10 characteristics, for example in the Shrimp case the DOC identified 50 types of shrimp product (Trade Attorney, 2005m). But even if a respondent could produce product specific cost accounting systems, this can be a very subjective issue. If the systems were in place before the petition was filed, then the DOC will probably accept them, if put in place during an investigation the DOC will become suspicious (Trade Attorney, 2005m). These accounting systems will however be essential for firms which expect to participate in the review phase of a case and want to be effective. In the DRAMs case the Korean firms invested in a SAP software solution, so that they would be able to do internal price monitoring (Economic Consultant, 2006c). It was however also argued that while it might be expected that firms with sophisticated IT systems might be at an advantage, this was not necessarily the case, as it could often raise the DOC's expectations and result in a greater burden being placed on respondent firms (Trade Attorney, 2006d).

An additional disadvantage to the responding firms is that the data they submit electronically to the DOC is available to the petitioning firms' attorneys and economists etc. and they will use their own computer programmes to analyse the submission and seek ways to exclude or include data in the DOC calculations that will result in the highest possible dumping margins.

“[Interviewee 1] [IT systems] help us, but not as much as our ability to get the foreign producers' data, when everything became computerised... that was a long time ago, but us being able to get the data electronically, the

foreign producers' data, and have our computer analyst internally analyse that data, it is critical, but in terms of bringing a case... it's not really that important, ... not from the domestic side”

(Trade Attorney, 2006f)

The size of a respondent will often influence the IT / accounting systems that a firm has in place for prosecuting a case and also the amount of resources available to the firm to prosecute the case. With some smaller companies there may be no time to analyse data before submitting it to the DOC, it will still be being collected right up to the submission deadline (Trade Attorney, 2005m). While the calculations made at the DOC focus on individual mandatory respondent firms, there is still a need for some coordination between respondents, to ensure that one firm does not make arguments that will harm another respondent, if those arguments are not essential to the firm's response (Trade Attorney, 2006c). Trade associations can play an important role in this respect and also with respect to identifying all the firms in the responding industry (Trade Attorney, 2006c), which may not always be clear. The process of completing ITC questionnaires requires the same sorts of capabilities and resources as at the DOC. Petitioning firms and other US firms that have sophisticated IT systems are considered to be at an advantage (Trade Attorney, 2006f). But these systems are not sufficient and a response to the ITC questionnaires will require contributions from accountants and sales staff at the US producers (Trade Attorney, 2006f).

### **11.3.3 Capability to Aligning Business Practices with US Trade Remedy Institutions**

The role of the capability to align business practices with the US trade remedy institutions has already been raised in the previous chapter and is typically first drawn on during the original investigation phase. Respondents which have not already begun to adjust their business practices before a case is filed, need to begin to do so before the DOC preliminary determination which marks the start of deposits being taken for imports of the subject merchandise and the POI for the first administrative review. This decision is of course tied into the expectations of the outcome for a case and each respondent will need to make a determination of what is in their best interest. In dumping cases this would mean adjusting sales practices and putting in place

monitoring activities to ensure a firm is not dumping, while in countervailing duty case this will required firms to understand the nature of the government subsidies available to them and when they can make use of government subsidies without opening up the possibility for further cases. A firm is effectively stuck with the effects of the subsidies it has already received and simply needs to wait for the benefit of the subsidies to work out of the DOC POI and therefore determination.

#### **11.4 Potential Bias in the United States Investigation Process**

The prosecution of the five cases shows possibilities for all three types of bias in the original investigation phase. The participation of politicians in these cases reflects the uncertainty over the role of political influence present in previous research. Political participation in trade cases is most visible in the ITC investigations, most often in the ITC final phase, and typically takes the form of a letter to the ITC in support or opposition to a case and or an appearance during the ITC final phase hearing. The cases in this study have examples of both, but the public record for the DOC investigations reveals little or no examples of political participation in the cases. At the DOC the political influence is exercised through the discretionary nature of many of the decisions that are made with regard to calculating the duty margins for the responding firms (Trade Attorney, 2005e). The source of the political influence is in the fact that the DOC is part of the US government (Trade Attorney, 2005e, 2006c), while there is suspicion of political influence on the outcome of cases at the ITC because of the control that Congress has over the funding of the agency (Trade Policy Analyst, 2006). The interviews for this study revealed mixed perceptions of the role of political influence in cases. One interviewee argued that “in the United States the AD and CVD cases basically proceed with I would say low, but I would say at minimum [of] political interference” (Economic Consultant, 2006b).

Other attorneys held the view that at the DOC political influence is exercised through the discretionary nature of many of the decisions that are made with regard to calculating the duty margins for the responding firms (Trade Attorney, 2005e) and that because the DOC is part of the executive branch in the government, it is “subject to a good deal of political pressure” and “a well connected domestic industry, such as the

steel industry, such as the lumber industry, ... can bring to bear intense political pressure on the agency to do what they want the agency to do” (Trade Attorney, 2006c).

At the ITC some petitions have no politicians involved, while in other case all the politicians that you would expect to see representing their constituents (Trade Attorney, 2005b) are in the record for a case. It is during the ITC hearing that political support for or against a case is most visible. There is a lot of suspicion of political influence on the outcome of cases due to the control that Congress has over the funding of the ITC (Trade Policy Analyst, 2006). The participation of politicians is an example of them representing their local constituents, who may be affected by plant closures (Trade Attorney, 2005b). In some petitions there are no politicians involved, in others you get all the people you'd expect to see, but when you see politicians from across the spectrum organized, then it makes a difference (Trade Attorney, 2005m). The DRAMs case saw political support both for and against duties and in the Outboard Engines case there was only political support for the imposition of duties (see Appendix B). There was no political presence in the PET Resin case, Wooden Bedroom Furniture or Hand Trucks cases at the hearing. To really know whether it had an effect however you would have had to have been at the hearing however, to see how people took part (Trade Attorney, 2005m). The DRAMs, Wooden Bedroom Furniture and Outboard Engines cases also saw politicians using the submission of letters to the ITC record (see Appendix B). The degree to which political influence influenced the outcome of individual cases is however uncertain (Trade Attorney, 2005b, 2005e). It was argued that when you see politicians from across the spectrum organised to support domestic interests, then it makes a difference (Trade Attorney, 2005m), but to really know whether it had an effect however you would have had to have been at the hearing, to see how people took part (Trade Attorney, 2005m). One interviewee argued that the ITC “will politely say thank you very much, we will take your views into account and they will put a footnote about [politicians position on a case in the report], ... [S]o the ITC recognises [politicians testimony], but I don't know of a single determination, whether anything is turned on the views of the politicians” (Trade Attorney, 2005b). But it was also noted that “the ITC is a neutral agency ... and they can be offended by [letters from members of congress and senators], [the ITC] are supposed to be neutral fact finding, and so they sometimes get quite angry about such Congressional effort. ... [But], on the



other hand petitioners are smart counsel and they know what persuades so if they are doing it they must expect something” (Trade Attorney, 2005e).

The five cases in this study do little to bring clarity to the role of political influence in trade cases. The Wooden Bedroom Furniture case saw significant organised cross party political support for the case at the ITC, and the agency did find injury, but the duties determined at the DOC, as has been argued, are most certainly a successful outcome for the responding firms and would not seem to indicate political influence through the Executive to favour the domestic industry in marginal decisions on calculation methodologies. The PET Resin case saw no political participation and was lost on the injury determination at the ITC, but the Hand Trucks case equally had no political participation and the domestic industry was successful in having duties imposed. While the Outboard Engines case again saw significant political support for the case, by letter and appearances at the ITC final hearing (USITC, 2007b; Doc 220782), but Mercury still lost the injury argument. While in the DRAMs case US political support against the case was significantly more organised from politicians from Oregon, but Micron won the injury argument.

<b>Pressure</b>	<b>Bias Type</b>	<b>Present in Phase</b>
Political Supply Pressure	Government Policy Bias	?
	Political Lobby Bias	?
Industry Demand Pressure	Industry Capture Bias	?
	Indirect Rent-Seeking Bias	Yes
Regulatory Process Bias	Administrative Bias	Yes
	Statutory Bias	Yes

**Table 46: Potential for Feaver & Wilson’s (2004b) Decision-making Bias in Original Investigation Phase**

Industry demand pressure is again present through indirect rent-seeking as the firms prosecuting a case seek to ensure that their policy preferences are reflected in the agencies’ records for the case. Examples include, firms seeking to shape the record by ensuring questionnaires reflect their preferences and using regulations to prevent information being included in the record. Regulatory process bias is again potentially

present in administrative bias in terms of how a case is investigated and determinations are made at the agencies. The successful allegation of ministerial errors in the DRAMs, Wooden Bedroom Furniture, Hand Trucks and PET Resin cases show that there have been administrative errors in the calculation of duty rates in these cases, in favour of both petitioning and responding interests. While statutory bias was present in examples such as where the agency regulations prevented firms from taking part in a case in the way they would have liked.

### **11.5 Conclusion**

The prosecution of the original investigation is an information intensive process and firms with capability to gather the required data will be at an advantage. This is however a minimum requirement and the successful prosecution of the phase is mostly determined by the capability of firms to build and shape the administrative record for a case. This capability is constrained by statutory bias, predominantly in favour of petitioning firms, and often subject to administrative bias. The successful prosecution of the phase lies in the use of the capability to build and shape the record to exploit opportunities for indirect rent-seeking bias, resulting in a record which reflects the policy preferences of a particular firm or group of firms. The prosecution of the phase is therefore for the most part an example of an informational CPA strategy. But the case experience shows that this CPA strategy can be pursued in a number of different ways by individual firms and successful prosecution of the phase will require firms to adjust their tactics to suit the various stages of an investigation.



## 12 Review Phase

*“A lot of times they get just the result they want, they get a little price protection, prices come up just a little in the US market and that gives them some breathing room and helping turn around their profitability, I don’t know if that’s the majority of cases but it is what we hoped for.”*

*(Trade Attorney, 2006f)*

*“That is what you can do in the US, under the US implementation of the WTO [agreements], because it guarantees the transparency that lets you understand it and it only requires you to not be price discriminating, it doesn’t require you to meet the market price.”*

*(Economic Consultant, 2006d)*

The DOC issued a duty order in three of the five cases in this study. In the DRAMs case only one Korean firm, Hynix, was affected by the imposition of duties. The imposition of duty orders in the Wooden Bedroom Furniture case against Chinese producers affected a far greater number of firms, a total of 121 firms receiving individual duty rates. The Hand Trucks case in comparison saw duty rates calculated for six firms during the original investigation. The review phase offers both the respondents and the petitioners in a case the opportunity to attempt to have duty rates revised or removed. Where the pre-petition phase of a case has been argued to be best understood as an information gathering challenge and the original investigation has been framed as being a matter of being able to engage with the DOC and ITC by building the administrative record, the review phase is argued to be best understood as a matter of strategic business adaptation to a new competitive environment, by aligning business activities with the US trade remedy institutions. This capability to align business practices with the US trade laws is predominantly a burden for the responding firms, but petitioners wishing to make the most of a duty order will also need to incorporate the ongoing prosecution of the trade case as part of an integrated strategy, if they wish to make the most of a duty order.

## 12.1 Case Experience

The use of the reviews offered by the DOC during this phase are summarised in Table 47. The Wooden Bedroom Furniture case continues to be a ‘big’ case during this phase, with the DOC having to investigate more firms during the case’s administrative reviews than the original investigations of the other four cases, although both the Chinese cases see the number of foreign firms prosecuting the reviews declining over time. The DRAMs case has not seen any new foreign producers seek to enter the US market after the original investigation, unlike the Wooden Bedroom Furniture case, where twelve Chinese firms have requested new shipper reviews to have individual duty rates determined for their exports and so join the process of prosecuting the review phase. The Hand Trucks case has seen two requests for new shipper reviews.

Scope reviews to determine whether certain imports are included in the scope of a case have been requested in all three cases. The DRAMs case saw the DOC and two other firms request reviews. In the Wooden Bedroom Furniture case seventeen requests have been made and ten requests were made in the Hand Trucks case. The petitioners in the Wooden Bedroom Furniture case have used changed circumstances reviews to have jewellery ammoires, cheval styled mirrored jewelry cabinets and upholstered beds excluded from the duty order in that case. While a respondent has used the same type of review to have its corporate structure clarified. The petitioners have not made use of anti-circumvention reviews in any of the cases, indicating that foreign firms are not trying to illegally circumvent the duty order or the petitioners have not been able to identify any circumvention.

Hynix has unsuccessfully made use of both a CIT appeal and WTO dispute settlement in attempts to have the ITC injury determination of the original investigation overturned. While both the China cases have seen firms make use of appeals to the CIT to address aspects of the original investigation they believe were not properly conducted. The prosecution of CIT and WTO appeals is addressed in this thesis to show the strategic options available to firms, but as they move outside the DOC and ITC institutional environments these aspects of the case are not discussed in great detail.

	<b>DRAMs</b>	<b>Wooden Bedroom Furniture</b>	<b>Hand Trucks</b>
<b>Reviews Administered by the DOC</b>			
<b>Administrative Reviews</b>			
1 <sup>st</sup> Review	Hynix (POR 07/04/03-31/12/2003) (Completed 11/04/2006)	5 Mandatory Firms 39 Section A Firms (POR 24/06/04-31/12/2005) (Completed 22/08/2007)	3 Mandatory Firms (POR 01/12/04-30/11/2005) (Completed 15/05/2007)
2 <sup>nd</sup> Review	Hynix (POR 01/01/04-31/12/2004) (Completed 14/02/2007)	3 Mandatory Firms 25 Section A Firms (POR 01/01/06-31/12/2006) (Ongoing)	1 Mandatory Firm (POR 01/12/05-30/11/2006) (Ongoing)
3 <sup>rd</sup> Review	Hynix (POR 01/01/05-31/12/2005) (Completed 17/03/2008)	N/A	N/A
4 <sup>th</sup> Review	Hynix (POR 01/01/06-31/12/2006) (Ongoing)	N/A	N/A
Sunset Review	N/A	N/A	N/A
<b>New Shipper Reviews</b>			
Completed '04	None	None	None
Completed '05	None	None	None
Completed '06	None	Kunyu Landmark Meikangchi WBE Industries Senyuan	None
Completed '07	None	Huanghouse First Wood Golden Well	Since Hardware
Ongoing	None	Zhangzhou XYM Mei Jia Bon Ten Mu Si	New-Tech

<b>Scope Reviews</b>			
Completed '04	ATI Technologies DOC Self-initiation	None	None
Completed '05	None	Dorel Asia SrL Sunrise Medical Leggett & Platt LumiSource	Central Purchasing Faultless Starch
Completed '06	Cisco Systems	Drexel Heritage Cape Craftsmen L. Powell Company Whitewood Ind. Tuohy Furniture Corp American Signature	Vertex International Central Purchasing Black and Decker
Completed '07	None	Tuohy Furniture Corp Maersk Customs Srv. Toys 'R Us Target Corporation AP Industries	Ameristep Corp. Bond Street Ltd. American Lawn Mower Company Northern Tool
Ongoing	None	Dutailer Armel	WelCom Products
<b>Changed Circumstances</b>			
Completed '06	None	Jewelry amaires excluded from order upon request of petitioners.	None
Completed '07	None	Cheval styled mirrored jewelry cabinets excluded from order upon request of petitioners.	None
		Upholstered beds excluded from order upon request of	

		petitioners.	
		Tradewinds Furniture is the successor-in-interest to Nanhai Jiantai Woodwork Co., but Tradewinds Intl. is not the successor-in-interest to Nanhai Jiantai's affiliated exporter, Fortune Glory Ind Ltd	
<b>Anti-circumvention Reviews</b>			
N/A	None	None	None
<b>Reviews Administered by the DOC and ITC</b>			
<b>Five Year Sunset Reviews</b>			
N/A	Scheduled for 2008	Scheduled for 2010	Scheduled for 2010
<b>Appeals to US Court of International Trade</b>			
Completed '03	None	None	None
Completed '04	None	None	None
Completed '05	None	None	None
Completed '06	Hynix	Decca Maria Yee Lacquer Craft	Vertex
Completed '07	None	None	None
Ongoing	None	Dorbest	None
<b>WTO Dispute Settlement</b>			
Completed '03	None	None	None
Completed '04	None	None	None
Completed '05	Korea (DS 296)	None	None
Completed '06	None	None	None

**Table 47: Firm Use of DOC Reviews and Alternative Strategies During Review Phase**

Source: See Appendix B



### **12.1.1 Administrative Reviews**

Table 47 shows that administrative reviews have been requested on the first anniversary of the duty order and every year after for all three cases. Administrative reviews provide the primary institutional structure for the first four years of the five year cycle of the review phase. Figure 4 shows the timeline for a ‘basic’ trade remedy case, i.e. both antidumping and countervailing duty cases with no extensions of deadlines, and the different stages at which duty rates are determined and the periods of investigation / review for each of these determinations. The discussion of administrative reviews which follows is primarily from a respondent perspective, as the reviews are similar in nature to the original DOC investigation, with only a limited role for petitioning firms. It is important to remember that petitioners only need to write a letter requesting a review and if the benefit of the review to a petitioner is greater than the cost to respondent of the frustration of review then they may do so (Trade Attorney, 2005g).

These reviews provide firms with the opportunity to have their ‘actual’ duty rate determined for the previous year of imports. Respondents which have made cash deposits with US Customs in excess of the actual duties they owe receive a refund of the difference, plus interest, while firms whose actual duties owed exceed the deposits with US Customs have to make up the difference, plus interest. Respondents will request a review if they believe they’ve been paying deposits at too high a rate and petitioners if they believe the deposit rate for a firm is too low (Trade Attorney, 2005b, 2006d). For respondents there is a risk in requesting a review, especially if you have a very low deposit margin, if the review raises the margin the respondent needs to pay the difference plus interest (Trade Attorney, 2005b). Very few respondents actively prepare for the review stages, they just wait and see what happens, this is potentially self defeating as firms can prepare for the review phase, even with unsophisticated IT systems (Trade Attorney, 2005b).

While foreign producers and exporters have the advantage of being able to use the review phase to improve their duty margins, US importers will more often than not step back as the importer of record for the subject merchandise in a trade case. The reason for this is the uncertainty that the retrospective assessment of duties creates in the final liability to US Customs (Trade Attorney, 2005a). Especially with smaller independent

importers this can have a significant impact on the viability of the business, with firms being bankrupted when they suddenly face having to make up the difference because a duty rate has been revised upwards by the DOC (Trade Attorney, 2005a). The risk also applies to importers who import large volumes of the subject merchandise, as even a small percentage increase in the duty rate over the deposit rate for a given respondent will result in a significant financial sum being owed to US Customs and if the product is only a small part of their business, then taking the risk may not be worth the firm's while (Senior Vice President at US Manufacturer, 2005).

In the DRAMs case there seem to be signs that after an initial rise in the countervailing duty rate for Hynix, the firm has been able to reduce the benefit derived from subsidisation and the deposit rate faced by the firm. It was noted in an interview that once a respondent has gone through an investigation their margins will typically go down (Trade Attorney, 2005h). The Wooden Bedroom Furniture and Hand Trucks cases show a more mixed picture. In the Wooden Bedroom Furniture case only one of the original mandatory respondents was subject to the first review, Starcorp, and the firm did not fare well, with its duty rate being raised from 15.78 % to 74.69 % by the preliminary stage of the first administrative review in the case. Six Section A respondents from the original investigation were selected as mandatory respondents in the first review, Dare Group, Fine Furniture, Foshan Guanqiu and Shanghai Aosen. Two of the firms were able to lower their deposit rate and two were not, with the Dare Group faring particularly badly. Two new shippers, Huanghouse and Tianjin First Wood, also both fared very badly receiving the PRC-Wide rate for the review of 216.01 %.

In the Hand Trucks case, only one of the four mandatory respondents in the original investigation, True Potential was a mandatory respondent in the first review and managed to more than halve its duty rate. The remaining three firms, Xinghua, Taifa and Huatian did not participate. The two Section A respondents in the original investigation, Shandong and Future Tool both received the PRC-Wide rate of 383.60 % after the first review, in comparison to the 32.76 % rate received in the original investigation. The only new shipper included in the review, Since Hardware did extremely well and received a 0.00 % rate in the first review. It should be noted that any firm that receives three 'zeros' in administrative reviews is excluded from the duty

order. The second administrative review for this case was initiated on 02 February 2007, following requests from the petitioners and Since Hardware for reviews. The petitioners asked the DOC to conduct reviews of Huatian, Future Tool, Taifa, True Potential, Shandong, Since Hardware, Formost and Forecarry.

The DOC decided to select mandatory respondents for the second administrative review and issues quantity and value questionnaires to select the most appropriate firms (USGPO, 2007; 73 FR 2214). The responses to these questionnaires showed that Since Hardware did not have any shipments to the US during the period of review (POR) and Future Tool and Shandong did not reply. Having requested a review Since Hardware withdrew their request and the petitioners withdrew their requests for reviews of Huatian, Taifa and True Potential (USGPO, 2007; 73 FR 2214). The DOC selected Taifa as the only mandatory respondent for the review (USGPO, 2007; 73 FR 2214). The reviews for Huatian and True Potential were rescinded after being withdrawn, the reviews for Formost, Forecarry and Since Hardware were preliminarily rescinded as there was no evidence of the firms exporting to the US during the POR (USGPO, 2007; 73 FR 2215 & 2216). Taifa has preliminarily been able to reduce its duty rate to 3.82 %.

The most effective approach to prosecuting an administrative review in an antidumping case is for respondent firms to begin preparing for the first administrative review before the DOC preliminary determination in the original investigation (Trade Attorney, 2005m). As can be seen in Figure 4 and Table 47, the period of review (POR) for the first administrative review covers all imports of the subject merchandise from the date of the DOC preliminary determination till the date on which the first administrative review is initiated. To prepare for the administrative review respondent firms need to take steps to stop or limit their dumping, in a process commonly referred to as 'dump-proofing'. The dump-proofing of a respondent firm is simply the adjustment of sales practices in their home market and the US, based on the basic formula for calculating dumping. The respondent firm needs to make sure that the price at which it sells in its home market is lower than the price at which it sells in the US. Both existing foreign producers and new shippers to the US can dump proof (Trade Attorney, 2006i).

	<b>Original Duty Rate</b>	<b>Admin. Review 1</b>	<b>Admin. Review 2</b>	<b>Admin. Review 3</b>
<b>Dynamic Random Access Memory Semiconductors from Korea</b>				
Hynix	44.29 %	58.11 %	31.86 %	23.78 %
<b>Wooden Bedroom Furniture from China</b>				
Only the duty rates from the mandatory respondents participating in the original investigation and first administrative review are included here due to the large number of section A respondents in this case, for full details of the mandatory respondent prosecution please see appendix B. (P) = Preliminary Determination				
Dongguan Lung Dong	2.32 %	-	N/A	N/A
The Dorbest Group	7.87 %	-	N/A	N/A
Lacquer Craft	2.66 %	-	N/A	N/A
Markor Tianjin	0.83 %	-	N/A	N/A
Shing Mark	4.96 %	-	N/A	N/A
Starcorp	15.78 %	216.01 %	N/A	N/A
Techlane	198.08 %	-	N/A	N/A
Dare Group	6.65 %	49.60 %	N/A	N/A
Fine Furniture	6.65 %	1.97 %	N/A	N/A
Foshan Guanqiu	6.65 %	11.72 %	N/A	N/A
Shanghai Aosen	6.65 %	0.40 %	N/A	N/A
Huanghouse	New Shipper	216.01 %	N/A	N/A
First Wood	New Shipper	216.01 %	N/A	N/A
<b>Hand Trucks and Certain Parts Thereof from China</b>				
Xinghua	383.60 %	-	-	N/A
Taifa	26.49 %	-	3.82 % (P)	N/A
True Potential	33.68 %	17.59 %	-	N/A
Huatian	46.48 %	-	-	N/A
Shandong	32.76 %	383.60 %	-	N/A
Future Tool	32.76 %	383.60 %	-	N/A
Forecarry	383.60 %	383.60 %	-	N/A
Since Hardware	New Shipper	0.00 %	-	N/A

**Table 48: Selected Firm Duty Rates for Original Investigation and Administrative Reviews**

Source: See Appendix B

The period of time from the final ITC affirmative determination to liquidation of deposits, can be anywhere from two and a half to five years, depending on appeals etc. (Trade Attorney, 2005h). If the final DOC margin is reasonable, then it is possible to manage cash flow, companies will often forego the US market if they can't bridge the difference (Trade Attorney, 2005m). Firms need to understand that the problem lies in the deposit margin, if a review goes to court and it could take up to 4-5 years for a company to get its money back and there is a question over how deep the firms pockets are (Trade Attorney, 2005m). This is not just an accounting entry, but actual cash, the respondent company needs to have a stomach for risk (Trade Attorney, 2005m). The adoption of a dump-proofing strategy is therefore a long-term strategy, especially if a case does not end with the first sunset review, and an important consideration for responding firms is the requirement to place cash deposits with US Customs and the effect this will have on the cash flow of the firm. It should also be remembered that even though the respondent firms are able to control a number of aspects of their business decisions and prepare for the reviews, there will always be uncertainty over the duty rate that the DOC will calculate for a firm (Trade Attorney, 2005m). The technical part of dump proofing requires a respondent firm to understand the dumping calculation and the firm needs to evaluate its sales practices and product mix (Economic Consultant, 2006d). It could be that some products account for most of the dumping margin and there is a need to analyse the home market price and adjust prices across the product range (Trade Attorney, 2005h). Structuring the respondent's prices to get best result possible in first review is difficult over large numbers and volumes of products (Trade Attorney, 2005l) and so even though larger respondent firms may benefit from more resources to prosecute administrative reviews, it also becomes more difficult for them (Trade Attorney, 2005n).

A respondent firm needs to determine the importance of home market sales versus US sales to its profitability. If the home market sales make only a small contribution, then the home market sales price could be lowered and the US price left unchanged to stop dumping for example (Economic Consultant, 2006c). Successful prosecution of the review phase requires respondents to strategically consider the products covered by a duty order, which they ship to the US. Firms that decide to prosecute the review phase seriously will draw on their sales staff, trade attorneys and economic consultants to

analyse their sales to the US (Economic Consultant, 2006d). They will put together a programme for determining what products need to have their US price raised, when will it be better to lower their home price, are there products that they should simply stop shipping and are there any products for which they can even lower their US price and still not be dumping (Economic Consultant, 2006d). The firm will also need to consider the effect of the duty rate on their cash flow, but the possibility exists for them to continue shipping to the US and pay no duties if they can adapt to the US trade remedy laws. To do this, respondents need to develop an institutionalised process of collecting the information that will be required for reviews and the monitoring of sales practices in the home and US market (Trade Attorney, 2005h, 2006e, Trade Policy Analyst, 2006). This requires the respondent firms to yet again commit internal resources to the continuing prosecution of the trade remedy case.

### **12.1.2 New Shipper Reviews**

A new shippers that decide to dump proof themselves need to ensure that their first sales to the US are not at dumped prices, they will also have to make more than one commercial sale, but if they get a zero margin in the new shipper review then they can potentially never be affected by the duty order. Though, “they are going to be reviewed the next year because petitioners, anyone who has a zero margin is going to be requested for a review” (Trade Attorney, 2006i). In the three of the five cases in this study that resulted in a duty order the following new shipper reviews were conducted. Landmark and Meikangchi in the Wooden Bedroom Furniture case and Since Hardware in the Hand Trucks case prosecuted their new shipper reviews very successfully. The data in Table 49 however also shows that not all firms that request new shipper reviews are prepared for participating in the DOC investigation, with a number of the firms in the Wooden Bedroom Furniture case receiving PRC-wide rates.

<b>Duty Rates (Weighted-average Margin (%)):</b>	Preliminary	Final
<b>DRAMs from Korea - None</b>		
<b>Wooden Bedroom Furniture</b>		
<b>Firm(s):</b>	Preliminary	Final
Kunyu	222.04 %	216.01 %
Landmark	0.00 %	0.00 %
Meikangchi	1.25 %	1.17 %
WBE Industries	Recinded	-
Senyuan	Withdrawn	-
Huanghouse	216.01 %	-
First Wood	216.01 %	-
Golden Well	Ongoing	-
Zhangzhou XYM	Ongoing	-
Mei Jia	Ongoing	-
<b>Hand Trucks and Parts Thereof from China</b>		
<b>Firm(s):</b>	Preliminary	Final
Since Hardware	12.22 %	0.00 %
New-Tech	Ongoing	-

**Table 49: New Shipper Reviews in Three Cases in this Study with Duty Orders**

**Source(s):** See Appendix B

### 12.1.3 Scope Reviews

Scope reviews can be requested by both petitioners and respondents to determine if a specific import should be subject to a duty order and as can be seen in Table 50 there are a number of instances of firms doing so in the five cases in this study. Each of the three affirmative cases in this study show different affects of a trade remedy duty order. The DRAMs case shows how two multinational firms, ATI Technologies and Cisco Systems, had to prove to the DOC that their products should not be subject to the duty order on DRAMs. The case also shows the only example of the DOC self-initiating a scope review, which the agency used to determine if certain goods were still subject to the duty order, after the US HTS codes for DRAMs was revised.

The Wooden Bedroom Furniture case shows the wide range of firms that can become subject to a duty order and the need for foreign firms to ensure that they do not pay cash deposits and duties if they should not. The Hand Trucks case sees the only occasion that the petitioners (Gleason) requested a scope review, but other scope reviews in this case also prove very useful for illustrating the nature of the process for responding firms. The remainder of this section will discuss two selected scope reviews from the Hand Trucks case, which illustrate very well the nature of the review.

The nature of the scope review process is best illustrated by an example from the Hand Trucks case. In a decision that took almost a year to make the DOC determined that an accessory cart designed specifically to carry a 'Breaker Hammer' imported by Central Purchasing, LLC was outside the scope of the case. Central Purchasing did not use legal representation and their first submission to the DOC was returned to the firm as it was not filed in accordance with the agency's rules (A-570-891, 2005; FV2-0024). The DOC received a properly filed request from Central Purchasing on 12 April 2008 (A-570-891, 2005; FV2-0025), which was opposed by Gleason (A-570-891, 2005; FV2-0029). The DOC ruled that the accessory cart was within the scope of the investigation On 03 June 2005 (A-570-890, 2005; FV2-0030).



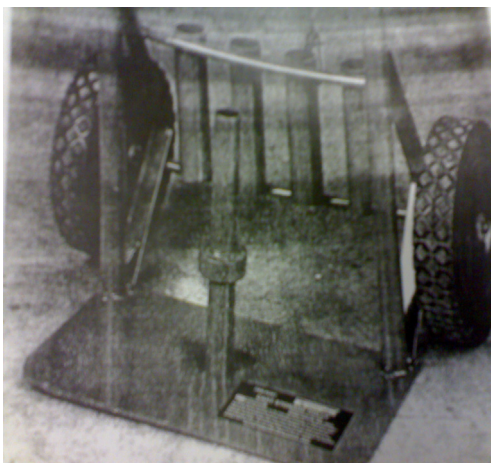
<b>Firm(s):</b>	<b>Scope Determination:</b>	<b>Outcome:</b>
<b>Dynamic Random Access Memory Semiconductors from Korea</b>		
ATI Technologies, Inc.	Outside the scope of the investigation.	Successful
Self-initiated by DOC	Within the scope of the duty order.	Confirmation
Cisco Systems, Inc.	Outside the scope of the investigation.	Successful
<b>Wooden Bedroom Furniture from China</b>		
Dorel Asia SrL	Within the scope of the duty order.	Unsuccessful
	Selected Products within and outside the scope of the duty order.	Partly Successful / Partly Unsuccessful
Sunrise Medical Inc.	Selected Products within and outside the scope of the duty order.	Partly Successful / Partly Unsuccessful
Leggett & Platt	Within the scope of the duty order.	Unsuccessful
LumiSource, Inc.	Excluded from the duty order.	Successful
Drexel Heritage	Within the scope of the duty order.	Unsuccessful
Cape Craftsmen	Terminated	Terminated
L. Powell Company	Terminated	Terminated
Whitewood Industries	Terminated	Terminated
Tuohy Furniture Corporation	Selected Products within and outside the scope of the duty order.	Partly Successful / Partly Unsuccessful
Tuohy Furniture Corporation	Rescinded	Rescinded
Maersk Customs Services, Inc.	Unknown	Unknown
Toys 'R Us, Inc.	Selected Products within and outside the scope of the duty order.	Partly Successful / Partly Unsuccessful
American Signature Incorporated	Within the scope of the duty order.	Unsuccessful

American Signature Incorporated	Within the scope of the duty order; initiated as a changed circumstances review.	Changed Circumstances Review
Target Corporation	Outside the scope of the duty order.	Successful
AP Industries	Ongoing	Ongoing
Dutailer	Ongoing	Ongoing
Armel	Ongoing	Ongoing
<b>Hand Trucks and Certain Parts Thereof from China</b>		
Vertex International, Inc.	Outside the scope of the order.	Successful
Central Purchasing, LLC	Within the scope of the duty order.	Unsuccessful
Central Purchasing, LLC	Outside the scope of the duty order.	Successful
Central Purchasing, LLC	Outside the scope of the duty order.	Successful
Faultless Starch/Bon Ami Co.	Within the scope of the duty order.	Unsuccessful
Gleason Industrial Products, Inc. and Precision Products, Inc.	Within the scope of the duty order.	Successful
Ameristep Corporation, Inc.	Outside the scope of the duty order.	Successful
Bond Street Ltd.	Within the scope of the duty order.	Unsuccessful
Northern Tool & Equipment Co.	Ongoing	Ongoing
American Lawn Mower Company	Terminated.	Terminated
WelCom Products	Ongoing	Ongoing

**Table 50: Scope Reviews Requested in Three Cases in this Study with Duty Orders**

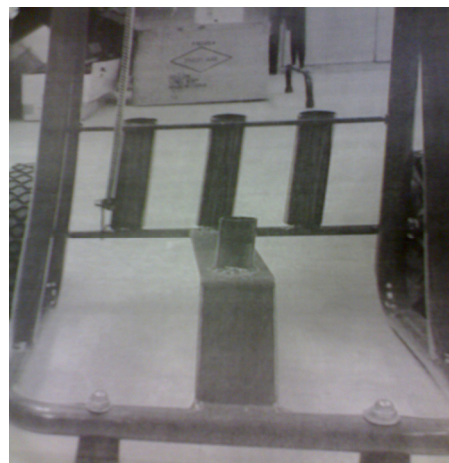
**Source(s): See Appendix B**

Central Purchasing was unable to make the case that the configuration of the toe plate for the accessory cart and the specificity of the design of the cart for the Breaker Hammer should exclude the accessory cart from the scope of the investigation was unsuccessful (A-570-891, 2005; FV2-0030). The petitioners had crafted a scope that included hand trucks “suitable for any use” and that “exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges, or toe plate, and the two wheels at or near the lower section of the vertical frame” (A-570-891, 2005; FV2-0030). Central Purchasing however requested a second scope review for an accessory cart for the Breaker Hammer on 15 September 2005 and again on 16 November 2005 (A-570-890, 2005; FV2-0038/0039). The petitioners did not challenge the scope request and after two extensions to the deadline for making the scope determination (A-570-891, 2006; FV2-0047 & FV0043-0002), the DOC ruled the accessory cart “did not meet the description of merchandise covered by the scope of the order” and was therefore not subject to the duty order (A-570-891, 2006; FV3-0007). The key action by Central Purchasing between the first and second request was to redesign the accessory cart to no longer include a toe plate on which the Breaker Hammer sat on a metal tube, see Figure 17 and Figure 18, the responding firm had therefore been able to circumvent the duty order by redesigning the product to align its physical characteristics with the scope of the investigation and so comply with the US trade rules implementation of the scope review to its advantage.



**Figure 17: Breaker Hammer Accessory Cart  
With Toe Plate**

Source: (A-570-891, 2005; FV2-0025)



**Figure 18: Breaker Hammer Accessory Cart  
Without Toe Plate**

Source: (A-570-891, 2005; FV2-0038)

### 12.1.4 Changed Circumstances Reviews

The Wooden Bedroom Furniture case is the only case of the five in this study that has seen firms make use of the changed circumstances reviews, three times by the petitioners and once by a respondent. The requests by the AFMCLT can more likely than not be understood as strategic choices to focus the scope of the duty order to meet the preferences of AFMCLT members' key purchasers or imports of these goods, it may be recalled that it was earlier noted that changed circumstances reviews are often used by petitioners to address these types of issues.

<b>DRAMs from Korea - None</b>		
<b>Wooden Bedroom Furniture</b>		
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>
Requested by AFMCLT (Petitioners)	DOC revoked the order in part, with regard to jewelry armoires, after domestic parties expressed no further interest in the relief provided by the order for this product.	02/02/2006 to 07/07/2006
Requested by AFMCLT	DOC revoked the order in part, with regard to cheval style mirrored jewelry cabinets, after domestic parties expressed no further interest in the relief provided by the order for this product.	20/09/2006 to 09/01/2007
Requested by AFMCLT	DOC revoked the order in part, with regard to upholstered beds, after domestic parties expressed no further interest in the relief provided by the order for this product.	26/10/2006 to 14/02/2007
Tradewinds International (Respondent)	DOC determined that "Tradewinds Furniture is the successor-in-interest to Nanhai Jiantai Woodwork Co. ('Nanhai Jiantai'), but that Tradewinds Intl. is not the successor-in-interest to Nanhai Jiantai's affiliated exporter, Fortune Glory Industrial Limited ('Fortune Glory')." (72 FR 60812)	22/11/2006 to 26/10/2007
<b>Hand Trucks and Parts Thereof from China - None</b>		

**Table 51: DOC Changed Circumstances Reviews in Three Cases with Duty Orders**

Source(s): See Appendix B

The data in Table 51 shows that it is a fairly short process for petitioning firms to have a product excluded from the scope of an investigation, taking between four and five months in the Wooden Bedroom Furniture case. The one changed circumstances review brought by a responding firm was however a far more lengthy process having taken almost a year to determine the transfer of interest between Chinese firms that had restructured. This transfer of interest could be important with respect to the ability of a firm to continue using an existing duty rate or make use of a new shipper review to have a duty rate assessed.

#### **12.1.5 Sunset Reviews**

There have been no sunset reviews in any of the cases in this study, Hynix will be able to request one during 2008 for the period 01/01/2007-31/12/2007. Sunset reviews are designed to reassess both the dumping and subsidisation question, and the injury caused to the domestic industry by the subject merchandise. The intention is to create a review of duty orders every five years that ensures unnecessary duty orders are removed. In dumping cases the imposition of a duty order creates enough uncertainty about the effect of removing a order that the orders can remain in place for significant periods of time (Trade Attorney, 2005h, 2006i). The prosecution of a sunset review will be similar to the original investigation for a case.

#### **12.1.6 Appeals to US Court of International Trade**

Appeals to the US Court of International Trade have been used by firms in all three the cases in this study with duty orders. The challenge that use of the CIT process poses respondent firms is the extension of the period of time over which deposits have to be posted with US Customs and the burden this places on the firm's cash flow. The added problem for respondent firms is that while they are prosecuting an appeal at the CIT the DOC review process continues and they may find that in addition to the appeal they have to prosecute an administrative review requested by the petitioners (Trade Attorney, 2006h). The length of time and cost of litigation fees at the CIT can dissuade firms from prosecuting even strong cases at the court (Trade Attorney, 2006h).

Hynix sought to challenge the ITC injury determination through the CIT, but was unsuccessful in its attempt. The appeals in the Wooden Bedroom Furniture and Hand

Trucks cases will be used to illustrate the effect that appeals can have on firms subject to a duty order. In the Wooden Bedroom Furniture case, Decca Hospitality Furnishings and Maria Yee were able to have their PRC-wide rates of 198.08 percent changed to the Section A respondent rates of 6.65 percent using the CIT process, while Lacquer Craft Manufacturing Company was excluded from the duty order for Wooden Bedroom Furniture and Rui Feng's case is ongoing. The Decca and Maria Yee cases show how administrative bias in the original investigation was addressed by respondents by appealing to the CIT (USGPO, 2007; 71 FR 34305 & 71 FR 35870). Decca had been one of a number of Chinese producers who had had their requests for separate rates status, as section A respondents, rejected, because they had filed these requests in an "untimely" manner (USGPO, 2007; 69 FR 67313). The case for Maria Yee also addressed the DOC methodology for giving notice to foreign firms of the deadline for submitting a Section A response and was found to be unreasonable and Maria Yee was granted a separate rate as a Section A respondent (USGPO, 2007; 71 FR 35870).

The successful appeal by Lacquer, as part of a number of claims the CIT was investigating (USCIT, 2007a; Court No. 05-0003), improved the firm's position by excluding it from the duty order but the most interesting aspect of the appeal is the effect of this on the other firms that prosecuted the original investigation as Section A respondents. Their dependence on the mandatory responding firms continued even during the review phase, with the Section A duty rate rising from 6.65 % to 7.24 % (USGPO, 2007; 71 FR 67099) upon the exclusion of Lacquer from the duty order. This appeal highlights the importance of the DOC methodologies for individual firm outcomes and being able to fully prosecute a case.

<b>DRAMs from Korea</b>
Plaintiff: Hynix Semiconductor Inc. and Hynix Semiconductor America Inc. Outcome: The ITC determined “on remand that, at the time of the original determination, the domestic industry producing DRAMs and DRAM modules was materially injured by reason of subsidized imports from Korea.” (ITC Doc 263575, p.2)
<b>Wooden Bedroom Furniture from China</b>
Plaintiff: Decca Hospitality Furnishings, LLC Outcome: “On December 20, 2005, the CIT found that the Department duly complied with the Court’s remand order and sustained the Department’s remand redetermination. See Decca Order. Within the Decca Order, the Department granted Decca a separate rate which changed its antidumping duty rate from the PRC–wide rate of 198.08 percent to the Section A respondent rate of 6.65 percent.” (71 FR 34306)
Plaintiff: Guangzhou Maria Yee Furnishings, Ltd., Pyla HK Ltd., and Maria Yee Inc. Outcome: “On April 5, 2006, the [CIT] ruled that the Department’s remand determination is supported by substantial evidence, and affirmed the Department’s remand results in their entirety. See Maria Yee Order. Granting a separate rate to Maria Yee changes its antidumping duty rate from the PRC–wide rate of 198.08 percent to the Section A respondent rate of 6.65 percent.” (71 FR 35870)
Plaintiff: Lacquer Craft Manufacturing Company Ltd. Outcome: “The Court Order further orders the Department of Commerce (“the Department”) to (i) exclude wooden bedroom furniture from the Amended Final Determination and Order when it is both produced and exported by Lacquer Craft, 1 and (ii) amend the weighted-average dumping margin applied to respondents with separate rate status to exclude Lacquer Craft from the calculation for subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the Amended Final Determination resulting from the Court’s stipulated judgment.” (71 FR 67100)
Plaintiff: Rui Feng Woodwork Co., Ltd., or Rui Feng Lumber Development Co., Ltd. or Dorbest Limited (The Dorbest Group) et.al. Outcome: Ongoing
<b>Hand Trucks and Certain Parts Thereof from China</b>
Plaintiff: Vertex International, Inc. Outcome: Vertex’s Garden Cart is outside the scope of the Order on hand trucks from China.
Plaintiff: Gleason Industrial Products, Inc. Outcome: Ongoing case to determine if two welding carts are included in the scope of the investigation, after the DOC ruled the carts outside the scope of investigation.

**Table 52: Appeals to US Court of International Trade in Three Cases with a Duty Order**

**Source(s): See Appendix B**

In the Hand Trucks case, Vertex was able to get its Garden Cart excluded from the duty order, after the DOC had ruled that the garden cart “exhibited all the essential physical characteristics of hand trucks as outlined by the Order” (USGPO, 2007; 71 FR 25147). Figure 19 and Figure 20 illustrate the physical difference in the two products, which was recognised by Gleason in a request to the DOC to exclude the Garden Cart from the Duty Order (A-570-891, 2005; FV2-0020). The DOC however ruled that the cart exhibited the basic physical characteristics in the scope of the investigation and additional factors such as intended use would not be consider in the scope determination (A-570-891, 2005; FV2-0022).



**Figure 19: Vertex International Deluxe Garden Cart**

Source: [www2.yardiac.com/long.asp?item\\_id=24636](http://www2.yardiac.com/long.asp?item_id=24636)



**Figure 20: Example of a Hand Truck Produced by Gleason**

Source: [www.milwaukeehandtrucks.com](http://www.milwaukeehandtrucks.com)

While Gleason after failing to have two types of welding cart imported by Central Purchasing included in the scope of the duty order, has turned to the CIT to address the DOC scope determination. Gleason is challenging the DOC decision that the toe plate on the welding carts would not be able to slide under a load, as required in the scope (A-570-891, 2006; FV3-0038). Gleason argued that the original petition included pictures of welding carts and that they should therefore be included in the scope, but the DOC



found that “the written scope description, not the pictures, is dispositive of what is included in the scope of the order (A-570-891, 2006; FV3-0038 p0035).

### **12.1.7 WTO Dispute Settlement**

The DRAMs case is the only one that has resulted in use of the WTO dispute settlement process (DSP), of the cases considered in this study and was ultimately unsuccessful in showing no injury. Hynix sought to address the no injury issue through both the CIT and WTO disputes process unsuccessfully. The prosecution of WTO disputes falls outside the institutional environment for this study, but some broad comments are possible. The WTO DSP is similar to the process of prosecuting trade cases, being rules based and clear deadlines for the progression of a case, but a significant difference is the degree of direct access to the prosecution of the dispute by firms (Lindeque & McGuire, 2007). The WTO only allows member governments to file cases with the WTO Dispute Settlement Body and as such firms are dependent on the representation of their governments in the process. It is not unsurprising given the support of the GOK for Hynix that lead to the countervailing duty case that the firm was also able to rely on the GOK filing a complaint with the WTO DSB.

## **12.2 Corporate Political Strategy**

The review phase offers the possibility for firms to adopt both proactive and reactive strategies. Firms that choose to proactively prosecute the phase will be seeking to address the actual duty margin assigned to the imports from a specific respondent or to determine whether certain imports should or should not be included in the scope of the duty order. Administrative reviews, new shipper reviews and appeals to the CIT have been shown to be attempts to have the applicable duties on certain imports revised and are examples of proactive strategies. Scope reviews, and some appeals to the CIT, are examples of proactive strategies to determine if certain imports should be subject to a duty order. While recourse to WTO dispute settlement and sunset reviews are proactive prosecution of the phase to determine the merit of a duty order that has been put in place. The prosecution of the various strategies identified above are summarised in Figure 21 and discussed in the next two sections.

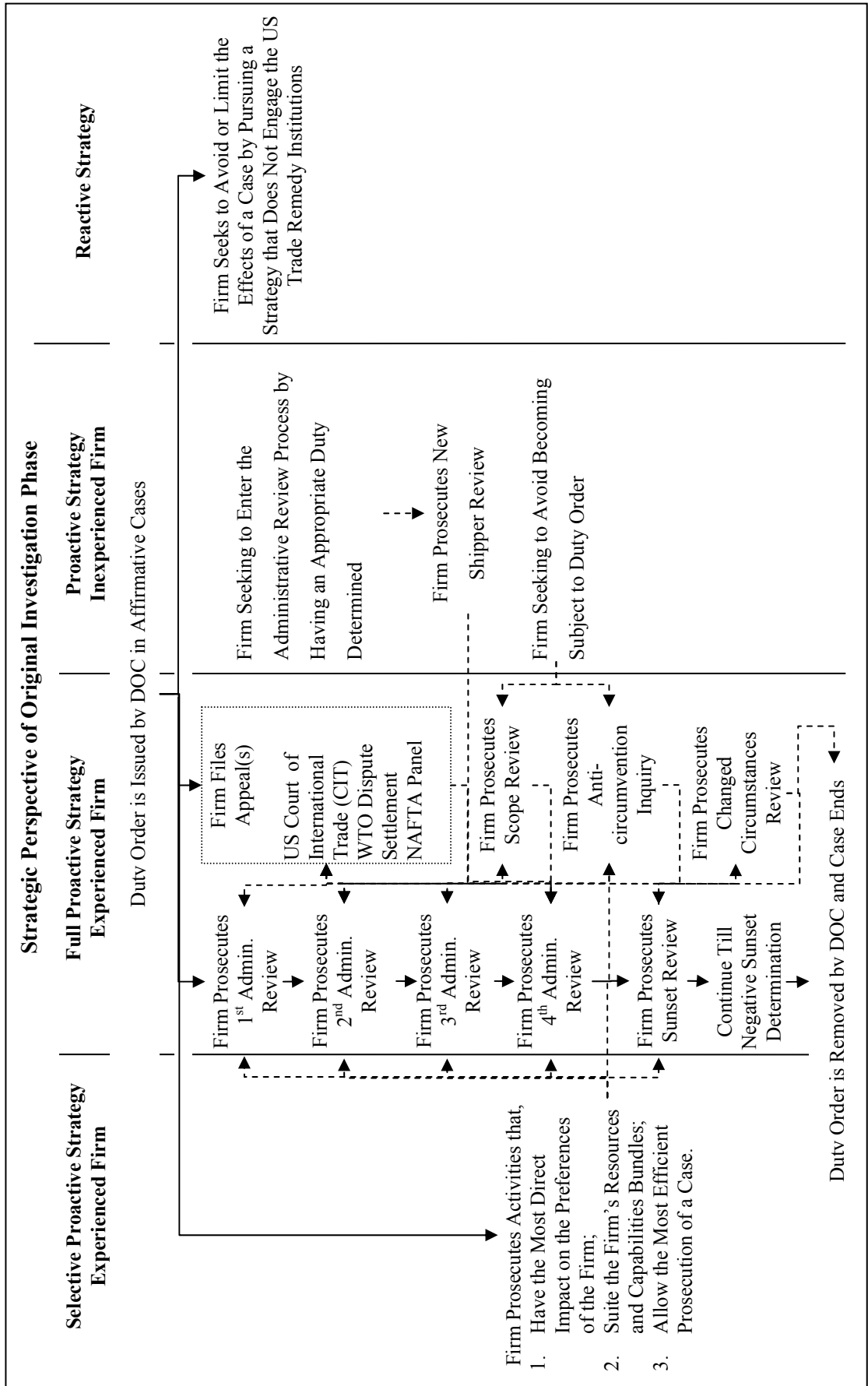


Figure 21: Firm Strategic Choices for Review Phase

### **12.2.1 Proactive Approach**

Proactive approaches to the prosecution of a case can be discussed in terms of the experience of a firm with trade cases and the degree to which a firm proactively engages with the US trade remedy institutions. There are broadly three proactive strategies, experienced firms can adopt either full or selective proactive strategies, while inexperienced firms initially have a limited number of ways in which they can proactively engage with the DOC to get into the cycle of the review phase of an investigation.

Full proactive strategies are mostly adopted by the petitioners in a case. The petitioners in the three cases above for the most part engaged with the DOC in each administrative, new shipper and scope review, as well as appeals to the CIT and any WTO litigation. As yet there is no data on how the petitioners will prosecute the sunset reviews, but it would be a reasonable expectation that the petitioners will prosecute these as well. It is in the best interest of the petitioners that have received a duty order to make use of every opportunity to defend existing duty rates or even have them revised upward and prevent the duty order from being revoked. Experienced responding firms seem to opt for selective proactive strategies during the review phase, prosecuting only those aspects of a case that directly affect the firm and the duty margin it faces. Examples include a respondent that has prosecuted the original investigation, while implementing a dump-proofing strategy for its sales to the US, and then requests an administrative review to have its duty rate reduced or even removed. Or a firm that redesigns its product so that it falls outside the scope of the duty order and then requests a scope review to have the product removed from the duty order. Selective proactive strategies on the part of responding firms include appeals to the CIT, making use of WTO dispute settlement and the prosecution of sunset reviews. Hynix is the responding firm that comes closest to prosecuting a full proactive strategy, but even then only prosecuted those aspects of the review phase that directly affected its competitive position. Proactive strategies of inexperienced firms are primarily concerned with the request of a new shipper or scope review, as firms that did not proactive prosecute the original investigation phase seek to either have an individual duty margin determined for their exports or have a product officially ruled outside the scope of the investigation.

### **12.2.2 Reactive Approach**

During the review phase responding firms that have adopted reactive strategies, during the pre-petition and / or original investigation phases of a case, can choose to continue pursuing those strategies. These firms however have the option to choose to begin pursuing one of the proactive strategies discussed above at regular intervals as the anniversaries for requesting administrative, new shipper or sunset reviews arise. Firms can also move from a reactive approach to a proactive strategy by requesting a scope review for their product or a changed circumstances review in attempts to formally have their exports to the US ruled outside the duty order scope. Firms which have not participated in the original investigation phase will not have reason to use an appeal to the CIT, but could conceivably decide to pursue a WTO case if they decide to move to a proactive strategy. Alternatively a petitioner may decide to request an anti-circumvention review to address reactive strategies that they believe are in breach of the US trade laws and regulations for unfair trade cases. The responding firms will then need to decide whether to move from a reactive to a proactive strategy in response to the petitioners' proactive approach.

### **12.3 Resource-based View**

The prosecution of the review phase of a trade case continues to require firms to draw on or develop their capabilities to gather information, to build and shape the administrative record for a case in certain reviews and align business practices with the US trade remedy institutions. But while the first and second of these are important to effective prosecution of a case during this phase, it is the capability of a firm to align its activities with the US trade remedy institutions that holds the key to understanding why some firms will be more successful during the review and it is this capability that receives the majority of attention in this section.

#### **12.3.1 Capability to Gathering Information**

The capability to gather information has been the foundation of the prosecution of each of the phases so far and continues to be significant in this phase, especially with respect to the prosecution of the administrative, new shipper, scope, sunset and changed circumstances reviews. Appeals to the CIT and WTO disputes cases make use of the administrative record established during the original investigation or reviews during this

phase and as such require less ‘new’ information to be gathered, although there is almost certainly a need for firms to gather information to build their cases and most effectively make the legal arguments in these reviews. Apart from the sunset reviews, the information that firms gather will for the most part be respondent specific, unless an administrative review requires a constructed value or is in a NME case for example. The capability to gather information is also important for respondents to monitor their sales activities at home and to the US in dumping cases.

### **12.3.2 Capability to Building and Shaping the Administrative Record**

It is only in appeals to the CIT and in WTO cases that the administrative record serves as the basis for a decision and no new data is required as the arguments are legal in nature. For all the other reviews firms will need to build the administrative record, with either new information and / or arguments about how information should be interpreted. All of the reviews will however require firms to use the capability to shape the record, either in how information is presented or interpreted.

### **12.3.3 Capability to Aligning Business Practice with US Trade Remedy Institutions**

The importance of a responding firm being capable to align its business practices with the US trade remedy institutions, will determine the effectiveness of its prosecution during the review phase of a case. Responding firms need to align their sales practices in the US and use of government subsidisation to conform to the US trade laws. Petitioners who choose to pursue a long-term proactive and integrated strategy making use of the US trade laws will also need to align their business practices to make the most of the strategy. Petitioners will need to develop monitoring and information acquisition capabilities to identify opportunities for bringing new cases and making the most of duty orders that have been put in place after successful prosecution of earlier cases.

The capability to align business practices with the US trade remedy institutions relies on many of the same resources identified in the previous chapters and a firm’s capability to gather information. Financial resources continue to play a central enabling role for firms to prosecute the review phase of a US trade case. Firms will continue to require the

support of trade attorneys and other external consultants in the prosecution of the reviews and appeals in this phase. The retrospective nature of the US process also means that financial resources play an important role with respect to giving a firm the freedom to choose to prosecute the reviews and appeals in the most effective manner. A firm with limited financial resources will struggle to fully prosecute administrative reviews and any appeals, as the DOC only returns excess duties that have been paid after a final determination. This can mean that a firm will only have money returned to it a number of years after the deposit was originally paid to Customs. Where respondents have not paid sufficient duties, an unexpected shortfall that has to be made up can also significantly affect the viability of a firm. Excess cash can therefore significantly strengthen a firm's position with respect to the viable strategies available to it. Information Technology also continues to grow in importance for successful prosecution of the phase. Especially for those firms in antidumping cases that decide to prosecute a dump-proofing strategy, by monitoring their domestic and export sales to ensure that the US prices of their products are always higher than their home market price and above their cost of production.

But the contribution of responding firms' staff also remains key to success in the administrative and other reviews. The experience gained by staff in the original investigation is important for the prosecution of the review phase in general (Trade Attorney, 2005h) and specifically the administrative reviews.

“I know that some big responding companies have 4 or 5 people that do dumping year after year, they are very experienced with it, they have learned computer models, they have trialled the different forms of their prices in the different markets, they figure out how much they are dumping by, they tweak things, they have in house people that have been doing this for year in year out, for the life of the dumping order. They learned to comply.”

(Trade Attorney, 2006e)

Well trained and experience staff that speak English and have mastered the trade remedy process are argued to significantly improve the ability of a firm to prosecute a trade case (Trade Attorney, 2005m, Trade Policy Analyst, 2006). Respondents that

retain an attorney in a dumping case to support them in implementing the necessary process for prosecuting the reviews can expect to pay between \$100k-200k (Trade Attorney, 2005m) and when a company loses staff trained to work on the trade remedy cases, this can be problematic for the firm, as the firm loses the expertise and one of the most important aspects of prosecuting the review phase is routinising the process (Trade Attorney, 2005m, 2005n). The problem is that in general the perception in responding firms is that doing this type of work is not a fast track to success and firms need to create a culture of recognition and value for this task (Trade Attorney, 2005m). The nature of the tasks that employees need to complete for prosecuting a case can often be tedious and sap the morale of ambitious staff, who often will decide not to stay with a company and be 'stuck' with these cases (Trade Policy Analyst, 2006).

Firms can adopt different policies regarding how they assign staff to the prosecution of trade remedy cases. Some firms recruit employees who will clearly be assigned the prosecution of trade remedy cases as a full or part time aspect of their role at the firm. Corus steel as a response to the high number of US steel cases it faces has a team that monitors and prosecutes these cases and "their job is to basically do all the questionnaire responses, monitor the litigation, maintain with the US dumping cases, so every year they come to this 2 or 3 day seminar, put on at Georgetown Law School about US dumping law so they can stay up with what's going on" (Trade Attorney, 2006e). Respondents that understand the importance of a trade case to their business and decide to internalise the process of calculating dumping margins will often hire a senior manager on the explicit understanding that they are responsible for managing these cases (Trade Attorney, 2006h). In other firms new staff will be assign to the trade remedy work and they will have to learn the process from scratch and the trade attorneys will have to educate them about the process during the review phase and this can be problematic, as the attorneys have to commit significant time to again educating the firm's staff about the trade cases (Trade Attorney, 2006h).

<b>Constitutive Resources and Capabilities</b> (Capabilities are bolded and the resources bundled to enable that capability are indented below the capability. Other resources are shown individually, where they are not bundled together. Where an explanation of a resource or capability is required it is included in brackets.)	Typology of Political Resources								
	Internal (I) / External (E)	Expertise	Financial Resource	Relational Resource	Organizational Resource	Reputation with Other Non-market Actors	Public Image	Support of stakeholders	Recreational Skill
<b>General Resources and Capabilities</b>	-	-	-	-	-	-	-	-	-
Money	I	-	X	-	-	-	-	-	-
Information Technology (IT) Systems	I	-	-	-	X	-	-	-	-
<b>Capability to Align Business Practice with Trade Remedy Institutions</b>	-	-	-	-	-	-	-	-	-
Capability to Gather Information	-	-	-	-	X	-	-	-	-
Sales Staff	I	X	-	-	-	-	-	-	-
Production Staff	I	X	-	-	-	-	-	-	-
Senior Managers	I	X	-	X	X	-	-	-	-
Accounting Staff	I	X	-	-	-	-	-	-	-
Trade Attorneys	E	X	-	X	X	-	-	-	-
Economic Consultants	E	X	-	-	X	-	-	-	-
Accounting consultants	E	X	-	-	X	-	-	-	-
Industry Experts	E	X	-	-	-	-	-	-	-
Market Researchers	E								

**Table 53: Resource-based View of Capability to Align Business Practice with Trade Remedy Institutions**

As has been discussed above, trade attorneys will explain the US antidumping pricing decision to their clients (Trade Attorney, 2005i) and also help their clients develop the programmes that they will need to monitor sales activity to avoid dumping for example and prepare for prosecuting annual administrative reviews (Trade Attorney, 2005o, Trade Policy Analyst, 2006). Where necessary the attorneys will also provide access to the external economic and accounting consultants that were discussed in the previous chapters.



## 12.4 Potential Bias in the United States Investigation Process

The possibility for political supply pressure through government policy or political lobby bias is not clarified any further by this study for the review phase. Nor is industry capture bias raised in the above discussion. The data collection and analysis for the study does not provide much evidence for commenting on these issues.

Pressure	Bias Type	Present in Phase
Political Supply Pressure	Government Policy Bias	?
	Political Lobby Bias	?
Industry Demand Pressure	Industry Capture Bias	?
	Indirect Rent-Seeking Bias	Yes
Regulatory Process Bias	Administrative Bias	Yes
	Statutory Bias	Yes

**Table 54: Potential for Feaver & Wilson’s (2004b) Decision-making Bias in Review Phase**

Industry demand pressure in the shape of indirect rent-seeking bias is present in the phase. Indirect rent-seeking bias is present in the manner in which responding firms selectively engage with the DOC to improve their duty rates and have products excluded from the duty order. This is particularly true with respect to the adoption of strategies to dump-proof a responding firm or as has been shown to make changes to products so that they are excluded from the scope of an investigation. Regulatory process bias is present as both administrative bias and statutory bias. Administrative bias is present to the same degree that it was during the original investigation DOC investigations, as the reviews administered by the DOC in this phase are very similar to how the investigation was conducted. The successful appeals to the CIT by responding firms of DOC methodologies and determinations in original investigations and reviews during this phase show that the agency can make errors in how the trade laws are administered. Statutory bias can be seen in the fact that the respondent firms carry the majority of the burden for prosecuting the phase.

## 12.5 Conclusion

The prosecution of the review phase is predominantly a respondent activity as the DOC is responsible for the majority of the reviews, petitioners are able to proactively

prosecute appeals to the CIT and WTO and engage in the DOC reviews in much the same way as they did during the original DOC investigation. The strategy for proactively prosecuting the phase is again an informational one, with firms seeking to exploit any opportunities for indirect rent-seeking bias within the constraints of statutory bias and possible administrative bias. The capability to gather information and build and shape the administrative record are important for success during the phase, but the capability of firms, especially respondents, to align their business practices with the US trade remedy institutions is essential for making the most of the phase.



### 13 Conclusion

*Firms are able to more successfully prosecute antidumping and countervailing duty cases in the United States of America when they recognise the need for an informational corporate political strategy that seeks to exploit opportunities for indirect rent-seeking bias in the investigations at the Department of Commerce and US International Trade Commission. This strategy draws on three capabilities that firms need to develop, the capability to gather information, the capability to build and shape the administrative record at the agencies and the capability to align business practices with the US trade remedy institutions, with all three capabilities drawing on internal and external corporate political resources.*

*(Thesis Primary Finding)*

The findings of this study suggest that the successful prosecution of a trade remedy case in the US is primarily dependant on the adoption of an informational CPA strategy by firms. The strategy meets the significant informational demands of the cases and seeks to exploit opportunities for indirect rent-seeking in each of the phases of a case, by ensuring that the administrative record for a case reflects the individual firms' policy preferences. Regulatory process biases, which arise from unintentional failure of decision-maker[s] to exercise 'administrative competence' and statutory bias, identified by the impartial application of the trade remedy laws resulting in decisions inherently favouring a firm or interest group (Feaver & Wilson, 2004b, 2004c) have been identified in the prosecution of cases. But these biases only constrain or create opportunities for firms to pursue their informational strategy and firms are able to influence the outcome of a case most effectively by simply prosecuting a case more effectively within the rules of the game, resulting in indirect rent-seeking bias in outcomes. The remainder of the concluding chapter is structured using the working propositions of the thesis. This discussion progresses from the more general working propositions related to biases in the US trade remedy investigation process (WP 1 - 4), the generic CPA strategies adopted by firms (WP 8), to the nature of individual firm's CPA (WP 5 – 7 and WP 9) and finally the CPA resources and capabilities that emerged as key to the successful prosecution of a case (WP 10).

### **13.1 Potential for Bias in US Trade Remedy Cases**

The first four working propositions developed for this study deal with the potential biases in US trade remedy case outcomes and have been developed around Feaver and Wilson's (Feaver & Wilson, 2004a, 2004b) bias typology. The working propositions for this study suggested that political supply pressure would most likely be in the form of political lobby bias in favour of the domestic industry prosecuting the case as petitioners. That industry demand pressure would be expected to be in the form of industry rent seeking for both petitioners and respondents. Finally regulatory process bias was expected to be present in both administrative and statutory bias.

Political supply pressure was expected in working proposition to mostly be of a political lobby bias nature in favour of US firms. The five cases in this study presented a far more varied and complex picture of political supply pressure in US trade cases during the original investigation phase of a case. It was however difficult to draw any firm conclusions about the role of political supply pressure from the cases studied. The data collected for the prepetition and review phases provided little or no clarification on the role of politicians in supporting either interest group in the prosecution of trade cases. Politicians are most prominent in their participation in trade cases during the original investigation phase, particularly at the ITC, and the cases provided data on their visible activity in the official record. The findings however remained uncertain as to the role of politicians in the successful prosecution of a case. The degree of participation by politicians in the form of political lobby bias at the ITC varied from none to significant contributions to the record. A number of interviewees felt that political influence was most accurately accounted for through influence in the agencies' discretionary decisions and it is not possible to draw any conclusions on the degree of political influence in the five cases in this study from the data collected. It is however possible to say that proposition 1 needs to be revised, as political supply pressure in the form of political lobby bias was present through contributions to the official record for both petitioning and responding firms from US and foreign politicians. The full nature and effectiveness of this pressure however remains unclear.

Pressure	Bias Type	Potential for Bias		
		Pre-petition	Original Investigation	Review
Political Supply Pressure	Government Policy Bias	?	?	?
	Political Lobby Bias	?	?	?
Industry Demand Pressure	Industry Capture Bias	?	?	?
	Indirect Rent-Seeking Bias	Yes	Yes	Yes
Regulatory Process Bias	Administrative Bias	No	Yes	Yes
	Statutory Bias	Yes	Yes	Yes

**Table 55: Summary of Potential for Feaver & Wilson’s (2004b) Decision-making Bias Typology in US Trade Cases**

Industry demand pressure as expected by working proposition 2 to mostly be present in the form of rent-seeking bias and this was largely confirmed. The findings of this study do not lead to any finding of industry capture bias in the outcomes of trade cases. Firms are argued to primarily be seeking to influence the outcomes of trade cases by exploiting opportunities for indirect rent-seeking bias created by the administrative nature of the investigations at the agencies. Petitioning firms begin to exploit the opportunities for rent-seeking bias as early as the pre-petition phase, with both petitioners and respondents show “behaviour and manipulation of [the] AD/CVD process which increases the likelihood of a finding in [their] favour” (Feaver & Wilson, 2004b; p.499) throughout the prosecution of the original investigation and review phases of a case. This is primarily achieved through all firms’ attempts to build and shape the administrative record and the attempts of responding firms to align their business practices with the trade remedy institutions, both of which are discussed later in this section. The findings of this study are therefore largely in keeping with working proposition 2.

In terms of regulatory process bias, statutory bias was identified as an influence on how firms are able to engage with the DOC and ITC and administrative bias as affecting the outcomes of decisions at the DOC with respect to individual firm duty rates. Both the trade remedy statutes and the administrative errors made during the five cases in this study would seem to have broadly favoured the petitioning firms. Evidence is provided by the need for ministerial allegations in DOC calculations in all five cases. The findings of the study therefore confirm working proposition 3 and 4.

### **13.2 Generic Corporate Political Activity Strategies for Prosecuting Trade Cases**

Working proposition 8 for this study argued that the prosecution of US trade cases would be expected to on balance make use of informational and financial generic strategies. This was largely confirmed by the findings of the study, but the generic financial strategy was found to be different in nature to that originally proposed by Hillman and Hill (1999). Hillman and Hitt (1999) identified informational, financial and constituency building strategies as generic CPA strategies. In their taxonomy a financial strategy is argued to “target political decision makers by providing direct financial incentives” to individuals or their parties, while the constituency-based strategy “target political decision makers indirectly through constituency support” (Hillman & Hitt, 1999). Hillman and Hitt (1999) however discussed these strategies specifically with respect to CPA targeting elected politicians and while the use of money and collective action is part of trade cases, it does not fit the tactics and characteristics discussed by the authors. In these cases money is used in a manner which is more in keeping with Dahan’s (2005a, 2005b) typology that recognises that money can also be “an indirect financial resource” for gaining access and influence. Money serves as the resource which enables firms to retain critical external expertise and organisational skills from trade attorneys and other specialists without which it is unlikely a firm will be able to most effectively and successfully prosecute a case, not as a direct determinant of the case’s outcome. While the direct use of constituency-building in firms’ CPA strategies is limited to meeting DOC criteria for industry support for a case and presenting a united front in the ITC injury investigation. Although this study argues that in both these cases the use of this strategy is required more to gain legitimacy and make financial savings than as a strategy for directly influencing the

outcome of a case. More specifically the role of elected politicians in influencing the outcomes of cases has not been further clarified by this study.

The prosecution of trade remedy cases makes use of a combination of the three generic strategies proposed by Hillman and Hitt's (1999), but with an emphasis on an informational strategy. The centrality of an information strategy lies in the information intensive nature of both the DOC and ITC investigations, it should not be forgotten that these cases are determined on the basis of the information that is accepted onto the official record for a case. Hillman and Hitt (1999) describe an informational CPA strategy as "seek[ing] to affect public policy by providing policy makers specific information about preferences for policy or policy positions and may involve providing information on the costs and benefits of different issue outcomes" (Aplin & Hegarty, 1980, Hillman & Hitt, 1999; p.834). Firms certainly clearly state their preferences for or against duties at both the DOC and ITC during the original investigation and review phases, but in comparison to an environment with elected politicians being targeted, the trade remedy institutions create a context which is simultaneously more accessible for individual interests, but more restricted in terms of how those interests are able to engage the agencies. The two agencies have clear regulations governing their investigations, which determine the information the agencies gather to make their decisions, but also who can contribute to the official record for a case and how this should be done. Firms do not face a significant hurdle for gaining access to the agencies and contributing to the official record and a number of relatively small firms have had their views recorded in the official records for a case by simply submitting a letter stating their position. But this access is restricted to the submissions of documents to the agencies and attending meetings and hearings.

### **13.3 Clarifying What It Means to Successfully Prosecute a Trade Case**

Having identified the prosecution of a trade case as an informational strategy, the question of how success in a case is measured arises. How can the successful prosecution of an informational strategy be recognised? The existing literature on US trade cases typically focuses on the outcome of the ITC injury investigation to determine when petitioners have been successful at prosecuting a case, where success for petitioners is equated with a finding of injury and the imposition of duties and



success for respondents being when no duties are imposed. This approach dismisses the importance of the DOC stage in understanding the full range of outcomes that firms might consider to be successful or not in trade cases. This study argues that to understand when firms have been successful at prosecuting a case it is necessary to understand the outcome of the DOC investigation and the determination of respondent specific duty rates. As was discussed in chapter 11, a petitioner could consider a case unsuccessful if a key foreign responding firm receives low or no duties, even if a duty order is issued by the DOC. While a respondent could find itself considering no duty order an unsuccessful outcome if it has received a significantly lower duty rate compared to other foreign producers that would have given it a competitive advantage under a duty order. Including the DOC determination in a measure of success takes the outcome of a case from the industry level of duties or no duties to the firm specific level of relative duty rates and whether they are imposed.

#### **13.4 The Nature of Corporate Political Activity in Trade Cases**

Working propositions 5 to 7 suggested that the prosecution of a US trade case would be most effective if firms pursue proactive relational strategies in a cooperative manner. The five cases in this study show that firms successfully prosecute proactive informational strategies in a variety of different ways in terms of whether their strategies were relational or transactional and their preferences for prosecuting cases were more individual or collective in nature. Individual firms also changed their preferences in terms of their level of cooperation throughout the prosecution of the original investigation. Petitioners CPA strategies were proactive in all five the cases in this study. Petitioners in the five cases however adopted both relational and transactional approaches. The transactional approaches changed to relational for firms in cases that resulted in duty orders, when firms continued to prosecute the review phase. Respondents CPA strategies were both proactive and reactive. This choice is a result of the importance of the US market to a firm and a cost benefit analysis made by these firms. Again respondents in the five cases adopted both relational and transactional approaches, with transactional approaches to cases changing to relational ones for firms in cases that continued to the review phase. Petitioners adopted both individual and cooperative strategies depending on the size of the industry. Responding firms moved from individual strategies at the DOC to often pursuing cooperative

strategies at the ITC in response to the demands of the administrative process at each of the agencies.

### **13.5 A Need for Integrated Strategy in Trade Cases**

The need for an integrated strategy is most powerfully shown in the prosecution of the review phase of trade cases, but the need for this approach is not restricted to this final phase of a case. Working proposition 9 argued that firms that pursue integrated strategies will be more effective in their prosecution of a case. This proposition was confirmed by the findings of the study. From petitioners point of view the filing of a case is an attempt to change their competitive position using the nonmarket environment, but this nonmarket strategy can only be truly effective if the petitioning firms use the advantage a favourable outcome gives them to adjust their competitive strategies in response to their lack of competitiveness. Trade cases can also be used by the petitioners to create the space for US firms to enter new product markets, if they include these items within the scope of an investigation. The effects of successful prosecution of a trade case by petitioners decline over time as was seen in this study during the review phase and US firms that do not integrate their competitive responses with the outcome of a trade case will in all likelihood find themselves in a similar position at a later point in time.

Responding firms that choose to proactively prosecute a trade case in the US need to integrate their market and nonmarket strategies from the earliest stages of the original investigation. It is only by adjusting their sales practices at home and in the US and proactively prosecuting the original investigation and review phase that these firms can ensure that the impact of any duty order is minimised to the greatest extent in dumping cases. While respondents in countervailing duty cases can adjust their competitive strategies to reflect any duty order, possibly diverting the subject merchandise to other international markets till the subsidisation has worked its way out of the data considered by the DOC for example, while not making use of any other subsidisation that could result in a new case.

Reactive strategies on the part of respondents can also benefit from an integrated approach. Firms are able to adjust their market strategies in anticipation of the outcome of a case and the possible prosecution of the review phase of the investigation for

example. If a duty order is put in place firms that choose to continue pursuing a reactive strategy will need to continue monitoring the case till the first sunset review and ensure that they do not pursue any competitive strategy that would enable the petitioners to request an administrative review of a favourable section A duty rate for example.

As was shown by the Breaker Hammer example in the Hand Trucks case, this integrated strategy is not solely related to matters of relative home and US prices for respondents, but also aspects such as product design. By focusing on the product aspect of the firm's competitive strategy and its relationships to the scope of investigation in the case, the integrated strategy pursued by Central Purchasing enabled the firm to escape any duties on their imports into the US.

### **13.6 Corporate Political Resources and Capabilities in the Prosecution of Trade Cases**

The expectation of working proposition 10 that a resource-based view of prosecuting trade cases would explain why some firms are able to more effectively prosecute a case, was confirmed by the findings of the study. Not only was the value of this perspective for understanding the prosecution of a case shown, but three key capabilities required for prosecuting a trade case were identified and the CPA resource combinations that could enable these capabilities were brought to light for the first time. Both petitioner and respondent informational strategies are enabled by the capability of the individual firms to gather information, to build and shape the administrative record and align their business activities with the US trade remedy institutions. The capability to gather information is of most importance during the pre-petition phase, the capability to build and shape the administrative record is central to the original investigation and aligning business practices to the US trade remedy institutions is key to successful prosecution of the review phase of a case. These capabilities are required for prosecuting the pre-petition, original investigation and review phases, but the emphasis on each of these capabilities differs for the individual petitioning and responding firms. Additionally each firm that prosecutes a trade case will make use of these capabilities in different ways depending on whether it supports or opposes the petition, the corporate political strategy it has adopted for prosecuting a case and the phase and stage of a case. Figure 22 shows how the three capabilities are used across the phases of a US trade remedy

case for both petitioning and responding firms. While most of the capabilities are used by firms in each of the three phases of a case, the emphasis that is placed on each does differ across the phases and is indicated by a grey box in the figure.

The findings of the study suggest that both US and foreign firms have a number of CPA tactics they can adopt as part of an informational strategy, but that they use fairly similar internal and external resources and capabilities to prosecute cases. The nature of the three CPA strategies were found to change over the course of the full prosecution of a case, as the institutional environment changed between the DOC and ITC and progressed through the original investigation and into the review phase.

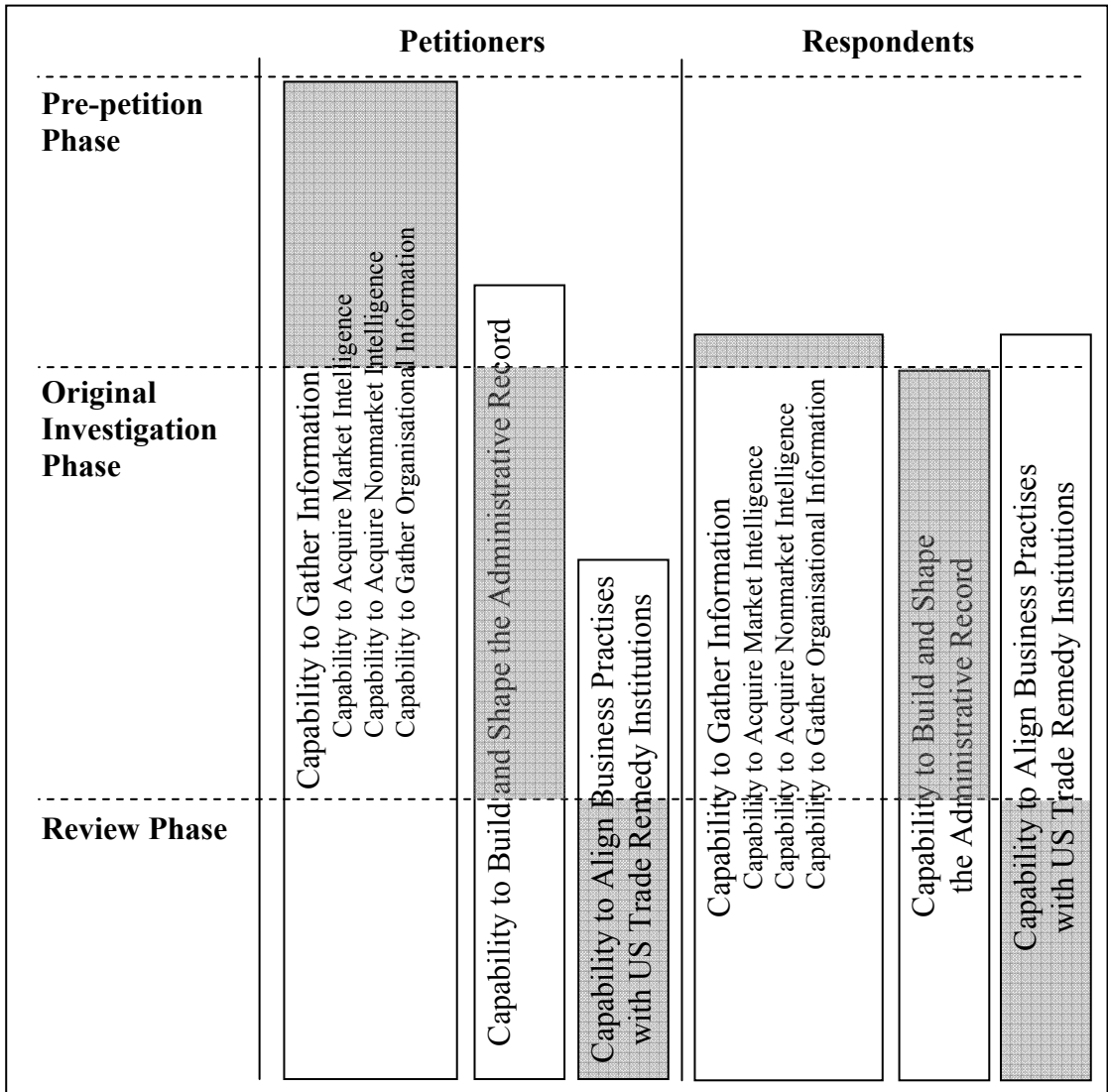


Figure 22: Firm Capabilities and the Phases of a US Trade Remedy Case

Phase	Institutional Stages	Capability...	Financial Resources	Expertise	Organizational Resources	Relational Resources	Reputation with Other Non-market Actors	Public Image	Support of stakeholders	Recreational Skill
-	-	...to prosecute trade remedy cases	X	X	X	X	X	-	-	-
<b>Pre-Petition</b>	Actions Outside US Trade Remedy Institutions	...to gather information.	X	X	X	X	-	-	-	-
	Pre-petition Counselling	...to prepare trade remedy petition (build and shape the administrative record).	X	X	X	X	X	-	-	-
<b>Original Investigation</b>	Initiation of Investigation	...to gather information.	X	X	X	X	-	-	-	-
	ITC Prelim									
	DOC Prelim									
	DOC Final									
	ITC Final									
<b>Review</b>	Administrative Reviews	...to gather information.	X	X	X	X	-	-	-	-
	New Shipper Reviews									
	Scope Reviews									
	Anti-Circumvention Inquiries									
	Changed Circumstances Reviews									
	Sunset Review									
<b>Alternative Institutional Environments</b>	Appeals to US CIT	N/A	-	-	-	-	-	-	-	-
	Appeals to WTO Disputes Process									

**Table 56: Resource-based View of Petitioners Prosecution of Trade Remedy Cases**



All three capabilities are used by responding firms, while petitioners only draw on the capability to align their business practices to the US trade remedy institutions in cases where a US industry chooses to integrate the ongoing use of trade cases as part of a long-term integrated strategy.

The nature of the resources that enabled the three key capabilities a firm will use to prosecute a case also change over the course of a case, but they remain fairly constant in terms of the type of CPA resources required. The resource-based view of petitioning firms' prosecution of US trade cases is summarised in Table 56 and the respondents' perspective in Table 57, which identify the capabilities the firms require and the generic CPA resources that are bundled to enable these capabilities. These generic CPA resources include financial, expertise, organisational, relational and reputational resources. The financial resources as has been noted are an indirect CPA resource, specifically a firm's money it has available to spend on prosecuting a case. Firms draw on both internal and external sources of expertise for prosecuting a case; internal resources in this category include sales staff, production staff and accounting staff, while external resources would be the trade attorneys, economic consultants and market researchers retained by firms. Organisational resources also include internal resources in the shape of senior managers, the lead member of staff that more often than not drives a case in the firm and IT systems, while trade attorneys, economic consultants and the formation of ad hoc associations are examples of external organisational resources. Trade attorneys and senior managers provide relational resources and the trade attorneys provide novice firms especially with a reputational resource with other non-market actors in the prosecution of a case.

All three the capabilities identified as important for the successful prosecution of a case rely on the financial, expertise, organisational and relational resources, it is only the capability to build and shape the administrative record that also draws on the reputational resources embodied in the trade attorneys. This reputational resource is used to engage with the agency staff in the formulation of questionnaires for example and can be very important to the prosecution of case. While petitioners potentially draw on all three the capabilities throughout a case, as reflected in Table 57, the table for petitioners does not include the capability to align business activity with the trade remedy institutions, see Table 56, reflecting the fact that this does not play as important

a part in the prosecution of a case for petitioners as it does for respondents and is associated with industries that pursue trade cases as long-term integrated strategies and is then associated with information gathering and monitoring activities.

### **13.7 Contribution of Study**

This study has made contributions to the trade remedy literature in general and specifically in the US, to the CPA literature and resource-based view of the firm. The trade remedy literature was extended by showing for the first time what a firm perspective of prosecuting a trade case looked like, highlighting the challenges faced by firms, the nature of the CPA they used to engage with the DOC and ITC, identifying resources and capabilities that could enable firms to more successfully prosecute a case, expanding understanding of what it meant for a firm to be successful in a trade case and further exploring the biases that may be present in the outcome of a case.

The meaning of successful prosecution of a case was found to be far more nuanced than the typical measure that is used for this purpose, namely whether duties are imposed or not. Both US and foreign firms can have a range of outcomes that they might consider to be their preferred policy outcome and this preference may change over the course of an investigation. While petitioners will typically consider the imposition of duties their primary measure of success, if these duties are too low as was almost certainly the case in the Wooden Bedroom Furniture case, then the case may still be considered to have been unsuccessful or only partly successful. Responding firms will consider a case that does not result in duties successful, but in cases where duties are imposed, some respondents may still consider the case to have been successfully prosecuted if their duties are lower relative to their foreign competitors and low enough for them to absorb as a cost of business, thereby giving them a competitive advantage over their fellow exporters and the US producers.

The study contributes to the CPA literature by highlighting the importance of administrative processes, administered by government agencies for making decisions, as targets CPA. The adoption of the CPA literature for this study proved valuable for explaining how firms engage with government agencies, but differences between CPA targeting political institutions with elected political figures and the institutions responsible for administrative decision making process suggest that future CPA theory



and models need to incorporate broader understandings of how business engages with government if they are to reflect the diverse nature of CPA. The informational strategy suggested by Hillman and Hitt (1999) fitted with the prosecution of trade cases easily, but the other two strategies would seem to have room for redefinition and conceptualisation to include broader forms of CPA. This study suggests that in keeping with Dahan (2005a, 2005b) financial strategies should more explicitly include indirect financial strategies such as the use of money to retain external professionals to represent a firm's interests. While a constituency based strategy may form part of a CPA strategy not only to directly influence the final decision maker, but also to meet administrative criteria for prosecuting a case, such as the need for petitioners to show industry support for their case. The constituency-building aspects of CPA strategy in trade cases therefore seems to be a far more direct form of tactic in comparison to how it is conceptualised in the existing CPA literature.

More specifically the study would suggest that, as proposed in chapter 7, a business strategy perspective of CPA in trade remedy cases provides an answer to Getz's (2002) argument that this approach does not provide or explain a firm's motivation for pursuing CPA or how strategies and tactics are selected. The prosecution of a trade case is motivated by firms seeking to ensure that the outcome of a case reflects their policy preferences; thereby ensuring individual firms improve their competitive position in the market place. It is therefore argued that the motivation for CPA in a business strategy perspective of CPA is motivated by the desire of a firm to improve their competitive position relative to rivals both domestic and foreign. Getz (2002) recognises that firms can develop distinctive competencies in nonmarket activities, but argues that it is still unclear as to how this perspective explains the strategies and tactics selected by firms. This study would suggest that firms select their CPA based on the requirements, opportunities and constraints of the nonmarket institutional environment targeted by firm CPA, but tactic selection for executing this strategy and the successful prosecution of a case is dependent on the resources and capabilities a firm has and can develop in the process of prosecuting a case. Firms were arguable most affective at prosecuting trade cases when they matched their strategies and tactics to their resources and capabilities.

The RBV literature was advanced by identifying key resources and capabilities for prosecuting trade remedy cases in the US. A further contribution was made by showing how Dahan's (2005a, 2005b) CPA resource typology can serve as a useful tool for describing the resources bundled by firms to enable the capabilities required for prosecuting a case. Furthermore the three capabilities identified in this study are sufficiently generic in nature to potentially be transferrable to other administrative governmental decision making processes and this could prove to be a further avenue of research worth pursuing.

### **13.8 Opportunities for Future Research**

Four opportunities for future research are identified as directions that would extend the knowledge gained from this study, these are the opportunity for comparative studies similar to this one, a study focusing on the role of environmental scanning in the identification of trade cases, the possibility for the capability to prosecute trade cases to be a dynamic capability and the need to further clarify the effect of resource dependencies on the ability of firms to prosecute US trade cases.

#### **13.8.1 Comparative Study of Prosecuting US and EU Trade Remedy Cases**

The first avenue of future research that should be pursued is a comparison of the prosecution of trade remedy cases in the EU and US. The EU trade remedy institutions are similar to the US approach, but differ in a number of important ways. Including prospective recognition of duties and a more flexible regime for determining final duty rates. Having showed that the conceptual model has value in the US context, its application to prosecution of EU trade defence instruments would further strengthen the credibility of the approach and highlight how the difference in institutions might affect firms' strategies.

#### **13.8.2 Environmental Scanning and Trade Remedy Cases**

The general strategy literature has previously noted the identification of external changes in the firm's market environment as part of a firms' strategy formulation process. How organisations become aware of events and trends in their environments has been recognised as important in the strategy literature for some time, with authors that are cited as making some of the earliest contributions including Aguilar (1967),

Hambrick (1982) and Kefalas and Schoderbeck (1973). Environmental scanning can be defined as “the activity by which organisations collect information about their environments” (Ghoshal, 1988). A potential future avenue for research would be to further explore how petitioning and responding firms identified trade cases and if there are any indications that different approaches influenced the outcome of a case for individual firms. Especially given the indication by a number of responding firm attorneys that early action on the part of these firms can significantly improve their ability to prosecute a case. This research may suggest practices that firms can employ to monitor the nonmarket environment most effectively.

### **13.8.3 Dynamic Capabilities and Trade Remedy Cases**

More specifically, a growing portion of the RBV literature has also been arguing that the possession of valuable, rare, inimitable, non-substitutable resources are necessary but insufficient for explaining a firm competitive position, these resources need to be “paired with an appropriate dynamic capability or organizing context” (Newbert, 2007; p.140). The dynamic capabilities approach seeks to show how firms can exploit “existing internal and external firm-specific competences to address changing environments” (Teece, Pisano, & Shuen, 1997; p.510). The approach is an efficiency-based extension of the RBV, explaining competitive advantage in situations of rapid and unpredictable change (Eisenhardt & Martin, 2000, Teece, Pisano, & Shuen, 1997). It identifies “the dimensions of firm-specific capabilities that can be sources of firm advantage, and ... explain[s] how combinations of competences and resources can be developed, and protected” (Teece, Pisano, & Shuen, 1997; p.510). The current research on dynamic capabilities is focused on market oriented strategies (Eisenhardt & Martin, 2000), but the approach is however promising for understanding the nonmarket environment from a RBV perspective as well (Dahan, 2005b) and in the case of this study, specifically the prosecution of trade remedy cases.

Dynamic capabilities can be defined as a “firm’s processes that use resources – specifically the processes to integrate, reconfigure, gain and release resources – to match and even create market change. Dynamic capabilities thus are the organizational and strategic routines by which firms achieve new resource configurations as markets emerge, collide, split, evolve, and die” (Eisenhardt & Martin, 2000; p.1107). Teece,

		Respondent Perspective		Petitioner Perspective				
		Pre-petition Phase	Original Investigation Phase	Review Phase	Review Phase	Pre-petition Phase	Original Investigation Phase	Review Phase
<b>Capability to...</b>	<b>Requires a Dynamic Capability</b>	...gather information.	No	No	No	No	No	No
		...align business practices with US trade remedy institutions.	No	No	No	No	No	No
		...build and shape the administrative record for the case.	No	No	No	No	No	No
		...build and shape the administrative record for the case.	Yes	Yes	Yes	Yes	Yes	Yes
		...acquire market intelligence required for case.	Yes	Yes	Yes	Yes	Yes	Yes
		...build and shape the administrative record for the case.	Yes	Yes	Yes	Yes	Yes	Yes
	<b>Managerial and Organisational Processes that Play a Role</b>	...gather information.	-	-	-	-	-	-
		...align business practices with US trade remedy institutions.	-	-	-	-	-	-
		...build and shape the administrative record for the case.	Yes	Yes	Yes	Yes	Yes	Yes
		...acquire market intelligence required for case.	Yes	Yes	Yes	Yes	Yes	Yes
		...acquire market intelligence required for case.	Yes	Yes	Yes	Yes	Yes	Yes
		...build and shape the administrative record for the case.	Yes	Yes	Yes	Yes	Yes	Yes

Table 58: Dynamic Capabilities and the Prosecution of a Trade Remedy Case

Pisano, and Shuen (1997; p.517) argue that the competitive advantage of a firm lies in (1) the firm's "organizational and managerial processes", (2) shaped by the firm's (specific) asset position, and (3) the paths available to the firm. Where managerial and organizational processes have three roles: "coordinate/integrate (a static concept); learning (a dynamic concept); and reconfiguration (a transforming concept)" (Teece, Pisano, & Shuen, 1997; p.518). The "asset position" refers to the "specific endowments of technology, intellectual property, complementary assets, customer base, and [the firm's] external relations with suppliers and complementors" (Teece, Pisano, & Shuen, 1997; p.518) and "paths" refer the "strategic alternatives available to the firm, the presence or absence of increasing returns and attendant path dependency" (Teece, Pisano, & Shuen, 1997; p.518).

There is a strong indication that the capability to prosecute a trade remedy case is a dynamic capability for inexperienced firms, facilitated by the external trade attorneys. The learning role of managerial and organisational processes was argued to be a dynamic concept above and has recently been identified as increasing the filing of cases and affirmative outcomes (Blonigen, 2006b). The study also found that experienced petitioners received lower duty margins in the cases they brought and argued that this might be due to petitioners bringing weaker cases (Blonigen, 2006b). The findings of this study would argue that while this could be one reason, it is important to remember that not only the US industry is learning to prosecute cases and that it may be necessary to see how duty margins change for cases brought against repeat respondents.

Two of the most important resources for firms prosecuting a US trade case are the external trade attorneys and economic consultants who prosecute these cases for a living. This is especially true for novice petitioners and respondents, but even experienced firms will always rely on these external resources when prosecuting a case, even where house counsel may have significant experience prosecuting cases. Importantly it is the attorneys and economists that facilitate the integration, reconfiguration and the acquisition and release resource and capability combinations to successfully prosecute a case.

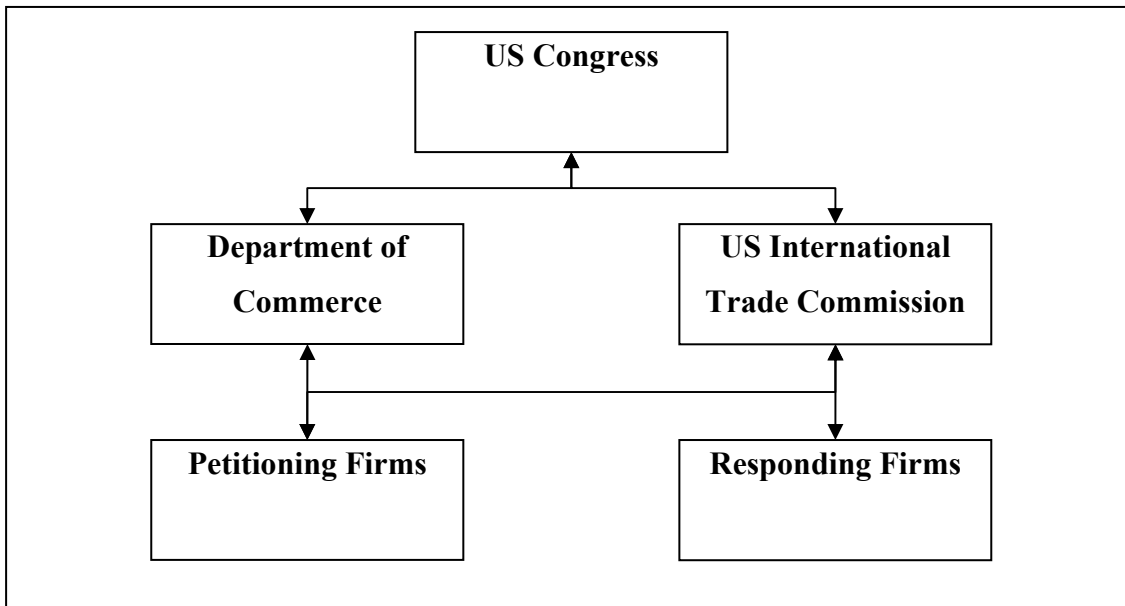
Table 58 addresses the dynamic nature of prosecuting trade remedy cases for both petitioners and respondents. The coordinate / integrate of resources, learning and

reconfiguration of resources for the prosecution of a case seem to primarily be associated with the development of the capability to build and shape the administrative record and align business practices with the US trade remedy institutions. These comments regarding the capability to prosecute a trade remedy case as exhibiting the characteristics are however preliminary and offer an opportunity for extending this research agenda.

#### **13.8.4 Resource Dependency and Trade Remedy Cases**

A final aspect of the prosecution of US trade cases that was identified in this study as requiring further attention is the resource dependency (Pfeffer & Salancik, 1978) that exists between firms, the attorneys and the two government agencies. Pfeffer & Salancik (1978) adopting an open systems view of organisations (Katz & Kahn, 1966) emphasise the importance of resource exchange between organisations and their environment for the survival. It is this dependence of an organisation, for survival, on resources controlled by other organisations which creates the opportunity for external control of an organisation. The key aspect for understanding any resource dependency in the prosecution of US trade cases is to analyse how the many interests in a case “comply with the demands of others, or ... act to manage the dependencies that create constraints on organizational actions” (Pfeffer & Salancik, 1978; p.257).

The role of resource dependencies in influencing the outcomes of US trade cases is linked to the discussion of the institutional nature of the US trade remedy process in chapter 6. If we take the relationships between petitioning firms, responding firms, the DOC, ITC and Congress as an illustrative example, it is possible to see that each of these actors has dependencies to a lesser or larger degree that could constrain their role in the US trade remedy process. For the purposes of this discussion, we will limit the relationships to those between Congress and the DOC and ITC and the relationships of the petitioning and responding firms with the DOC and ITC. These represent the key aspects of the prosecution of a trade case when viewed through a relationships lense.



**Figure 23: Key Relationships in the Prosecution of US Trade Cases**

Congressional oversight of the agencies' activities takes place through the process of establishing budgets and the appointment of committee members (Moore, 1992; p.451). Both the DOC and ITC are dependent on Congress for their budgets and ITC Commissioners are appointed through the US Senate, creating a clear resource dependency between the legislative body and the agencies.

Both petitioning and responding firms have a resource dependency with the DOC. Petitioning firms are dependent on the DOC for finding duty margins that will protect them from import competition and responding firms are dependent on the DOC for a finding of no dumping or subsidisation. The DOC is however dependent on foreign firms' confidential data if the agency is to calculate duty rates in a manner that retains legitimacy in the eyes of the broader international community. The dependency of firms on the DOC calculations is surely a significant contribution to the cooperation that the agency receives from prosecuting firms. The DOC dependency on Congress is however argued to result in marginal decisions favouring the petitioning firms at the expense of respondents. It is however the responding firms that have the greatest dependency with the DOC, as it is the contributions that they make to the DOC investigation that determine the duty rates they will face, if any.

Firms have similar dependencies at the ITC, with a nuance being that it is the petitioners that are expected to contribute the bulk of the data used by the agency in its decision

making. The ITC arguably also has more room for making decisions that favour the petitioning industry given the qualitative nature of the agency's remit to establish injury or the threat of injury. This potentially creates far more scope for the agency's dependency on Congress to play a role in the outcome of a case.

The majority of this study has sought to establish through a nonmarket strategy lense, how firms can effectively and efficiently prosecute US trade remedy cases. In this discussion the opportunities and constraints that face firms as a result of the institutional environment for the cases has been highlighted, the above discussion of the potential for resources dependencies however highlights that further work in this direction might prove to show some deeper seated influences on the outcome of cases that are not immediately identifiable due to their unobservable nature. The greatest problem with pursuing this type of study would be in gaining access to the key political and administrative employees and convincing them to lift the veil on such a sensitive area of study.

### **13.9 Recommendations for Firms**

Firms that are considering or face the possibility of having to prosecute a trade remedy case in the US, need to recognise the significant financial burden a case will put on the firm, the important role that external expertise plays in a case, the demands on internal staff during a case and the need for an integrated strategy.

Prosecuting a trade case places a significant financial burden on a firm in both the short and potentially long-term. In the short term a firm should be aware of the cost of retaining external counsel and the cost of diverting employee time away from day to day operations to prosecute the case. In cases that proceed to the review phase, firms will face potentially long-term costs in relation to staff time and retaining an attorney and economist, but additionally the strain that paying deposits to US Customs will place on foreign firms financial position should not be underestimated. Long-term prosecution of a trade case will require respondents to carefully manage their cash flow if they are to successfully prosecute the review phase.

Both petitioning and responding firms will need to retain a trade attorney and possibly an economic and / or accounting consultant to prosecute a case. It is almost impossible



to imagine being able to make the most of prosecuting a trade case without the external expertise. Trade attorneys do not all approach trade cases in the same manner or with the same philosophy and will have a variety of experience of the prosecution of cases. Firms should ensure that they retain legal counsel that meets both their financial preferences in this regard, as well as their broader philosophy regarding engagement with the nonmarket environment. In many ways the relationship between a firm and its attorney can be argued to be at the heart of successful prosecution of a case.

Prosecuting a trade case however not only relies on external expertise, but also on internal expertise of firm staff from sales, accounting and production functions. It is important for those individuals driving a case to consider the impact of a case on the firm's staff. Trade cases will affect the execution of staff members' day to day responsibilities and could lead to unhappiness, if members of staff do not buy-in to a case. Important actions to manage this issue can be the way that the prosecution of the case is communicated to employees and recognising the contribution of members of staff that support the prosecution of a case.

The approach of a firm to prosecuting a case is also very important to achieving a successful outcome and firms should recognise the need for an integrated strategy in this respect. For both petitioners and respondents the need to consider the corporate political strategy in conjunction with the firms' competitive strategy is especially crucial to making the most of the review phase of a case. In dumping cases adjustments to market strategies, by for example adjusting prices, is essential for most responding firms to successful prosecution of the review phase. An assessment of the US market's importance to a firm will however also be an important factor in deciding how to approach the prosecution of a case. It may be that the market is simply not of enough significance to warrant active engagement in the process for some respondents. Trade cases can also create opportunities for petitioners to refocus their market strategies and in some circumstances even create the necessary conditions for petitioners to begin competing in a new sector of the market.

Firms should approach the prosecution of a case as a strategic opportunity and make it a business decision based on cost benefit analysis to get the most out of a case. The most important message regarding the strategic approach of firms is however that they should

think creatively about how to prosecute a case. The trade remedy institutions are rules based and there is a significant body of statutory requirements and agency regulations that govern the investigation processes at the DOC and ITC. This rules-based environment can therefore seem ridged at first glance, but the clear statement of the rules of the game importantly also creates opportunities for using the process to the advantage of individual firms and taking a creative approach to the prosecution of a case can significantly improve the implications of the outcome of a trade case.

### **13.10 Conclusion**

Successful prosecution of a trade case has been found to be firm specific, as the DOC determination of individual firm duty rates significantly affects what the outcome of case means for each firm in the US and foreign industries. The successful prosecution of US trade remedy cases has been found to be an informational corporate political strategy, that is affected by statutory and administrative biases in the execution of the agency investigations, and creates the potential for indirect rent-seeking bias in the outcomes of cases. This informational CPA strategy is based on three capabilities that firms need to develop, the capability to gather information, the capability to build and shape the administrative record at the agencies to reflect a firm's policy preferences and the capability to align business practices with the US trade remedy institutions. These three capabilities rely on CPA expertise resources, organisational resources, financial resources, relational and reputational resources. Some of these resources are internal to the firms, including staff, money and information, while other resources are external, such as the trade attorneys and economic consultants. The three capabilities are almost always the result of a bundling of internal and external resources.



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- Trade Attorney. 2005j. Interview 019 for PhD Thesis: Personal.
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## 15 Appendixes

### 15.1 Appendix A: List of Interviews

<b>Interview Number:</b>	<b>Date:</b>	<b>Type:</b>	<b>Citation:</b>
Interview 001	29/09/2005	Telephone	(Sales Manager at US Manufacturing Firm, 2005)
Interview 002	06/10/2005	Telephone	(Senior Vice President at US Manufacturer, 2005)
Interview 003	14/10/2005	Informal	-
Interview 004	17/10/2005	Telephone	(Director at US Importer, 2005)
Interview 005	07/11/2005	Telephone	(Director at US Industry Association, 2005a)
Interview 006	09/11/2005	Personal	(Director at US Industry Association, 2005b)
Interview 007	17/11/2005	Telephone	(Director at US Industry Association, 2005c)
Interview 008	30/11/2005	Telephone	(Trade Attorney, 2005a)
Interview 009	01/12/2005	Telephone	(Trade Attorney, 2005b)
Interview 010	02/12/2005	Telephone	(Trade Attorney, 2005c)
Interview 011	02/12/2005	Personal	(Trade Attorney, 2005d)



Interview 012	05/12/2005	Personal	(Trade Attorney, 2005e)
Interview 013	05/12/2005	Informal	(Trade Attorney, 2005f)
Interview 014	05/12/2005	Personal	(Trade Attorney, 2005g)
Interview 015	05/12/2005	Personal	-
Interview 016	06/12/2005	Personal	(Trade Attorney, 2005h)
Interview 017	06/12/2005	Informal	Off the Record
Interview 018	06/12/2005	Telephone	(Trade Attorney, 2005i)
Interview 019	07/12/2005	Personal	(Trade Attorney, 2005j)
Interview 020	08/12/2005	Telephone	(Trade Attorney, 2005k)
Interview 021	08/12/2005	Personal	(Trade Attorney, 2005l)
Interview 022	08/12/2005	Personal	(Trade Attorney, 2005m)
Interview 023	09/12/2005	Arranged but not held.	
Interview 024	09/12/2005	Personal	(Trade Attorney, 2005n)
Interview 025	09/12/2005	Personal	(Trade Attorney, 2005o)
Interview 026	12/12/2005	Telephone	(Trade Attorney, 2005p)
Interview 027	12/12/2005	Personal	(Trade Attorney, 2005q)
Interview 028	12/12/2005	Personal	(Trade Attorney, 2005r)

Interview 029	13/12/2005	Personal	(Trade Attorney, 2005s)
Interview 030	14/12/2005	Personal	(Trade Attorney, 2005t)
Interview 031	14/12/2005	Personal	(Trade Attorney, 2005u)
Interview 032	15/12/2005	Personal	(Trade Attorney, 2005v)
Interview 033	16/12/2005	Personal	(Trade Attorney, 2005w)
Interview 034	23/01/2006	Telephone	(Trade Attorney, 2006a)
Interview 035	25/01/2006	Telephone	(Trade Attorney, 2006b)
Interview 036	30/01/2006	Telephone	-
Interview 037	01/02/2006	Personal	(Economic Consultant, 2006a)
Interview 038	01/02/2006	Personal	(Trade Attorney, 2006c)
Interview 039	01/02/2006	Telephone	(Trade Attorney, 2006d)
Interview 040	03/02/2006	Telephone	(Economic Consultant, 2006b)
Interview 041	06/02/2006	Personal	(Trade Attorney, 2006e)
Interview 042	06/02/2006	Personal	(Trade Attorney, 2006f)
Interview 043	07/02/2006	Personal	(Trade Attorney, 2006g)
Interview 044	08/02/2006	Personal	(Trade Attorney, 2006h)
Interview 045	22/02/2006	Personal	(Economic Consultant, 2006c)

Interview 046	23/02/2006	Personal	(Economic Consultant, 2006d)
Interview 047	23/02/2006	Personal	(Trade Attorney, 2006i)
Interview 048	22/03/2006	Personal	(Trade Policy Analyst, 2006)
Interview 049	17/04/2006	Personal	(Trade Attorney, 2006j)
Interview 050	26/04/2006	Personal	(Attorney, 2006)
Interview 051	09/05/2006	Personal	(Government Agency Employee, 2006)

**Table 59: List of Interviews for PhD**

## 15.2 Appendix B: Case Summaries for Each of the Five Cases

### 15.2.1 DRAM Semiconductors from Korea

<b>DOC Investigation No:</b>	C-580-851	<b>ITC Investigation No:</b>	701-TA-431
<b>Case Type:</b>	Countervailing Duty		
<b>Country(s):</b>	Republic of Korea (ROK / Korea)		
<b>DOC Case Name:</b>	Dynamic Random Access Memory Semiconductors		
<b>ITC Case Name:</b>	DRAMs and DRAM Modules from Korea		
<b>Subheading of the US Harmonized Tariff Schedule (HTSUS):</b>			
<b>DRAMs Subject to Investigation:</b>		8542.21.80 (05 / 21 / 29)	
<b>Memory Modules Containing DRAMs Subject to Investigation:</b>		8473.30.10. (40 / 80)	
<b>Original Investigation</b>			
<b>Petitioner(s):</b> Micron Technology, Inc., Boise, ID (Micron)			
<b>Other Active Supporting Firm(s):</b> Infineon Technologies North American Corporation and Infineon Technologies Richmond, LP (Infineon)			
<b>US Political Support for the Petition:</b> C. L. "Butch" Otter, Member of Congress (Republican - ID) Larry E. Craig, US Senator (Republican - ID)			
<b>Mandatory Responding Firm(s):</b> Hynix Semiconductor Inc. (Hynix) formerly Hyundai Electronics Industries Co., Ltd. (Hynix / HEI) Samsung Electronics Company, Ltd. (SEC / Samsung)			
<b>Other Active Responding Firm(s):</b> -			
<b>Other Active Firm(s):</b> -			
<b>US Political Support Against Petition:</b> Ron Wyden, US Senator (Democrat - OR) Peter A. DeFazio, US Senator (Democrat - OR)			

Gordon Smith, US Senator (Republican - OR)		
Earl Blumenauer, Member of Congress (Democrat - OR)		
Greg Walden, Member of Congress (Republican - OR)		
David Wu, Member of Congress (Democrat - OR)		
Darlene Hooley, Member of Congress (Democrat - OR)		
Sid Leiken, Mayor, Springfield, Oregon		
Tim Torrey, Mayor, Edgene, Oregon		
<b>Active Foreign Government(s):</b>		
Government of the Republic of Korea (GOK)		
Won-jong Lee, Governor of Chungcheongbuk-do, Korea		
Tae-ho Lee Chairman of Cheongju Chamber Commerce & Industry, Korea		
<b>Professional Service Firms and their Clients:</b>		
<b>Client</b>	<b>Legal Representation and Consulting Firms</b>	
Micron	Hale Dorr LLP (Hale Dorr) Economic Consulting Services (ESC) Lexecon, Inc (LEX)	
Infineon	Collier Shannon Scott (Collier) Georgetown Economic Services (GES)	
Hynix	Willkie Farr & Gallagher (Willkie Farr) Capital Trade, Inc (CTI) Economists, Inc. (EI)	
Samsung	Akin Gump Strauss Hauer & Feld (Akin Gump)	
GOK	-	
<b>DOC Period of Investigation:</b>	01/01/2001 – 30/06/2002	
<b>ITC Period of Investigation:</b>	01/01/2000 – 31/03/2003	
<b>Duration:</b>	01/11/2002 – 04/08/2003	
<b>DOC Preliminary Determination:</b>	07/04/2003	
<b>Outcome of Original Investigation:</b>	Affirmative	
<b>Subsidies Agreement Country</b>	Yes	
<b>Critical Circumstances Allegations:</b>	No	
<b>Net Subsidy Rates (ad valorem, %):</b>	Preliminary 68 FR 16766	Amended Final 68 FR 47546

<b>Mandatory Respondent(s):</b>	Samsung	00.16 %	00.04 %
	Hynix	57.37 %	44.29 %
<b>All Other(s):</b>	-	57.37 %	44.29 %
<b>DOC Administrative Reviews</b>			
<b>Period of Investigation for First Review (2004):</b>		07/04/2003 – 31/12/2003	
<b>Net Subsidy Rates (ad valorem, %):</b>		Preliminary 70 FR 54523	Final 71 FR 18277
<b>Extended:</b>	16/11/2005 (70 FR 69514)	-	-
<b>Firm(s):</b>	Hynix	60.74	58.11
<b>Period of Investigation for Second Review (2005):</b>		01/01/2004 – 31/12/2004	
<b>Net Subsidy Rates (%):</b>		Preliminary 71 FR 46193	Final 72 FR 7015
<b>Extended:</b>	25/04/2006 (71 FR 23898) 16/11/2006 (71 FR 66751)	-	-
<b>Firm(s):</b>	Hynix	31.86 %	31.86 %
<b>Period of Investigation for Third Review (2006):</b>		01/01/2005 – 31/12/2005	
<b>Net Subsidy Rates (%):</b>		Preliminary 72 FR 51609	Final 73 FR 14220
<b>Extended:</b>	19/04/2007 (72 FR 19694)	-	-
<b>Firm(s):</b>	Hynix	23.82 %	23.78 %
<b>Period of Investigation for Fourth Review (2007):</b>		01/01/2006 – 31/12/2006	
<b>Net Subsidy Rates (%):</b>		Preliminary	Final
<b>Firm(s):</b>	Not Completed	-	-
<b>DOC Scope Reviews</b>			
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>
ATI Technologies, Inc. (‘ATI’)	Mobility Radeon 9600 and Mobility Radeon 9700 visual processing units manufactured by ATI are outside the scope of the countervailing duty order.	--/--/-- - 14/01/2004	70 FR 24533

Self-initiated by DOC	The Department concluded that products classified under subheadings 8517.30.5000, 8517.50.1000, 8517.50.5000, 8517.50.9000, 8517.90.3400, 8517.90.3600, 8517.90.3800, and 8517.90.4400 of the Harmonized Tariff Schedule of the United States are within the scope of the countervailing duty order.	--/--/-- - 03/05/2004	70 FR 24533
Cisco Systems, Inc.	Removable memory modules placed on motherboards that are imported for repair or refurbishment are not within the scope of the CVD order if the importer certifies that it will destroy any memory modules that are removed during repair or refurbishment.	29/12/2004 – 21/03/2006	70 FR 24537 71 FR 14175
<b>DOC New Shipper Reviews</b>			
<b>Reviews for Period Between:</b>		-	
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>

-	-	-	-
<b>DOC Anti-circumvention Determinations</b>			
<b>Reviews for Period Between:</b>		-	
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>
-	-	-	-
<b>Alternative Respondent Prosecution Strategies</b>			
<b>World Trade Organization Dispute Settlement</b>			
Outcome: "As described above, by letter dated March 1, 2006, USTR notified the Department that the Commission has issued a determination pursuant to section 129 of the URAA, that renders the Commission's Final Injury Determination, under section 705(b) of the Tariff Act of 1930, as amended, consistent with the recommendations and rulings of the DSB. In its section 129 determination the Commission continued to find that the domestic industry producing DRAMS and DRAM modules was materially injured by reason of subsidized imports from Korea. Also, pursuant to section 129 of the URAA, USTR requested that the Department implement the Commission's determination."	30/06/2003 - 20/07/2005	(WTO, 2007d) 71 FR 11592	
<b>US Court of International Trade Appeal</b> Plaintiff: Hynix Semiconductor Inc. and Hynix Semiconductor America Inc. Outcome: The ITC determined "on remand that, at the time of the original determination, the domestic industry producing DRAMs and DRAM modules was materially injured by reason of subsidized imports from Korea." (ITC Doc 263575, p.2)	--/09/2003 - 07/12/2006	(USCIT, 2007a; No 03-00652 - Slip 00606- 00652 / 00177) ITC Doc 263575	
<b>Agency Contacts</b>			



<b>DOC Import Administration</b>		<b>Name</b>	<b>Phone</b>
Import Administration U.S. Department of Commerce 14th Street and Constitution Avenue, NW. Washington, D.C. 20230		Ryan Langan Jesse Cortes Daniel J. Alexy	+1 (202) 482-2613 +1 (202) 482-3986 +1 (202) 482-1540
<b>ITC Office of Investigations</b>		<b>Name / email</b>	<b>Phone</b>
<b>Investigator:</b>		Mary Messer / mary.messer@usitc.gov	+1 (202) 205-3193
<b>Supervisory Investigator:</b>		Bonnie Noreen / bonnie.noreen@usitc.gov	+1 (202) 205-3160
<b>United States Trade Representative Contact:</b>		<b>email</b>	<b>Fax</b>
Sandy McKinzy		FR0084@ustr.gov	+1 (202) 395-3640
<b>Federal Register Record for Case</b>			
<b>Entry</b>	<b>Agency</b>	<b>Notice Description</b>	<b>Date</b>
67 FR 68176	ITC	Institution of countervailing duty investigation and scheduling of a preliminary phase investigation.	08/11/2002
67 FR 70927	DOC	Initiation of countervailing duty investigation.	27/11/2002
67 FR 79148	ITC	Preliminary affirmative injury determination.	27/12/2002
68 FR 1597	DOC	Extension of time limit for preliminary subsidisation determination.	13/01/2003
68 FR 16766	DOC	Preliminary affirmative subsidisation determination.	07/04/2003
68 FR 18671	ITC	Scheduling of the final phase of countervailing duty investigation.	16/04/2003
68 FR 37122	DOC	Final affirmative subsidisation determination.	23/06/2003
68 FR 43249	USTR	Request for comments on WTO dispute	21/07/2003

		settlement proceeding regarding countervailing duty investigation on dynamic random access memory semiconductors from Korea.	
68 FR 44290	DOC	Amended final affirmative subsidisation determination.	28/07/2003
68 FR 47546	DOC	Countervailing duty order.	11/08/2003
68 FR 47607	ITC	Final affirmative injury determination.	11/08/2003
69 FR 34413	USTR	Request for comments on WTO dispute settlement proceeding regarding countervailing duty investigation on dynamic random access memory semiconductors from Korea.	21/06/2004
69 FR 56745	DOC	Initiation of antidumping and countervailing duty administrative reviews and request for revocation in part.	22/09/2004
70 FR 24533	DOC	Completed and pending scope rulings and anticircumvention determinations.	10/05/2005
70 FR 44085	DOC	Antidumping or countervailing duty order, finding, or suspended investigation; opportunity to request administrative review.	01/08/2005
70 FR 54523	DOC	Preliminary results of countervailing duty administrative review of dynamic random access memory semiconductors from the Republic of Korea.	15/09/2005
70 FR 55110	DOC	Completed and pending scope rulings and anticircumvention determinations.	20/09/2005
70 FR 56631	DOC	Initiation of antidumping and countervailing duty administrative reviews and request for revocation in part.	28/09/2005
70 FR 66848	ITC	Section 129 consistency determination. Institution of a proceeding under section	03/11/2005

		129(a)(4) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3538(a)(4)).	
70 FR 69514	DOC	Extension of time limit for countervailing duty administrative review.	16/11/2005
71 FR 5646	DOC	Completed and pending scope rulings and anticircumvention determinations.	02/02/2006
71 FR 11592	DOC	Amendment to countervailing duty order on dynamic random access memory semiconductors from the Republic of Korea.	08/03/2006
71 FR 14174	DOC	Final results of countervailing duty administrative review.	21/03/2006
71 FR 18277	DOC	Amended final results of countervailing duty administrative review.	11/04/2006
71 FR 23898	DOC	Extension of time limit for preliminary results of the countervailing duty administrative review.	25/04/2006
71 FR 27278	ITC	Invitation for comments in the remand proceeding ordered by the United States Court of International Trade (CIT).	10/05/2006
71 FR 43441	DOC	Antidumping or countervailing duty order, finding, or suspended investigation; Opportunity to request administrative review.	01/08/2006
71 FR 46192	DOC	Preliminary results of countervailing duty administrative review.	11/08/2006
71 FR 57465	DOC	Initiation of antidumping and countervailing duty administrative reviews.	29/09/2006
71 FR 66751	DOC	Extension of time limit for final results of countervailing duty administrative review.	16/11/2006
72 FR 7015	DOC	Final results of countervailing duty administrative review.	14/02/2007
72 FR 19694	DOC	Extension of time limit for preliminary	19/04/2007

		results of countervailing duty administrative review.	
<b>Original Investigation Stages</b>			
		<b>Effective Date</b>	<b>Source</b>
Petition Filed			
Received	DOC/ITC	01/11/2002	Petition
Supplemental Information	DOC	13/11/2002	67 FR 70927
Supplemental Information	DOC	18/11/2002	ITC Doc 148864
Supplemental Information	DOC	19/11/2002	67 FR 70927
ITC Institution of Countervailing Duty Investigation Korea		01/11/2002	67 FR 68176
ITC Preliminary Investigation Supplemental Information Provided by Micron			
ITC Preliminary Investigation Countervailing Duty Questionnaires Returned		15/11/2002	(USITC, 2002)
ITC Preliminary Investigation Conference On behalf of the International Trade Commission:  Staff: LYNN FEATHERSTONE, DIRECTOR OF INVESTIGATIONS BONNIE NOREEN, SUPERVISORY INVESTIGATOR MARY MESSER, INVESTIGATOR MARY JANE ALVES, ATTORNEY/ADVISOR JOHN GIAMALVA, ECONOMIST JAMES STEWART, AUDITOR/ACCOUNTANT SCOTT BAKER, COMMODITY-INDUSTRY ANALYST		22/11/2002	67 FR 79148

<p>ROBERT CARR, COMMODITY-INDUSTRY ANALYST</p> <p>In Support of the Imposition of Countervailing Duties:</p> <p>On behalf of Micron Technology, Inc.:</p> <p>STEVEN R. PLETON, Chairman, President &amp; CEO, Micron Technology, Inc.</p> <p>MICHAEL W. SADLER, Vice-president, Worldwide Sales, Micron Technology, Inc.</p> <p>MARK W. LOVE, Senior Vice-president, Economic Consulting Services, Inc.</p> <p>GILBERT B. KAPLAN, Esquire</p> <p>MICHAEL D. ESCH, Esquire</p> <p>BONNIE BYERS, Economist</p> <p>Hale and Dorr, LLP</p> <p>Washington, D.C.</p> <p>In Opposition to the Imposition of Countervailing Duties:</p> <p>On behalf of Samsung Electronics Co., Ltd.; Samsung Semiconductor, Inc.; and Samsung Austin Semiconductor, LP:</p> <p>WARREN E. CONNELLY, Esquire</p> <p>Akin, Gump, Strauss, Hauer &amp; Feld, LLP</p> <p>Washington, D.C.</p> <p>On behalf of Hynix Semiconductor, Inc. and Hynix Semiconductor America:</p> <p>GARY SWANSON, Vice-president of Sales, Hynix Semiconductor America</p>		
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DONG GYUN KIM, Process Engineering Director, Hynix Semiconductor America JUSEON KIM, Accounting Manager, Hynix Semiconductor America DANIEL L. PORTER, Esquire JAMES P. DURLING, Esquire MIRIAM A. BISHOP, Esquire Willkie, Farr & Gallagher Washington, D.C.		
ITC Preliminary Investigation Post-Conference Briefs  Received from Micron: Received from Infineon: Received from Hynix and Samsung:	27/11/2002 27/11/2002 27/11/2002	ITC Doc 148877 ITC Doc 148873 ITC Doc 148875
ITC Preliminary Investigation Vote	13/12/2002	(USITC, 2002)
ITC Preliminary Investigation Injury Determination Transmitted to the DOC	16/12/2002	67 FR 79148
ITC Preliminary Investigation Views Published	23/12/2002	(USITC, 2002)
DOC Initiation of Countervailing Duty Investigation Republic of Korea Original Investigation:	27/11/2002	67 FR 70927
DOC Preliminary Determination Clarification of Petition First Request: Received from Micron:	08/11/2002 13/11/2002	FVI-0001-007 FVI-0001-010
DOC Preliminary Determination Communications with Foreign Governments Consultations: Requested: Held with GOK: Submissions: By GOK:	05/11/2002 12/11/2002 18/11/2002 19/11/2002	FVI-0001-005 67 FR 70927 67 FR 70927 67 FR 70927
Responses by DOC to Letters from Members of	11/12/2002	FVI-0001-414 to

Congress:		FVI-0001-420
DOC Preliminary Investigation Countervailing Duty Questionnaires		
First:		
Issued to GOK:	06/12/2002	68 FR 16767
Returned:	03/02/2003	68 FR 16767
Issued to Hynix:	06/12/2002	68 FR 16767
Returned:	27/01/2003	68 FR 16767
Issued to Samsung:	06/12/2002	68 FR 16767
Returned:	27/01/2003	68 FR 16767
Comments by Micron:	05/02/2003	68 FR 16767
Comments by Micron:	11/02/2003	68 FR 16767
Supplemental:		
Issued to Hynix:	11/02/2003	68 FR 16767
	19/02/2003	
Time Extended:	12/03/2003	FVI-0001-123
Returned:	25/02/2003	68 FR 16767
	04/03/2003	
	10/03/2003	
	14/03/2003	
Issued to Samsung:	11/02/2003	68 FR 16767
	19/02/2003	
Time Extended:	12/03/2003	FVI-0001-123
Returned:	25/02/2003	68 FR 16767
	04/03/2003	
	10/03/2003	
	14/03/2003	
Issued to GOK:	11/02/2003	68 FR 16767
	19/02/2003	
Time Extended:	12/03/2003	FVI-0001-123
Returned:	25/02/2003	68 FR 16767
	04/03/2003	
	10/03/2003	

	14/03/2003	
Second Supplemental:		
Issued to Samsung:	25/03/2003	68 FR 16767
Returned:	28/03/2003	68 FR 16767
Issued to GOK:	-	-
Returned:	28/03/2003	FVI-0001-173
New Allegations:		
Allegations by Micron Made:	20/02/2003	68 FR 16767
	24/02/2003	
	28/02/2003	
Comments by Hynix:	25/02/2003	68 FR 16767
Comments by Samsung:	26/02/2003	68 FR 16767
	04/03/2003	
Comments by GOK:	28/02/2003	68 FR 16767
Issued to Hynix:	07/03/2003	68 FR 16767
Returned:	28/03/2003	68 FR 16767
Issued to Samsung:	07/03/2003	68 FR 16767
Returned:	28/03/2003	68 FR 16767
Issued to GOK:	07/03/2003	68 FR 16767
Returned:	28/03/2003	68 FR 16767
DOC Preliminary Determination Comments		
Received from Micron / Hynix / Samsung / GOK and other parties:	10/03/2003	68 FR 16767
	14/03/2003	
	18/03/2003	
	21/03/2003	
	24/03/2003	
	27/03/2003	
	28/03/2003	
DOC Preliminary Investigation Determination		
Korea                      Original Determination:	07/04/2003	68 FR 16766
DOC Preliminary Determination Ministerial Error		
Allegations		
Received from Hynix:	08/04/2003	68 FR 37123



Rebuttal by Micron:	14/04/2003	68 FR 37123
DOC Preliminary Investigation Extension of Time Limit Initiated by DOC:	13/01/2003	68 FR 1597
DOC Final Investigation Countervailing Duty Questionnaires Supplemental: Issued to GOK, Hynix and Samsung: Returned:	08/04/2003 05/05/2003 06/05/2003 14/04/2003 16/04/2003 13/05/2003 15/05/2003 22/05/2003	68 FR 37123
DOC Final Investigation Countervailing Duty Questionnaire Responses Verification Submissions by GOK: Submissions by Hynix: Submissions by Samsung:	21/04/2003 – 03/05/2003 21/04/2003 – 03/05/2003 21/04/2003 – 03/05/2003	68 FR 37123 68 FR 37123 68 FR 37123
DOC Supplemental Preliminary Decision Memorandum for New Allegations	28/05/2003	68 FR 37123
DOC Final Investigation Case Briefs Received from Micron: Received from GOK: Received from Hynix: Received from Samsung: Received from Infineon: Rebuttal by Micron: Rebuttal by GOK:	22/05/2003 22/05/2003 22/05/2003 22/05/2003 22/05/2003 30/05/2003 30/05/2003	68 FR 37123 68 FR 37123 68 FR 37123 68 FR 37123 68 FR 37123 68 FR 37123 68 FR 37123

Rebuttal by Hynix:	30/05/2003	68 FR 37123
Rebuttal by Samsung:	30/05/2003	68 FR 37123
Rebuttal by Infineon:	30/05/2003	68 FR 37123
Supplemental:		
Received from Micron:	02/06/2003	68 FR 37123
Received from GOK:	02/06/2003	68 FR 37123
Received from Samsung:	02/06/2003	68 FR 37123
Rebuttal by Micron:	04/06/2003	68 FR 37123
Rebuttal by GOK:	04/06/2003	68 FR 37123
Rebuttal by Samsung:	04/06/2003	68 FR 37123
DOC Final Investigation Hearing	06/06/2003	68 FR 37123
DOC Final Investigation Determination Korea		
Original Determination:	23/06/2003	68 FR 37122
First Amendment:	28/07/2003	68 FR 44290
DOC Final Determination Ministerial Error Allegations		
Received from Hynix:	24/06/2003	68 FR 44290
Response by Micron:	30/06/2003	68 FR 44290
ITC Commencement of Final Phase	27/12/2002	67 FR 79148
ITC Scheduling of Final Investigation	07/04/2003	68 FR 18671
ITC Final Investigation Countervailing Duty Questionnaires		
Comments on the Draft Final Phase Questionnaires; From Micron From Samsung From Hynix Returned	24/03/2003    09/05/2002	ITC Doc 179537 ITC Doc 179548 ITC Doc 179551 (USITC, 2003b)
ITC Final Investigation Communication with Korean Government:	02/06/2003	ITC Doc 184469
ITC Final Investigation Pre-Hearing Report	10/06/2003	(USITC, 2003b)
ITC Final Investigation Pre-Hearing Briefs Request for 1 Day Extension by Hynix:	10/06/2003	ITC Doc 185166

<p>Rebuttal by Micron: Received from Micron, Infineon and Hynix:</p>	<p>11/06/2003 17/06/2003</p>	<p>ITC Doc 185222 ITC Doc 186063 ITC Doc 186066 ITC Doc 186073 ITC Doc 186107 ITC Doc 186164 (USITC, 2003b)</p>
<p>ITC Final Investigation Hearing On behalf of the International Trade Commission: Commissioners: DEANNA TANNER OKUN, CHAIRMAN JENNIFER A. HILLMAN, VICE CHAIRMAN STEPHEN KOPLAN, COMMISSIONER  Staff : MARILYN R. ABBOTT, SECRETARY WILLIAM R. BISHOP, STAFF ASSISTANT BONNIE NOREEN, SUPERVISORY INVESTIGATOR MARY MESSER, INVESTIGATOR MARY JANE ALVES, ATTORNEY SCOTT BAKER, INDUSTRY ANALYST JOHN GIAMALVA, ECONOMIST JAMES STEWART, ACCOUNTANT  Congressional Appearances: THE HONORABLE LARRY E. CRAIG U.S. Senator State of Idaho THE HONORABLE RON WYDEN U.S. Senator State of Oregon THE HONORABLE PETER A. DeFAZIO</p>	<p>24/06/2003</p>	<p>(USITC, 2003b)</p>

U.S. Congressman, 4th District

State of Oregon

In Support of the Imposition of Countervailing

Duties:

On behalf of Micron Technology, Inc. :

GILBERT B. KAPLAN, ESQUIRE

MICHAEL D. ESCH, ESQUIRE

Hale and Door LLP

Washington, D.C.

STEVEN R. APPLETON, Chairman, President  
and CEO Micron Technology, Inc.

MICHAEL SADLER, Vice President, Worldwide  
Sales Micron Technology, Inc.

JERRY HAUSMAN Professor, Department of  
Economics Massachusetts Institute of  
Technology

MARK LOVE Senior Vice President Economic  
Consulting Services

BONNIE B. BYERS Economist  
Hale and Dorr LLP

On behalf of Infineon Technologies North  
America

Corp. and Infineon Technologies Richmond, LP:

PAUL C. ROSENTHAL, ESQUIRE

KATHLEEN W. CANNON, ESQUIRE

ERIC R. McCLAFFERTY, ESQUIRE

Collier Shannon Scott, PLLC

Washington, D.C.

<p>ROBERT LeFORT, President Infineon Technologies North America Corp.</p> <p>HENRY BECKER, Vice President and Managing Director Infineon Technologies Richmond, LP</p> <p>PATRICK J. MAGRATH, Managing Director Georgetown Economic Services</p> <p>GINA E. BECK, Economic Consultant Georgetown Economic Services</p> <p>In Opposition to the Imposition of Countervailing Duties:</p> <p>On behalf of Hynix Semiconductor Inc., Hynix Semiconductor America:</p> <p>DANIEL L. PORTER, ESQUIRE JAMES P. DURLING, ESQUIRE Willkie Farr &amp; Gallagher Washington, D.C.</p> <p>0-CHUL KWON, Vice President Hynix Semiconductor Inc.</p> <p>FARHAD TABRIZI, Vice President, Worldwide Marketing Hynix Semiconductor America</p> <p>GARY SWANSON, Senior Vice President, Sales Hynix Semiconductor America</p>		
<p>Congressional Correspondence:</p> <p>Received from C. L. "Butch" Otter, Member of Congress:</p> <p>Received from Peter DeFazio, Member of Congress; Ron Wyden, US Senator; Gordon Smyth, US Senator; Earl Blumenauer, Member of</p>	<p>16/07/2003</p> <p>23/06/2003</p>	<p>ITC Doc 189139</p> <p>ITC Doc 186994</p>

Congress; Greg Walden, Member of Congress; David Wu, Member of Congress; Darlene Hooley, Member of Congress.		
Other Political Correspondence:  Received from Won-jong Lee, Governor of Chungcheongbuk-do, Korea & Tae-ho Lee Chairman of Cheongju Chamber of Commerce & Industry, Korea  Received from Mayor Sid Leiken, Mayor, Springfield, Oregon & Jim Torrey , Mayor, Edgene, Oregon:	12/06/2003         25/06/2003	ITC Doc 189291         ITC Doc 187087
ITC Final Investigation Post-Hearing Briefs  Received from Micron, Infineon and Hynix:	01/07/2003	ITC Doc 187398 ITC Doc 187436 ITC Doc 187444 (USITC, 2003b)
ITC Final Investigation Comments from Hynix Regarding EU Investigation:	09/07/2003	ITC Doc 187919
ITC Final Investigation Record Closing	16/07/2003	(USITC, 2003b)
ITC Final Investigation Final Comments  Received from Micron, Infineon and Hynix:	18/07/2003	ITC Doc 188848 ITC Doc 188853 ITC Doc 188857 (USITC, 2003b)
ITC Final Investigation Vote Korea Original Investigation:	23/07/2003	(USITC, 2003b)
ITC Final Investigation Transmission of Determination to DOC (Case Ends)	-	-

ITC Final Investigation Report	-	-
DOC Final Investigation Countervailing Duty Order Issued	11/08/2003	68 FR 47546

**Table 60: Case Summary for DRAMs from Korea**

**Sources: (DOC ITA, 2007b, USGPO, 2007, USITC, 2002, 2003b, WTO, 2007d)**

### 15.2.2 Bottle-Grade PET Resin from India

<b>DOC Investigation No:</b>	C-533-842	<b>ITC Investigation No:</b>	701-TA-439
<b>Case Type:</b>	Countervailing Duty		
<b>Country(s):</b>	Republic of India (ROI / India)		
<b>DOC Case Name:</b>	Bottle-Grade Polyethylene Terephthalate (PET) Resin From India		
<b>ITC Case Name:</b>	Polyethylene Terephthalate (PET) Resin from India, Indonesia, and Thailand		
<b>Subheading of the US Harmonized Tariff Schedule (HTSUS):</b>	3907.60.0010		
<b>HTSUS Subheading for Merchandise Meeting the Written Description of the Scope Also Subject to the Investigations:</b>	3907.60.0050		
<b>Original Investigation</b>			
<b>Petitioner(s):</b>			
United States PET Resin Producers Coalition (PET Coalition), See Table 69 for members.			
<b>Other Active Supporting Firm(s):</b>			
-			
<b>US Political Support for the Petition:</b>			
-			
<b>Mandatory Responding Firm(s):</b>			
Reliance Industries, Ltd. (Reliance) South Asia Petrochem Ltd. (SAPL) Futura Polyesters, Ltd. (Futura) Elque Polyester Ltd. (Elque)			
<b>Other Active Responding Firm(s):</b>			
PET Users Coalition (PETUC) Indo-Pet (Thailand) Ltd. (Indo-Pet) P.T. Indorama Ltd. (Indorama)			
<b>Other Active Firm(s) / Group(s):</b>			
-			



<b>US Political Support Against the Petition:</b>			
-			
<b>Active Foreign Government(s):</b>			
Government of India (GOI)			
<b>Professional Service Firms and their Clients:</b>			
<b>Firm / Government</b>	<b>Legal Representation and Consulting Firms</b>		
PET Coalition	Howrey Simon Arnold & White Cap Analysis Group, LLC GMP Inc.		
Reliance	Steptoe & Johnson LLP Economic Consulting Services, LLP		
SAPL	Cameron & Hornbostel, LLP		
<b>DOC Period of Investigation:</b>		01/01/2003 – 31/12/2003	
<b>ITC Period of Investigation for:</b>		01/01/2001 – 31/12/2003	
<b>Duration:</b>		24/03/2004 – 06/05/2005	
<b>DOC Preliminary Determination:</b>		30/08/2004	
<b>Outcome of Original Investigation:</b>		Negative	
<b>Subsidies Agreement Country:</b>		Yes	
<b>Critical Circumstances Allegations:</b>		Unsuccessful	
<b>Net Subsidy Rates (%):</b>		Preliminary	Final
<b>Mandatory Respondent(s):</b>	Reliance	30.24 %	19.97 %
	SAPL	19.13 %	19.08 %
	Futura	01.62 %	06.15 %
	Elque	12.02 %	12.41 %
<b>All Other(s):</b>	-	24.01 %	14.55 %
<b>DOC Administrative Reviews</b>			
<b>Period of Investigation for First Review:</b>		Not Applicable	
<b>Alternative Prosecution Strategies</b>		No	
World Trade Organization Dispute Settlement		-	-
US Court of International Trade Appeal		-	-
<b>Agency Contacts</b>			
<b>DOC Import Administration</b>	<b>Name</b>	<b>Phone</b>	

Office of Operations Group 6 Import Administration U.S. Department of Commerce Room 7866 14 <sup>th</sup> Street and Constitution Avenue, NW Washington, D.C. 20230	Douglas Kirby Addilyn Chams-Eddine	+1 (202) 482-3782 +1 (202) 482-0648	
<b>ITC Office of Investigations</b>	<b>Name / email</b>	<b>Phone</b>	
<b>Investigator:</b>	Russell Duncan / russell.duncan@usitc.gov	+1 (202) 205-4727	
<b>Supervisory Investigator:</b>	Diane Mazur / diane.mazur@usitc.gov	+1 (202) 205-3184	
	James McClure / james.mcclure@usitc.gov	+1 (202) 205-3191	
<b>Federal Register Record for Case</b>			
<b>Note:</b>	As this petition has both antidumping and countervailing duty cases and targets multiple countries, the entries for the countervailing duty case for PET Resin from India are bolded to identify them more easily.		
<b>Entry</b>	<b>Agency</b>	<b>Notice Description</b>	<b>Date</b>
69 FR 16955	ITC	<b>Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations for India, Indonesia, Taiwan, and Thailand.</b>	<b>31/03/2004</b>
69 FR 21082	DOC	Initiation of antidumping duty investigations for India, Indonesia, Taiwan, and Thailand.	20/04/2004
69 FR 21086	DOC	<b>Initiation of countervailing duty investigations for India and Thailand.</b>	<b>20/04/2004</b>
69 FR 28948	ITC	<b>Preliminary affirmative injury</b>	<b>19/05/2004</b>

		<b>determination.</b>	
69 FR 31354	DOC	<b>Postponement of preliminary countervailing duty determinations for India and Thailand.</b>	<b>03/06/2004</b>
69 FR 48842	DOC	Postponement of preliminary antidumping duty determinations for India, Indonesia, Taiwan, and Thailand.	11/08/2004
69 FR 52862	DOC	Preliminary negative countervailing duty determination and alignment with final antidumping duty determination for Thailand.	30/08/2004
<b>69 FR 52866</b>	<b>DOC</b>	<b>Preliminary affirmative countervailing duty determination and alignment with final antidumping duty determination for India.</b>	<b>30/08/2004</b>
69 FR 62850	DOC	Preliminary affirmative determination of sales at less than fair value and postponement of final antidumping duty determination for Thailand.	28/10/2004
69 FR 62856	DOC	Preliminary affirmative determination of sales at less than fair value and postponement of final antidumping duty determination for India.	28/10/2004
69 FR 62861	DOC	Preliminary affirmative determination of sales at less than fair value for Indonesia.	28/10/2004
69 FR 62868	DOC	Preliminary affirmative determination of sales at less than fair value and postponement of final antidumping duty determination for Taiwan.	28/10/2004
69 FR 64026	DOC	Postponement of final antidumping	03/11/2004

		duty determination for Indonesia.	
<b>69 FR 67365</b>	<b>DOC</b>	<b>Scheduling of final phase of countervailing duty and antidumping investigations.</b>	<b>17/11/2004</b>
70 FR 13451	DOC	Final affirmative determination of sales at less than fair value for India.	21/03/2005
70 FR 13453	DOC	Final affirmative determination of sales at less than fair value for Thailand.	21/03/2005
70 FR 13455	DOC	Final negative determination of sales at less than fair value for Taiwan.	21/03/2005
70 FR 13456	DOC	Final affirmative determination of sales at less than fair value for Indonesia.	21/03/2005
<b>70 FR 13461</b>	<b>DOC</b>	<b>Final affirmative determination of subsidisation for India.</b>	<b>21/03/2005</b>
70 FR 13462	DOC	Final negative determination of subsidisation for Thailand.	21/03/2005
70 FR 15884	ITC	Termination of countervailing duty investigation for Thailand.	29/03/2005
70 FR 15884	ITC	Termination of antidumping investigation for Taiwan.	29/03/2005
<b>70 FR 20865</b>	<b>DOC</b>	<b>Amended final affirmative determination of subsidisation for India.</b>	<b>22/04/2005</b>
<b>70 FR 24118</b>	<b>ITC</b>	<b>Final negative injury determination.</b>	<b>06/05/2005</b>
<b>Original Investigation Stages</b>		<b>Effective Date</b>	<b>Source</b>
AD and CVD Petitions Filed			
Received	DOC/ITC	24/03/2004	69 FR 16955
Supplemental Information	DOC	05/04/2004	69 FR 21086
Supplemental Information			
ITC Institution of Countervailing Duty Investigation			
India	Original Investigation:	24/03/2004	69 FR 16955

<p>ITC Preliminary Investigation Countervailing Duty Questionnaires Returned</p>	<p>07/04/2004</p>	<p>(USITC, 2004d)</p>
<p>ITC Preliminary Investigation Conference Attendance: On behalf of the International Trade Commission: Staff : ROBERT CARPENTER, DIRECTOR OF INVESTIGATIONS JAMES MCCLURE, SENIOR INVESTIGATOR MICHAEL HALDENSTEIN, ATTORNEY/ADVISOR CLARK WORKMAN, ECONOMIST DAVID BOYLAND, AUDITOR RAYMOND CANTRELL, INDUSTRY ANALYST Heritage Reporting Corporation  In Support of the Imposition of Countervailing and Antidumping Duties:  On behalf of the U.S. PET Resin Producers' Coalition: RICKY LANE, DAK Americas LLC CHRIS PETERSEN, Assistant Section Manager, Nan Ya Plastics Corporation America MIKE DEWSBURY, Vice President, PET Resins, Wellman, Inc. ROBERT TAYLOR, Business Operations Manager, PET Resins, Wellman, Inc. HANS KINNER, Business Director, Polyester Products North America, Voridian Division, Eastman Chemical Company</p>	<p>14/04/2004</p>	<p>69 FR 28948 ITC Doc 207428</p>

MARK ADLAM, Americas Commercial  
Manager, M&G Polymers USA LLC

SUSAN H. MANNING, Ph.D., CapAnalysis LLC

MICHAEL A. HERTZBERG, Esquire

JULIANA M. COFRANCESCO, Esquire

DAVID B. WEINBERG, Esquire

Howery, Simon, Arnold & White

Washington, D.C.

In Opposition to the Imposition of Countervailing  
and Antidumping Duties:

On behalf of Reliance Industries, Ltd.:

BRUCE MALASHEVICH, Economic Consulting  
Services

SUSAN G. ESSERMAN, Esquire

TINA POTUTO KIMBLE, Esquire

DAVID L. LORELLO, Esquire

Steptoe & Johnson, LLP

Washington, D.C.

On behalf of Indo-PET (Thailand) and P.T.

Indorama, Ltd. :

JOHN M. GURLEY, Esquire

MATTHEW J. McCONKEY, Esquire

KAY C. GEORGI, Esquire

Coudert Brothers, LLP

Washington, D.C.

On behalf of South Asia Petrochem, Ltd.:

ALEXANDER W. SIERCK, Esquire

Cameron & Hornbostel

Washington, D.C.

On behalf of The PET Users' Coalition: STEPHEN ZIEHM, Vice President, International Business-Government Counselors, Inc. DAN MULLOCK, Vice President, Purchasing, Constar International, Inc.		
ITC Preliminary Investigation Post-Conference Briefs Received from PET Coalition, Reliance, Indo-Pet, PTI:	19/04/2004	(USITC, 2004d) ITC Doc 205786 ITC Doc 205787 ITC Doc 205790
ITC Preliminary Investigation Vote	07/05/2004	(USITC, 2004d)
ITC Preliminary Investigation Injury Determination Transmitted to the DOC	10/05/2004	69 FR 28948
ITC Preliminary Investigation Views Published	May 2004	69 FR 28948
DOC Initiation of Countervailing Duty Investigation India Original Investigation:	20/04/2004	69 FR 21086
DOC Critical Circumstances Allegations Alleged by PET Coalition: Rebuttal by Company:	24/03/2004 -	69 FR 21088 -
Determination Scope of Investigation / Product Coverage Requested: Received from Company: Rebuttal by Company:	20/04/2004 10/05/2004 -	69 FR 21086 69 FR 21086 -
DOC Preliminary Determination Communications with Foreign Governments First Letter: Sent to Government: Received: Rebuttal by Company: Consultations: Held with GOI:	- - - 07/04/2004	- - - 69 FR 21086

Submissions:	Submitted by GOI:	12/04/2004	69 FR 21086
	Rebuttal by Company:	-	-
DOC Preliminary Investigation Countervailing Duty Questionnaires			
First:			
	Issued to GOI (Requested Distribution to Relevant Parties):	28/04/2004	69 FR 52867
	Returned by GOI:	21/06/2004	69 FR 52867
	Returned by Reliance:	??	
	Returned by SAPL:	??	
	Returned by Futura:	??	
	Returned by Elque:	??	
Supplemental:			
	Issued to GOI, Reliance, SAPL, Futura and Elque:	08/07/2004 – 15/07/2004	69 FR 52867
	Returned:	27/07/2004 – 02/08/2004	69 FR 52867
Addenda to Supplemental:			
	Issued to GOI, Reliance, SAPL, Futura and Elque:	23/07/2004 – 03/08/2004	69 FR 52867
	Returned:	04/08/2004 – 14/08/2004	69 FR 52867
	Comments by PET Coalition:	??	FV2-0011
		??	FV2-0017
		??	FV2-0018
		??	FV2-0019
DOC Preliminary Investigation Determination India Original Determination:			
		30/08/2004	69 FR 52866
DOC Final Determination Ministerial Error Allegations			
	Received from Reliance and SAPL:	??	FV2-0039
		??	FV2-0040



DOC Alignment of Countervailing Duty Investigation with Antidumping Investigation	30/08/2004	69 FR 52866
DOC Preliminary Investigation Extension of Time Limit	03/06/2004	69 FR 31354
Requested by PET Coalition:	21/05/2004	69 FR 31354
DOC Final Investigation Countervailing Duty Questionnaires Supplemental:		
Issued to GOI, Reliance, SAPL, Futura and Elque:	09/09/2004 – 17/11/2004	70 FR 13460
Returned by GOI, Reliance, SAPL, Futura and Elque:	??	
DOC Final Investigation Countervailing Duty Questionnaire Responses Verification		
Verification for GOI, Reliance, SAPL, Futura and Elque:	02/12/2004 – 17/12/2004	70 FR 13460
Verification Reports for GOI and Reliance:	25/01/2005	70 FR 13460
Verification Reports for SAPL, Futura and Elque:	26/01/2005	70 FR 13460
DOC Preliminary Analysis of Export Oriented Unit (EOU):	14/02/2005	70 FR 13460
DOC Final Investigation Case Briefs First:		
Received from PET Coalition, GOI, Reliance and SAPL:	04/02/2005	70 FR 13460
Rebuttal by PET Coalition, Reliance and SAPL:	09/04/2005	70 FR 13460
DOC Final Investigation Hearing		
Requested by PET Coalition:	-	-
Request Withdrawn:	11/02/2005	70 FR 13460
Requested by Reliance:	17/02/2005	70 FR 13460

Request Challenged by PET Coalition:	18/02/2005 22/02/2005	70 FR 13460 FV2-0009
DOC Final Phase Comments on EOU Investigation Received from PET Coalition, GOI, Reliance and SAPL: Rebuttal by PET Coalition:	17/02/2005 22/02/2005	70 FR 13460 70 FR 13460
DOC Final Investigation Determination India Original Determination: First Amendment:	21/03/2005 22/04/2005	70 FR 13460 70 FR 20865
DOC Final Determination Ministerial Error Allegations Received from Reliance:	25/03/2005	70 FR 20865
ITC Commencement of Final Phase	19/05/2002	69 FR 28948
ITC Scheduling of Final Investigation	28/10/2004	69 FR 67366
ITC Final Investigation Countervailing Duty Questionnaires Comments from Reliance, SAPL, PET Coalition: Returned	05/11/2004 – 19/11/2004 25/01/2005	ITC Doc 217904 ITC Doc 218621 ITC Doc 218641 (USITC, 2005e)
ITC Final Investigation Pre-Hearing Report	01/03/2005	69 FR 67366
ITC Final Investigation Pre-Hearing Briefs Received from Reliance, SAPL, PET Coalition and PETUC:	08/03/2005	(USITC, 2005e) ITC Doc 225686 ITC Doc 225829 ITC Doc 226048 ITC Doc 225696
ITC Final Investigation Hearing Attendance On behalf of the International Trade Commission:  Commissioners:	15/03/2005	69 FR 67366 ITC Doc 226438

STEPHEN KOPLAN, CHAIRMAN  
DEANNA TANNER OKUN, VICE CHAIRMAN  
MARCIA E. MILLER, COMMISSIONER  
JENNIFER A. HILLMAN, COMMISSIONER  
CHARLOTTE R. LANE, COMMISSIONER  
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RAY CANTRELL, INDUSTRY ANALYST  
NANCY BRYAN, ECONOMIST  
DAVID BOYLAND,  
ACCOUNTANT/AUDITOR  
IRENE CHAN, ATTORNEY  
DIANE MAZUR, SUPERVISORY  
INVESTIGATOR

In Support of the Imposition of Countervailing  
and Antidumping Duties:

On behalf of The United States PET Resin  
Producers Coalition:

HANS KINNER, Business Director, Polyester  
Products

North America, Voridian, a Division of Eastman  
Chemical Co.

MICHAEL DEWSBURY, Vice President, PET

Resins, Wellman, Inc.

ROBERT TAYLOR, Business Operations  
Manager, PET Resins, Wellman, Inc.

TOM SHERLOCK, Business Director, PET  
Resins, DAK Americas LLC

RICKY LANE, Public Affairs, Trade Relations &  
Corporate Communications, DAK  
Americas, LLC

CHRISTOPHER PETERSON, Assistant Section  
Manager, Nan Ya Plastics Corp. America

MARK ADLAM, Americas Commercial  
Manager, M&G Polymers USA, LLC

SUSAN MANNING, Economist, The  
CapAnalysis Group, LLC

JULIANA M. COFRANCESCO, Esquire

MICHAEL A. HERTZBERG, Esquire  
Howrey Simon Arnold & White, LLP  
Washington, D.C.

In Opposition to the Imposition of Countervailing  
and Antidumping Duties:

On behalf of Reliance Industries, Ltd.:

BRUCE MALASHEVICH, President, Economic  
Consulting Services , LLC

SUSAN G. ESSERMAN, Esquire

TINA POTUTO KIMBLE, Esquire

DAVID S. LORELLO, Esquire

ANDREA MACK, Esquire

Steptoe & Johnson, LLP

Washington, D.C.

On behalf of South Asia Petrochem, Ltd. (SAPL):

ALEXANDER W. SIERCK, Esquire Cameron & Hornbostel, LLP Washington, D.C.  On behalf of The PET Users Coalition: DAN MULLOCK, Vice President, Purchasing, Constar International, Inc. DREW M. DAVIS, Vice President, Federal Affairs, American Beverage Association		
Congressional Correspondence: Received from Individual:	-	-
Other Political Correspondence: Received from Individual:	-	-
ITC Final Investigation Post-Hearing Briefs Received from PET Coalition, Reliance, PETUC:	22/03/2005	(USITC, 2005e) ITC Doc 227041 ITC Doc 227133 ITC Doc 227139
ITC Final Investigation Record Closing	06/04/2005	(USITC, 2005e)
ITC Final Investigation Final Comments Received from PET Coalition, Reliance:	08/04/2005	(USITC, 2005e) ITC Doc 228631 ITC Doc 228640
ITC Final Investigation Vote Japan Original Investigation:	13/04/2005	(USITC, 2005e)
ITC Final Investigation Transmission of Determination to DOC (Case Ends)	03/05/2005	70 FR 24118
ITC Final Investigation Report	May 2005	70 FR 24118
DOC Final Investigation Countervailing Duty Order Issued	Not Applicable	

**Table 61: Case Summary for Bottle-Grade Polyethylene Terephthalate (PET) Resin from India**  
Sources: (DOC ITA, 2007b, USGPO, 2007, USITC, 2004d, 2005e)

### 15.2.3 Wooden Bedroom Furniture from China

<b>DOC Investigation No:</b>	A-570-890	<b>ITC Investigation No:</b>	731-TA-1058
<b>Case Type:</b>	Antidumping Duty		
<b>Country(s):</b>	Peoples Republic of China (PRC / China)		
<b>DOC Case Name:</b>	Wooden Bedroom Furniture from the People's Republic of China		
<b>ITC Case Name:</b>	Wooden Bedroom Furniture From China		
<b>Subheading of the US Harmonized Tariff Schedule (HTSUS):</b>	9403.50.90 (40 / 80)		
<b>Subject merchandise may also be provided for in HTSUS subheadings:</b>	7009.92.50 (00) 9403.90.70 (00)		
<b>Original Investigation</b>			
<b>Petitioner(s):</b> American Furniture Manufacturers Committee for Legal Trade and its Individual Members (AFMCLT), see Table 77 for members. Carpenters Industrial Union Local 2093 Teamsters, Chauffeurs, Warehousemen and Helper Local 991 The Cabinet Makers, Millmen, and Industrial Carpenters Local 721 UBC Southern Council of Industrial Worker's Local Union 2305 United Steel Workers of American Local 193U			
<b>Other Active Supporting Firm(s):</b> A total of 579 US purchasers of wooden bedroom furniture also supported the petitioners, see Table 80.			
<b>US Political Support for the Petition:</b> Elizabeth Dole, US Senator (Republican - NC) Carl Levin, US Senator (Democrat - MI) George Allen, US Senator (Republican - VA) Patrick Leahy, US Senator (Democrat - VT) Lindsey Graham, US Senator (Republican - SC) John Warner, US Senator (Republican - VA) Debbie Stabenow, US Senator (Democrat - MI) John Edwards, US Senator (Democrat - NC) Olympia J. Snowe, US Senator (Republican - ME)			

Susan M. Collins, US Senator (Republican - ME)  
Rick Boucher, Member of Congress (Democrat - VA)  
Mel Watt, Member of Congress (Democrat - NC)  
Jim Marshall, Member of Congress (Democrat - GA)  
John Spratt, Member of Congress (Democrat - SC)  
Max Sandlin, Member of Congress (Democrat - TX)  
Cass Ballenger, Member of Congress (Republican - NC)  
Walter Jones, Member of Congress (Republican - NC)  
John Peterson, Member of Congress (Republican - PA)  
John McHugh, Member of Congress (Republican - NY)  
Don Manzullo, Member of Congress (Republican - IL)  
Vigil Goode, Member of Congress (Republican - VA)  
Charles Taylor, Member of Congress (Republican - NC)  
Howard Coble, Member of Congress (Republican - NC)  
Jim Walsh, Member of Congress (Republican - NY)  
Richard Burr, Member of Congress (Republican - NC)  
Mark Souder, Member of Congress (Republican - IN)  
Robin Hayes, Member of Congress (Republican - NC)

**Mandatory Responding Firm(s):**

Dongguan Lung Dong Furniture Co., Ltd., or Dongguan Dong He Furniture Co., Ltd  
(Dongguan Lung Dong)  
Lacquer Craft Mfg. Co., Ltd (Lacquer Craft)  
Markor International Furniture (Tianjin) Manufacturing Company, Ltd (Markor)  
Rui Feng Woodwork Co., Ltd., or Rui Feng Lumber Development Co., Ltd. or Dorbest  
Limited (Dorbest)  
Shing Mark Enterprise Co., Ltd., or Carven Industries Limited (BVI), or Carven I  
Industries Limited (HK), or Dongguan Zhenxin Furniture Co., Ltd., or Dongguan  
Yongpeng Furniture Co., Ltd (Shing Mark)  
Starcorp Furniture (Shanghai) Co., Ltd., or Orin Furniture (Shanghai) Co., Ltd., or  
Shanghai Starcorp Furniture Co., Ltd (Starcorp)  
Tech Lane Wood Mfg. and Kee Jia Wood Mfg. (Tech Lane)

**Other Active Responding Firm(s):**

ABC Distributing, LLC (“ABC”)

American Signature, Inc., (Signature)  
Changshu HTC Import & Export Co., Ltd. (Changshu)  
Furniture Sub-chamber of China Chamber of Commerce for Import and Export of Light  
Industrial Products and Art-Crafts (CCCLA)  
China National Furniture Association (CNFA)  
Coalition of Certain Chinese Furniture Producers (CCCFP – See ITC Doc 216156)  
Committee for Free Trade in Furniture (CFTF). Members are AICO Furniture, Fine  
Furniture Design & Marketing, Kemp Furniture, Magnussen Home, Samuel  
Lawrence Furniture, Schnadig Furniture and Universal Furniture International  
Dalian Huafeng Furniture Co. Ltd. (Dalian)  
Decca Furniture Ltd (Decca)  
Dongguan Chunsan Wood Products Co., Ltd. (Dongguan Chunsan)  
Dongguan Huanghouse Furniture Co., Ltd. (Huanghouse)  
Dongyin Huanghekou Furniture Industry Co., Ltd. (Huanghekou)  
Dream Rooms Furniture (Shanghai) Co., Ltd. (Dream Rooms)  
Fine Furniture Limited (Fine Furniture)  
Foshan Guanqiu Furniture Co., Ltd. (Foshan Guanqiu)  
Fujian Lianfu Forestry Co. Ltd. / Fujian Wonder Pacific Inc. (Dare Group)  
Fuzhou Huan Mei Furniture Co., Ltd. (Dare Group)  
Jiangsu Dare Furniture Co., Ltd. (Dare Group)  
Furniture Brands International, Inc. (FBI)  
Furniture Enterprises of Alaska (FEA)  
Furniture Retailers of America Group (FRA / FRG). Members are The Bombay Company,  
City Furniture, Crate and Barrel, Harverty Furniture Companies, Inc., J.C. Penny  
Company, Inc., Rhodes Furniture, Rooms to Go Furniture Corporation and Wickes  
Furniture, Inc.  
Fuzhou Huan Mei Furniture Co., Ltd. (Fuzhou Huan Mei)  
Golden Well International (HK), Ltd. (Golden Well) and its supplier Zhangzhou XYM  
Furniture Product Co., Ltd. (Zhangzhou XYM)  
Hongyu Furniture (Shenzhen) Limited (Hongyu)  
Locke Furniture Factory, or Kai Chan Furniture Co., Ltd., or Kai Chan (Hong Kong)  
Enterprise Ltd., or Taiwan Kai Chan Co., Ltd. (Locke)  
LTD Commodities, LLC (“LTD”)



Maria Yee, Inc., Guangzhou Maria Yee Furnishings, Ltd., and Pyla HK Limited (Maria Yee)

Mei Jia Ju Furniture Industrial (Shenzhen) Co., Ltd. (Mei Jia)

Naihia Jiantai Woodwork Co., Ltd. (Naihia)

PJ Kids (PJ Kids)

Power Dekor Group Co. Ltd. (Power Dekor)

Pulaski Furniture Corp. (Pulaski)

Shanghai Aosen Furniture Co., Ltd. (Shanghai Aosen)

Shanghai SMEC Corporation (SMEC Corp)

Sheng Jing Wood Products Co., Ltd., and its affiliate, Telstar Enterprises Limited (Sheng Jing Telstar)

Starwood Furniture Manufacturing Co., Ltd. (Starwood)

Sunforce Furniture Co., Ltd. (Sunforce)

Sunrise Medical Inc. (“Sunrise Medical”)

Superwood Company Limited (Superwood)

Tianjin First Wood Co., Ltd. (Tianjin First)

Tradewinds Furniture Ltd. (“Tradewinds Furniture”) and Tradewinds International Enterprise Ltd. (“Tradewinds International”)

Trendex Industries Limited (Trendex)

Up Country Home & Garden (Up Country)

Value City Imports (div. of Schottenstein Stores Corp.), Value City Furniture (Value City)

Yihua Timber Industries, Shenyang Shining Dongxing Furniture Co., Ltd. (Shining Dongxing)

**Other Active Firm(s) / Groups:**

Brestl Inc. / Royal Patina (Brestl)

Keller Furniture (Keller)

Lewis & Sons (Lewis & Sons)

Powell Company (Powell)

Pride Sasser Home Furnishings (Sasser)

Standard Furniture Manufacturing Company (SFMC)

**US Political Support Against Petition:**

Jack Kingston, Member of Congress (Republican - GA)

**Active Foreign Government(s):**

-	
<b>Professional Service Firms and their Clients:</b>	
<b>Client</b>	<b>Legal Representation and Consulting Firms</b>
AFMCLT	King & Spalding, LLP Economic Consulting Services, LLC
Dongguan Lung Dong	-
The Dorbest Group	Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt, LLP
Lacquer Craft	-
Markor Tianjin	-
Shing Mark	-
Starcorp	-
Tech Lane	-
Maria Yee	Venable, LLP Co-counsel Arent Fox PLLC
Naihia	Willkie Farr & Gallagher, LLP
Value City	Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt, LLP
Brestl	Mowrey International Group, LLC
Keller	Mowrey International Group, LLC
Lewis & Sons	Mowrey International Group, LLC
Powell	Mowrey International Group, LLC
Sasser	Mowrey International Group, LLC
SFMC	Mowrey International Group, LLC
FBI	Bryan Cave, LLP
FRG	Hunton & Williams, LLP Nathan Associates, Inc.
CFTF	Wilmer, Cutler, Pickering, Hale and Dorr, LLP Econometrica International, Inc.
<b>DOC Period of Investigation:</b>	01/04/2003 – 30/09/2003
<b>ITC Period of Investigation:</b>	01/01/2001 – 30/06/2004
<b>Duration:</b>	31/10/2003 – 04/01/2005
<b>DOC Preliminary Determination:</b>	24/06/2004

<b>Outcome of Original Investigation:</b>		Affirmative	
<b>Cost Investigation:</b>		No	
<b>Critical Circumstances Allegations:</b>		No	
<b>Duty Rates (Weighted-average Margin (%)):</b>		Amended Preliminary 69 FR 47417	Amended Final 70 FR 329
<b>Mandatory Respondent(s):</b>	Dongguan Lung Dong	07.04 %	02.32 %
	The Dorbest Group	11.85 %	07.87 %
	Lacquer Craft	04.90 %	02.66 %
	Markor Tianjin	08.38 %	00.83 %
	Shing Mark	06.59 %	04.96 %
	Starcorp	30.52 %	15.78 %
	Tech Lane	29.72 %	PRC Wide
<b>Section A Respondent(s):</b>	See Table 82	12.91 %	6.65 %
<b>PRC-Wide Rate(s):</b>	-	198.08 %	198.08 %
<b>DOC Administrative Reviews</b>			
<b>Period of Investigation for First Review (2006):</b>		24/06/2004 – 31/12/2005	
<b>Duty Rates (Weighted-average Margin (%)):</b>		Preliminary 72 FR 6201	Final 72 FR 46957
<b>Extended:</b>	12/06/2007 (72 FR 29969)	-	-
<b>Mandatory Respondent(s):</b> Originally 107 Firms 71 FR 11394 71 Fr 37539	Dare Group	58.84 %	49.60 %
	Fine Furniture	2.13 %	1.97 %
	Foshan Guanqiu	13.26 %	11.72%
	Shanghai Aosen	1.24 %	0.40 %
	Starcorp	74.69 %	216.01 %
	Huanghouse	216.01 %	216.01 %
	Tianjin First	216.01 %	216.01 %
<b>Section A Respondent(s):</b>	See Federal Register for 40 firms.	62.94 %	35.78 %
<b>PRC-Wide Rate(s):</b>	-	216.01 %	216.01 %
<b>Period of Investigation for Second Review (2007):</b>		01/01/2006 – 31/12/2006	
<b>Duty Rates (Weighted-average Margin (%)):</b>		Preliminary 73 FR 8273	Final

<b>Extended:</b>	-	-	-
<b>Mandatory Respondent(s):</b> Initiated for 196 firms. 72 FR 10159	Dare Group Teamway Starcorp	60.15 % 9.81 % 216.01 %	Ongoing
<b>Section A Respondent(s):</b>	See Federal Register for 25 Firms	39.49 %	Ongoing
<b>PRC-Wide Rate(s):</b>	-	216.01 %	216.01 %
<b>DOC Scope Reviews</b>			
<b>Reviews for Period Between:</b>			
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>
Dorel Asia SrL	Infant (baby) armoires and toy boxes and chests are within the scope of the antidumping duty order. Its infant (baby) changing tables with drawers or doors are within the scope of the antidumping duty order; its infant (baby) changing tables with no drawers or doors and with the flat top surface surrounded by a permanent guard rail, and its toddler beds are not within the scope of the antidumping duty order.	15/02/2005 – 14/11/2005  15/02/2005 – 11/08/2006	70 FR 55111 71 FR 5646  71 FR 5646 71 FR 66168
Sunrise Medical Inc.	Wooden bed panels and case goods are within the scope of the antidumping duty order, and certain overbed tables are	25/03/2005 – 29/09/2005	70 FR 55111 70 FR 70786

	excluded from the scope of the antidumping duty order.		
Leggett & Platt	Three-sided wooden daybeds with the back being longer than the two sides and are designed for use with a metal daybed link spring support (also known as a “top spring”) are within the scope of the antidumping duty order.	21/07/2005 - 21/11/2005	70 FR 70786 71 FR 5646
LumiSource, Inc.	Cell phone stash chair, whale stash chair, dolphin stash chair, and stash cube are excluded from the antidumping duty order.	21/10/2004 - 15/12/2005	70 FR 70786 71 FR 5646
Drexel Heritage	Its bathroom vanity is within the scope of the antidumping duty order.	--/--/-- - 05/09/2006	71 FR 66168
Cape Craftsmen	Whether various cabinets / commodes are within the scope of the antidumping duty order	28/10/2005 – terminated 10/02/2006.	71 FR 5646 71 FR 26050
L. Powell Company	Whether certain jewelry armoires without felt or felt-like lining on the door are within the scope of the antidumping duty order	30/11/2005 – terminated 31/01/2006	71 FR 5646 71 FR 26051
Whitewood Industries	Whether certain wooden jewelry	05/12/2005 – terminated	71 FR 5646 71 FR 26051

	armoires lined with felt of felt-like material are within the scope of the antidumping duty order.	10/02/2006	
Tuohy Furniture Corporation	Its storage towers, TV stands, coffee tables, and wood panels are not within the scope of the antidumping duty order, but its bedside tables and headboards are within the scope of the antidumping duty order.	05/04/2006 – 27/11/2006	71 FR 42808 71 FR 66169 72 FR 5677
Tuohy Furniture Corporation	Whether wainscoting is within the scope of the antidumping duty order. Rescinded March 6, 2007	12/12/2006 – 06/03/2007	72 FR 5677 72 FR 23802
Maersk Customs Services, Inc.	Whether a vanity mirror and a vanity are within the scope of the antidumping duty order.	19/04/2006 - Unknown	71 FR 42808
Toys 'R Us, Inc.	The: 1) Cabbage Patch Kids Wooden Toy Box, manufactured by Toy Vault; 2) Americana Wood Toy Box with Bins, manufactured by Little Tikes; 3) Americana Wood Toy Box, manufactured by Little Tikes; and 4) Transportation Toy Box, manufactured by	26/09/2006 – 09/03/2007	71 FR 66169 72 FR 23802

	KidKraft, are within the scope of the antidumping duty order; the Toy Box with Wheels, manufactured by Fun Times, is not within the scope of the antidumping duty order.		
American Signature Incorporated	Its mirrored chests are included within the scope of the antidumping duty order.	02/06/2006 – 13/12/2006	71 FR 42808 71 FR 66169 72 FR 5677
American Signature Incorporated	Whether its leather upholstered bed and microfiber upholstered bed are included within the scope of the antidumping duty order; initiated as a changed circumstances review on December 12, 2006.	02/06/2006 – 13/12/2006	71 FR 42808 71 FR 66169 72 FR 5677
Target Corporation	The products in its ‘Manhattan Collection’ (which consists of a bench, computer cart, bookcase, modular room divider and desk) are not within the scope of the antidumping duty order.	26/01/2007 - 11/06/2007	72 FR 23802 72 FR 43245
AP Industries	Whether convertible cribs (model nos. 1000–0100; 1000–0125; 1000–0160; 1000–1195/2195; 1000–	26/06/2007 -	72 FR 62440 73 FR 9293

	2145; and 1000–2165) are included within the scope of the antidumping duty order.		
Dutailer Group, Inc.	Whether its convertible cribs (infant crib to toddler bed, model numbers 1230C8, 3500C8, 5400C8, 5500C8 and 6200C8) are included in the scope.	21/09/2007 -	72 FR 62440 73 FR 9293
Armel Enterprises, Inc.	Whether certain children’s playroom and accent furniture are included in the scope.	24/09/2007 -	72 FR 62440 73 FR 9293

**DOC New Shipper Reviews**

<b>Reviews for Period Between:</b>	24/06/2004 – 30/06/2005
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<b>Extended:</b>	28/02/2006 (71 FR 10010)	-	-
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<b>Duty Rates (Weighted-average Margin (%)):</b>	Preliminary	Final
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<b>Firm(s):</b>	<b>Duration:</b>		
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July 8, 2005, we received a new shipper review request from Shenyang Kunyu Wood Industry Co., Ltd. (‘Kunyu’); on	08/07/2005 – 70 FR 53344 71 FR 38373 71 FR 56475 – Extended 71 FR 66309 – Extended 71 FR 70739	Separate Rate Status 222.04 %	216.01 %
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July 28, 2005, we received new shipper review requests from Dongguan Landmark Furniture Products Ltd. (‘Landmark’)	28/07/2005 – 70 FR 53344 71 FR 38373 71 FR 56475 – Extended 71 FR 66309 – Extended 71 FR 70739	Separate Rate Status 0.00 %	0.00 %
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July 28, 2005,	28/07/2005 –	Separate	1.17 %
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Meikangchi (Nantong) Furniture Company Ltd. ('Meikangchi')	70 FR 53344 71 FR 38373 71 FR 56475 – Extended 71 FR 66309 – Extended 71 FR 70739	Rate Status 1.25 %	
WBE Industries (Hui-Yang) Co., Ltd. ('WBE')	01/08/2005 – 05/06/2006 70 FR 53344 71 FR 38373 71 FR 70739	Rescission of Review as Evidence of Exports during POR	-
Dongguan Huanghouse Furniture Co., Ltd. ('Huanghouse')	31/01/2006 – 09/02/2007 (71 FR 11404) 71 FR 59088 – Aligned with Admin. Reviews	216.01 % 72 FR 6201	
Senyuan Furniture Group ('Senyuan')	31/01/2006 – 03/04/2006 71 FR 11404 71 FR 52064	Withdrawn	-
Tianjin First Wood Co., Ltd. ('First Wood')	31/01/2006 – 09/02/2007 71 FR 11404 71 FR 59088 – Aligned with Admin. Reviews	216.01 % 72 FR 6201	
Golden Well and Zhangzhou XYM	24/01/2007 – 72 FR 10158	72 FR 50933	Withdrew
Mei Jia	22/01/2007 – 72 FR 10158	Ongoing	Ongoing
Bon Ten	12/10/2007 – 72 FR 52083	Ongoing	Ongoing
Mu Si	12/10/2007 – 72 FR 52083	Ongoing	Ongoing
<b>DOC Anti-circumvention Determinations</b>			
<b>Reviews for Period Between:</b>			
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>
-	-	-	-

<b>DOC Changed Circumstances Review</b>			
<b>Reviews for Period Between:</b>			
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>
Requested by AFMCLT	DOC revoked the order in part, "with regard to the following product: Jewelry armoires that have at least one side door, whether or not the door is lined with felt or felt-like material, as described in the 'Scope' section of this notice, based on the fact that domestic parties have expressed no further interest in the relief provided by the order with respect to the imports of these jewelry armoires, as so described."	02/02/2006 – 07/07/2006	71 FR 26928 71 FR 38621
Requested by AFMCLT	The DOC "partially revok[ed] the order on wooden bedroom furniture with respect to cheval style mirrored jewelry cabinets from the PRC with regard to products which meet the specifications detailed above, in accordance with sections 751(b), (d) and 782(h) of the Act and 19 CFR 351.216(d) and 351.222(g)." (72 FR 948)	20/09/2006 – 09/01/2007	71 FR 66309 72 FR 948
Requested by AFMCLT	The DOC "partially revok[ed] the order on wooden bedroom furniture with respect to upholstered beds from the PRC which meet the specifications	26/10/2006 – 14/02/2007	71 FR 76273 72 FR 7015

	detailed above, in accordance with sections 751(b), (d) and 782(h) of the Act and 19 CFR 351.216(d) and 351.222(g)." (72 FR 7015)		
Tradewinds International	“Tradewinds Furniture is the successor-in-interest to Nanhai Jiantai Woodwork Co. (‘Nanhai Jiantai’), but that Tradewinds Intl. is not the successor-in-interest to Nanhai Jiantai’s affiliated exporter, Fortune Glory Industrial Limited (‘Fortune Glory’).” (72 FR 41492)	22/11/2006 – 26/10/2007	72 FR 2262 72 FR 41492 72 FR 60812
<b>Alternative Respondent Prosecution Strategies</b>			
<b>World Trade Organization Dispute Settlement</b>		-	
<b>US Court of International Trade Appeal</b>		Yes	
Plaintiff: Decca Hospitality Furnishings, LLC Outcome: “On December 20, 2005, the CIT found that the Department duly complied with the Court’s remand order and sustained the Department’s remand redetermination. See Decca Order. Within the Decca Order, the Department granted Decca a separate rate which changed its antidumping duty rate from the PRC-wide rate of 198.08 percent to the Section A respondent rate of 6.65 percent.” (71 FR 34306)	--/--/-- 14/06/2006	-	(USCIT, 2007a; No 05-00002 - Slip 00006-00043 / 00100 / 00161) 71 FR 1511 71 FR 34305
Plaintiff: Guangzhou Maria Yee Furnishings, Ltd., Pyla HK Ltd., and Maria Yee Inc. Outcome: “On April 5, 2006, the [CIT} ruled that the Department’s remand determination is	--/--/-- - 22/06/2006	-	(USCIT, 2007a; No 05-00065 - Slip 00005-00158 / 00006-00044)

<p>supported by substantial evidence, and affirmed the Department’s remand results in their entirety. See Maria Yee Order. Granting a separate rate to Maria Yee changes its antidumping duty rate from the PRC-wide rate of 198.08 percent to the Section A respondent rate of 6.65 percent.” (71 FR 35870)</p>		71 FR 35870
<p>Plaintiff: Lacquer Craft Manufacturing Company Ltd. Outcome: “The Court Order further orders the Department of Commerce (“the Department”) to (i) exclude wooden bedroom furniture from the Amended Final Determination and Order when it is both produced and exported by Lacquer Craft,1 and (ii) amend the weighted-average dumping margin applied to respondents with separate rate status 2 to exclude Lacquer Craft from the calculation for subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the Amended Final Determination resulting from the Court’s stipulated judgment.” (71 FR 67100)</p>	<p>--/--/-- - 20/11/2006</p>	<p>(USCIT, 2007a; No 05-00083) 71 FR 67099</p>
<p><b>Duty Rates (Weighted-average Margin (%)):</b></p>		<p>Amended</p>
<p><b>Mandatory Respondent(s):</b></p>	<p>Dongguan Lung Dong The Dorbest Group Lacquer Craft Markor Tianjin Shing Mark Starcorp Tech Lane</p>	<p>02.32 % 07.87 % Excluded 00.83 % 04.96 % 15.78 % PRC Wide</p>

<b>Section A Respondent(s):</b>	See Table 82	7.24 %	
<b>PRC-Wide Rate(s):</b>	-	198.08 %	
Plaintiff: Rui Feng Woodwork Co., Ltd., or Rui Feng Lumber Development Co., Ltd. or Dorbest Limited (The Dorbest Group) et.al. Outcome: Ongoing	Ongoing	(USCIT, 2007a; No 05-00003 Consolidated) 71 FR 67099	
<b>Agency Contacts</b>			
<b>DOC Import Administration</b>	<b>Name</b>	<b>Phone</b>	
Import Administration U.S. Department of Commerce 14 <sup>th</sup> Street and Constitution Avenue, NW Washington, D.C. 20230	Aishe Allen	+1 (202) 482-0172	
<b>ITC Office of Investigations</b>	<b>Name / email</b>	<b>Phone</b>	
<b>Investigator:</b>	Fred Fischer / fred.fischer@usitc.gov	+1 (202) 205-3179	
<b>Supervisory Investigator:</b>	George Deyman / george.deyman@usitc.gov	+1 (202) 205-3197	
<b>Federal Register Record for Case</b>			
<b>Entry</b>	<b>Agency</b>	<b>Notice Description</b>	<b>Date</b>
68 FR 63816	ITC	Institution of antidumping investigation and scheduling of a preliminary phase investigation	10/11/2003
68 FR 65875	DOC	Request for information and extension of time for deciding to initiate investigation.	24/11/2003
68 FR 70228	DOC	Initiation of antidumping duty investigation.	17/12/2003
69 FR 4178	ITC	Preliminary affirmative injury determination.	28/01/2004
69 FR 19390	DOC	Postponement of preliminary determination of sales at less than fair	13/04/2004

		value.	
69 FR 35312	DOC	Preliminary affirmative determination of sales at less than fair value and postponement of final determination.	24/06/2004
69 FR 42452	ITC	Scheduling of the final phase of an antidumping investigation.	15/07/2004
69 FR 47417	DOC	Amended preliminary affirmative determination of sales at less than fair value.	05/08/2004
69 FR 54643	DOC	Amended preliminary affirmative determination of sales at less than fair value and amendment to scope.	09/09/2004
69 FR 67313	DOC	Final affirmative determination of sales at less than fair value and postponement of final determination.	17/11/2004
69 FR 77779	ITC	Final affirmative injury determination.	28/12/2004
70 FR 329	DOC	Amended final affirmative determination of sales at less than fair value and antidumping duty order.	04/01/2004
70 FR 53344	DOC	Initiation of new shipper reviews. POI: 24/06/2004 – 30/06/2005	08/09/2005
70 FR 70785	DOC	Scope rulings.	23/11/2005
71 FR 89	DOC	Opportunity to request administrative review of antidumping and countervailing duty order, finding, or suspended investigation. POI: 24/06/2004 -31/12/2005	03/01/2006
71 FR 1511	DOC	Court of International Trade decision not in harmony.	10/01/2006
71 FR 5646	DOC	Scope rulings.	02/02/2006
71 FR 9519	DOC	Initiation of antidumping and countervailing duty administrative reviews.	24/02/2006

		POI: 24/06/2004 -31/12/2005	
71 FR 10010	DOC	Extension of time limit for the preliminary results antidumping duty new shipper reviews. POI:	28/02/2006
71 FR 11394	DOC	Initiation of administrative review of the antidumping duty order on Wooden Bedroom Furniture from the PRC. POI: 24/06/2004 -31/12/2005	07/03/2006
71 FR 11404	DOC	Initiation of new shipper reviews.	07/03/2006
71 FR 24840	DOC	Court of International Trade decision not in harmony.	27/04/2006
71 FR 26050	DOC	Scope rulings.	03/05/2006
71 FR 26928	DOC	Initiation and preliminary results of changed circumstances review and intent to revoke order in part.	09/05/2006
71 FR 34305	DOC	Amended final determination of sales at less than fair value pursuant to Court of International Trade decision.	14/06/2006
71 FR 35870	DOC	Amended final determination of sales at less than fair value pursuant to Court of International Trade decision.	22/06/2006
71 FR 37539	DOC	Partial rescission of the antidumping duty administrative review. POI:	30/06/2006
71 FR 38373	DOC	Preliminary results of 2004-2005 semi-annual new shipper reviews and notice of final rescission of one new shipper review. POI:	06/07/2006
71 FR 38621	DOC	Final changed circumstances review and determination to revoke order in part.	07/07/2006

71 FR 42807	DOC	Scope rulings.	28/07/2006
71 FR 52064	DOC	Partial rescission of new shipper review. POI:	01/09/2006
71 FR 56475	DOC	Extension of time limit for final results of new shipper reviews. POI:	27/09/2006
71 FR 59088	DOC	Extension of time limit for preliminary results of the antidumping duty administrative review and new shipper reviews. POI: 24/06/2004 -31/12/2005	06/10/2006
71 FR 66167	DOC	Scope rulings.	13/11/2006
71 FR 66308	DOC	Extension of time limit for final results of new shipper reviews. POI: 24/06/2004 -31/12/2005	14/11/2006
71 FR 66309	DOC	Initiation and preliminary results of changed circumstances review and intent to revoke order in part.	14/11/2006
71 FR 67099	DOC	Amended final determination of sales at less than fair value pursuant to Court of International Trade decision.	20/11/2006
71 FR 70739	DOC	Final results of the 2004 – 2005 semi-annual new shipper reviews. POI: 24/06/2004 -31/12/2005	06/12/2006
71 FR 76273	DOC	Initiation and preliminary results of changed circumstances review and intent to revoke order in part.	20/12/2006
72 FR 99	DOC	Opportunity to request administrative review of antidumping and countervailing duty order, finding, or suspended investigation. POI: 01/01/2006 – 31/12/2006	03/01/2007



72 FR 948	DOC	Final changed circumstances review and determination to revoke order in part.	09/01/2007
72 FR 2262	DOC	Initiation of changed circumstances review.	18/01/2007
72 FR 5677	DOC	Scope reviews.	07/02/2007
72 FR 6201	DOC	Preliminary results of antidumping duty administrative review and preliminary results of new shipper reviews and notice of partial rescission. POI: 24/06/2004 -31/12/2005	09/02/2007
72 FR 7013	DOC	Final results of changed circumstances review and decision to revoke order in part.	14/02/2007
72 FR 8969	DOC	Initiation of antidumping and countervailing duty administrative reviews. POI: 01/01/2006 – 31/12/2006	28/02/2007
72 FR 10158	DOC	Initiation of new shipper reviews.	07/03/2007
72 FR 10159	DOC	Initiation administrative review. POI: 01/01/2006 – 31/12/2006	07/03/2007
72 FR 29968	DOC	Initiation of antidumping and countervailing duty administrative reviews and request for revocation in part. POI: 01/01/2006 – 31/12/2006	30/05/2007
72 FR 32281	DOC	Extension of time limits for the final results of the antidumping administrative review and new shipper reviews.	12/06/2007
<b>Original Investigation Stages</b>			<b>Effective Date</b>
Petition Filed			

Received	DOC/ITC	31/10/2003	68 FR 63817 ITC Doc 217310
Amended	DOC	20/11/2003	ITC Doc 196009 68 FR 70228
Amended	DOC	04/12/2003	68 FR 70228
ITC Institution of Antidumping Investigation China		31/10/2003	68 FR 63816
ITC Preliminary Investigation Antidumping Questionnaires Returned		14/11/2003	(USITC, 2004f)
ITC Preliminary Investigation Request for Extension to Post Conference Brief Submission Deadline			
	Requested by FRG:	19/11/2003	ITC Doc 195949
	Requested by Lacquer, Markor and CFTF	20/11/2003	ITC Doc 195951
	Opposed by AFMCLT:	20/11/2003	ITC Doc 196013
ITC Preliminary Investigation Conference On behalf of the International Trade Commission: Staff: ROBERT CARPENTER, Director of Investigations GEORGE DEYMAN, Supervisory Investigator FRED FISCHER, Investigator NEAL REYNOLDS, Attorney/Advisor GERRY BENEDICK, Economist JOSEPHINE SPALDING-MASGARHA, Industry Analyst  IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING DUTIES : JOHN BASSETT, Chairman Steering Committee		21/11/2003	68 FR 63817 ITC Doc 198100

<p>of the American Furniture Manufacturers, Committee for Legal Trade, and President and CEO of Vaughan-Bassett Furniture Company</p> <p>IRWIN ALLEN, President and CEO Michels- Pilliod Company</p> <p>STEVEN KINCAID, President La-Z-Boy Casegoods Group; Kincaid Furniture Company</p> <p>DAVID SOWINSKI, Chief Strategy Implementation Officer La-Z-Boy, Inc.</p> <p>ROBERT SPILMAN, JR., President and CEO Bassett Furniture Industries</p> <p>WILLIAM VAUGHAN, President and CEO Vaughan Furniture Company</p> <p>WYATT BASSETT, Executive Vice President Vaughan-Bassett Furniture Company</p> <p>KEN LORING, President and CEO Boston Interiors</p> <p>HAROLD BROWN, General Manager Bassett Furniture Direct</p> <p>HAROLD HEWITT, President Superior Furniture</p> <p>JOSEPH DORN, Of Counsel</p> <p>STEPHEN A. JONES, Of Counsel</p> <p>STEPHEN J. NARKIN, Of Counsel King &amp; Spalding, LLP Washington, D.C.</p> <p>IN OPPOSITION OF THE IMPOSITION OF ANTIDUMPING DUTIES :</p> <p>WILLIAM P. KEMP III, President Kemp Enterprises, Inc.</p>		
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<p>JOHN D. GREENWALD, Of Counsel Wilmer, Cutler &amp; Pickering Washington, D.C.</p> <p>JEFFREY SEAMAN, President and CEO Rooms To Go, Inc.</p> <p>JAMES MCALISTER, Operations Manager, Quality and Sourcing JCPenny Purchasing Corporation</p> <p>JOHN G. REILLY, Consultant Nathan Associates, Inc.</p> <p>WILLIAM SILVERMAN, Of Counsel JAMES R. SIMOES, Of Counsel Hunton &amp; Williams, LLP Washington, D.C.</p> <p>LYNN CHIPPERFIELD, Senior Vice President and Chief Administrative Officer Furniture Brands International, Inc.</p> <p>MARTY RICHMOND, Manager of Corporate Communications Furniture Brands International, Inc.</p> <p>KEN SHANKS, President Furniture Brands International Import Service Organization</p> <p>JILL A. CRAMER, Of counsel Bryan Cave, LLP Washington, D.C.</p>		
<p>ITC Preliminary Investigation Post-Conference Briefs</p> <p>Received from AFMCLT, FBI, Lacquer, Markor, CFTF and FRG:</p>	<p>04/12/2003</p>	<p>(USITC, 2004f) ITC Doc 196840 ITC Doc 196849 ITC Doc 196901</p>

		ITC Doc 196948
ITC Preliminary Investigation Vote	09/01/2004	(USITC, 2004f)
ITC Preliminary Investigation Injury Determination Transmitted to the DOC	12/01/2004	69 FR 4178
ITC Preliminary Investigation Views Published	Jan 2004	69 FR 4178
DOC Initiation of Antidumping Investigation China Original Investigation: DOC Extension:	24/11/2003	68 FR 65875
DOC Preliminary Determination Clarification of Petition Received from DOC:	06/11/2003 10/11/2003	68 FR 70228
Response by AFMCLT:	12/11/2003 02/11/2003	68 FR 70228
DOC Preliminary Determination Requests for Comments / Information from Firms Determination Industry Support Comments Received from Markor: Comments Received from Lacquer: Comments Received from FBI: Revision and resubmission of Comments: Polling Questionnaires Issued to 264 US Producers: Total of 104 Responses Received: DOC Clarification Phone Calls Time Extended: Comments Received from Markor and Lacquer:	12/11/2003 12/11/2003 13/11/2003 04/12/2003 08/12/2003 10/12/2003 13/11/2003 17/11/2003 19/11/2003 26/11/2003 Nov 2003 24/11/2003 02/12/2003 05/12/2003	68 FR 70228 68 FR 70228 68 FR 70228 68 FR 70228 68 FR 70228 68 FR 70230 68 FR 70230 68 FR 70230 68 FR 70230 68 FR 65876 68 FR 70228

	08/12/2003	
Rebuttal by AFMCLT:	03/12/2003	68 FR 70228
Comments Received from AFMCLT:	03/12/2003	68 FR 70228
Request to Reject Submissions from AFMCLT:	09/12/2003	
	09/12/2003	68 FR 70228
Certain BPI be Made Public		
Requested by DOC:	24/11/2003	68 FR 70228
Received from AFMCLT:	28/11/2003	68 FR 70228
Determination Scope of Investigation / Product Coverage		
Requested by DOC:	17/12/2003	68 FR 70229
Received from LTD Commodities:	12/01/2004	69 FR 35318
	26/01/2004	
	23/03/2004	
Received from ABC Distributing:	12/01/2004	69 FR 35318
	26/01/2004	
	23/03/2004	
Received from FRA:	13/01/2004	69 FR 35318
	29/01/2004	
Received from Shing Mark:	13/01/2004	69 FR 35318
Received from Sunrise Medical:	13/01/2004	69 FR 35318
	04/02/2004	
Received from Markor, Lacquer and CFTF:	13/01/2004	69 FR 35318
Received from AFMCLT:	21/01/2004	69 FR 35318
Determination of India as Surrogate Country	05/03/2004	69 FR 35314
Requested:	22/01/2004	69 FR 35313
Received from Lacquer, Markor FBI and AFMCLT:	05/02/2004	69 FR 35313
India Selected:	05/03/2004	69 FR 35314
Comments by Lacquer, Markor and FBI:	16/04/2004	69 FR 35319

Rebuttal by AFMCLT:	29/04/2004	69 FR 35319
DOC meets with interested parties:	13/05/2004	69 FR 35319
DOC meets with AFMCLT to discuss selection of surrogate country and surrogate factor values:	21/05/2004	69 FR 35319
<b>Surrogate Factor Valuation</b>		
Requested:	22/01/2004	69 FR 35313
Time Extended:	05/03/2004	69 FR 35314
	17/03/2004	
Request for Time Extension by Markor, Lacquer and FBI:	01/03/2004	69 FR 35314
	05/03/2004	
Request for Time Extension by AFMCLT:	31/03/2004	69 FR 35314
Received from AFMCLT:	29/03/2004	69 FR 35314
Received from Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark, Starcorp, FBI and AFMCLT:	16/04/2004	69 FR 35314
Information on Indonesia and Request to Reconsider from Lacquer, Markor and FBI.	16/04/2004	69 FR 35314
Rebuttal by AFMCLT:	29/04/2004	69 FR 35314
Received from Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark	29/04/2004	69 FR 35314
Rebuttal by AFMCLT:	10/05/2004	69 FR 35314
Rebuttal by Lacquer and Markor:	10/05/2004	69 FR 35314
Received from Shing Mark:	13/05/2004	69 FR 35314
Rebuttal by AFMCLT:	20/05/2004	69 FR 35314
	24/05/2004	
Comments by Dorbest:	26/05/2004	69 FR 35314
Comments by Tech Lane:	27/05/2004	69 FR 35314

Comments by FBI:	02/06/2004	69 FR 35314
Comments by Shing Mark:	03/06/2004	69 FR 35314
Comments by AFMCLT:	04/06/2004	69 FR 35315
Response by AFMCLT:	07/06/2004	69 FR 35315
	08/06/2004	
	09/06/2004	
Submission by Lacquer, Markor and FBI:	20/05/2004	69 FR 35315
Determination Model Matching Criteria		
Requested:	30/01/2004	69 FR 35313
Time Extended:		
Received from Markor, Lacquer and AMFCFT:	20/01/2004	69 FR 35313
	21/01/2004	
	23/01/2004	
	26/01/2004	
	30/01/2004	
Received from Markor, Lacquer, Shing Mark and AMFCFT:	04/02/2004	69 FR 35313
	09/02/2004	
DOC Requests further information from Dorbest:	11/05/2004	69 FR 35315
Conversion Tables and Formulas		
Requested by DOC:	06/05/2004	69 FR 35314
Received from Markor, Lacquer, Shing Mark, Starcorp and AMFCFT:	12/05/2004	69 FR 35314
Clarifications by Starcorp:	10/06/2004	69 FR 35316
US HTS Headings		
Requested:	10/05/2004	69 FR 35314
Received from Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and Tech Lane:	26/05/2004	69 FR 35314
DOC Preliminary Determination		



Communications with Foreign Governments			
First Letter:	Sent to PRC:	30/12/2003	69 FR 35313
	Received:	-	69 FR 35313
Meeting:	Held with PRC and Furniture Industry Representatives:	14/01/2004	69 FR 35313
DOC Preliminary Investigation Selection of Mandatory Respondents		30/01/2004	69 FR 35313
	Status Requested by Fine Furniture:	14/01/2004	69 FR 35313
	Dalian Proposed by AFMCFT:	15/01/2004	69 FR 35313
	Several Letters Regarding Status Received by DOC	-	69 FR 35313
	Voluntary Respondent Status Requested by Dalian:	17/02/2004	69 FR 35313
	Voluntary Respondent Status Requested by Sanmu:	11/03/2004	69 FR 35313
	Request to Reconsider from Sun Force:	03/02/2004	69 FR 35313
	Request to be Considered as a Mandatory Respondent from Shining Dongxing, Fuzhou Huan Mei, Power Dekor:	19/02/2004	69 FR 35313
DOC Preliminary Investigation Market Oriented Industry Status			
	Requested by Markor and Lacquer:	15/01/2003	69 FR 35313
	Requested by CCCLA and CNFA:	20/04/2004	69 FR 35319
	DOC claims insufficient information to make a determination:	14/05/2004	69 FR 35319
	Further information submitted by CCCLA and CNFA:	28/05/2004	69 FR 35319
	Comments by AFMCFT:	02/02/2004	69 FR 35319

	05/05/2004	
	08/06/2004	
DOC Preliminary Investigation Antidumping Questionnaires		
Quantity and Value:		
Issued to 211 PRC Producers:	30/12/2003	69 FR 35313
Returned by 137 PRC Producers:	07/12/2003	- 69 FR 35313
	09/12/2003	
Request by AFMCLT to Reject Untimely Responses	29/03/2004	69 FR 35314
Section A:		
Issued to Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and Tech Lane:	02/02/2004	69 FR 35313
Issued to PRC Government:	02/02/2004	69 FR 35313
Time Extended:	??	69 FR 35313
Returned:	01/03/2004	69 FR 35313
Comments by AFMCLT on Submission by Dongguan Lung Dong:	10/03/2004	69 FR 35315
Submission by Dorbest:	10/03/2004	69 FR 35315
Submission by Lacquer:	11/03/2004	69 FR 35315
Submission by Markor:	11/03/2004	69 FR 35316
Submission by Shing Mark:	11/03/2004	69 FR 35316
Submission by Starcorp:	10/03/2004	69 FR 35316
Submission by Tech Lane:	29/03/2004	69 FR 35317
Supplemental Section A:		
Issued to Dongguan Lung Dong:	19/03/2004	69 FR 35315
Issued to Dorbest:	23/03/2004	69 FR 35315
Issued to Lacquer:	23/03/2004	69 FR 35315
Issued to Markor:	19/03/2004	69 FR 35316

Issued to Shing Mark:	19/03/2004	69 FR 35316
Issued to Starcorp:	19/03/2004	69 FR 35316
Issued to Tech Lane:	22/03/2004	69 FR 35316
Returned by Dongguan Lung Dong:	09/04/2004	69 FR 35315
Returned by Dorbest:	14/04/2004	69 FR 35315
Returned by Lacquer:	13/04/2004	69 FR 35315
Returned by Markor:	09/04/2004	69 FR 35316
Returned by Shing Mark:	09/04/2004	69 FR 35316
Returned by Starcorp:	09/04/2004	69 FR 35316
Returned by Tech Lane:	15/04/2004	69 FR 35316
DOC meets with Markor on double bracketing in submission:	21/04/2004	69 FR 35316
Comments by Markor on double bracketing:	23/04/2004	69 FR 35316
Comments by AFMCLT on double bracketing:	05/05/2004	69 FR 35316
Rejection of Request by Markor by DOC:	07/05/2004	69 FR 35316
Markor submits revised response:	12/05/2004	69 FR 35316
Comments by AFMCLT on Submission by Dongguan Lung Dong:	27/04/2004	69 FR 35315
Submission by Dorbest:	27/04/2004	69 FR 35315
Submission by Lacquer:	-	-
Submission by Markor:	29/04/2004	69 FR 35316
Submission by Shing Mark:	30/04/2004	69 FR 35316
Submission by Starcorp:	30/04/2004	69 FR 35316
Submission by Tech Lane:	27/04/2004	69 FR 35316
Second Supplemental Section A:		
Issued to Dongguan Lung Dong:	24/05/2004	69 FR 35315
Issued to Dorbest:	24/05/2004	69 FR 35315
Issued to Lacquer:	21/05/2004	69 FR 35316
Issued to Markor:	24/05/2004	69 FR 35316

Issued to Shing Mark:	-	-
Issued to Starcorp:	24/05/2004	69 FR 35316
Issued to Tech Lane:		
Time Extended:		
Returned by Dongguan Lung Dong:		
Returned by Dorbest:	03/06/2004	69 FR 35315
Returned by Lacquer:	03/06/2004	69 FR 35316
Returned by Markor:	??	??
Returned by Shing Mark:	-	-
Returned by Starcorp:	03/06/2004	69 FR 35316
Returned by Tech Lane:	04/06/2004	69 FR 35317
Comments by AFMCLT on Submission by Dongguan Lung Dong:		69 FR 35315
Submission by Dorbest:		
Submission by Lacquer:		
Submission by Markor:		
Submission by Shing Mark:		
Submission by Starcorp:		
Submission by Tech Lane:		
Other Section A:		
Issued to Other PRC Producers:	??	??
Time Extended:	??	69 FR 35313
Returned by 118 PRC Producers:	01/03/2004	69 FR 35313
Comments on Responses by AFMCLT:	29/03/2004	69 FR 35314
Comments by Changshu, Huanghekou, Dream Rooms and Sheng Jing Telstar:	09/06/2004	69 FR 35314
Supplemental Other Section A:		
Issued to Other 118 PRC Producers:	10/05/2004 21/05/2004	- 69 FR 35314
Returned by 118 PRC Producers:	21/05/2004	- 69 FR 35314

		04/06/2004	
	Comments on Responses by AFMCLT:	19/05/2004	69 FR 35315
	Comments on AFMCLT Response by AFMCLT: Starwood	19/05/2004	69 FR 35315
Section C:			
	Issued to Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and Tech Lane:	11/02/2004	69 FR 35313
	Issued to PRC Government (Ministry of Commerce):	11/02/2004	69 FR 35313
	Time Extended:	??	69 FR 35313
	Returned:	29/03/2004	69 FR 35315
	Comments by AFMCLT on Submission by Dongguan Lung Dong:	16/04/2004	69 FR 35315
	Submission by Dorbest:	20/04/2004	69 FR 35315
	Submission by Lacquer:	13/04/2004	69 FR 35315
	Submission by Markor:	09/04/2004	69 FR 35316
	Submission by Shing Mark:	12/04/2004	69 FR 35316
	Submission by Starcorp:	-	-
	Submission by Tech Lane:	08/04/2004	69 FR 35317
Section D:			
	Issued to Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and Tech Lane:	11/02/2004	69 FR 35313
	Issued to PRC Government (Ministry of Commerce):	11/02/2004	69 FR 35313
	Time Extended:	??	69 FR 35313
	Returned:	29/03/2004	69 FR 35315
	Comments by AFMCLT on		

Submission by Dongguan Lung Dong:	16/04/2004	69 FR 35315
Submission by Dorbest:	07/04/2004	69 FR 35315
	20/04/2004	
Submission by Lacquer:	13/04/2004	69 FR 35315
Submission by Markor:	07/04/2004	69 FR 35316
	09/04/2004	
Submission by Shing Mark:	-	-
Submission by Starcorp:	13/04/2004	69 FR 35316
Submission by Tech Lane:	08/04/2004	69 FR 35317
	20/04/2004	69 FR 35317
Response to 07/04/2004 Comments by AFMCLT, by Lacquer and Markor:	12/04/2004	69 FR 35316
Supplemental Section C & D:		
Issued to Dongguan Lung Dong:	30/04/2004	69 FR 35315
Issued to Dorbest:	30/04/2004	69 FR 35315
Issued to Lacquer:	30/04/2004	69 FR 35316
Issued to Markor:	03/05/2004	69 FR 35316
Issued to Shing Mark:	28/04/2004	69 FR 35316
Issued to Starcorp:	28/04/2004	69 FR 35316
Issued to Tech Lane:	28/04/2004	69 FR 35316
Returned by Dongguan Lung Dong:	24/05/2004	69 FR 35315
Returned by Dorbest:	24/05/2004	69 FR 35315
Returned by Lacquer:	21/05/2004	69 FR 35316
Returned by Markor:	24/05/2004	69 FR 35316
Returned by Shing Mark:	24/05/2004	69 FR 35316
	26/05/2004	
Returned by Starcorp:	21/05/2004	69 FR 35316
Returned by Tech Lane:	21/05/2004	69 FR 35316
Further Comments by Tech Lane:	28/05/2004	69 FR 35317
Comments by AFMCLT on Submission by Dongguan Lung	28/05/2004	69 FR 35315

Dong:		
Submission by Dorbest:	28/05/2004	69 FR 35315
Submission by Lacquer:	27/05/2004	69 FR 35315
Submission by Markor:	24/05/2004	69 FR 35316
Submission by Shing Mark:	26/05/2004	69 FR 35316
Submission by Starcorp:	28/05/2004	69 FR 35316
Submission by Tech Lane:	28/05/2004	69 FR 35317
Response by Dorbest:	03/06/2004	69 FR 35315
Second Supplemental Section C & D:		
Issued to Dongguan Lung Dong:	-	-
Issued to Dorbest:	08/06/2004	69 FR 35315
Issued Section D to Lacquer:	21/05/2004	69 FR 35316
Issued to Markor:	-	-
Issued to Shing Mark:	19/05/2004	69 FR 35316
Issued to Starcorp:	??	??
Issued to Tech Lane:	21/05/2004	69 FR 35316
Returned by Dongguan Lung Dong:	-	-
Returned by Dorbest:		
Returned by Lacquer:	03/06/2004	69 FR 35316
Returned by Markor:	-	-
Returned by Shing Mark:	26/05/2004	69 FR 35316
Returned by Starcorp:	09/06/2004	69 FR 35316
Returned by Tech Lane:	04/06/2004	69 FR 35317
Comments by AFMCLT on Submission by Dongguan Lung Dong:		
Submission by Dorbest:		
Submission by Lacquer:		
Submission by Markor:		
Submission by Shing Mark:		
Submission by Starcorp:		
Submission by Tech Lane:		
Response by Dorbest:		

Section E:		
Issued to Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and Tech Lane:	11/02/2004	69 FR 35313
Issued to PRC Government (Ministry of Commerce):	11/02/2004	69 FR 35313
Time Extended:	??	69 FR 35313
Returned:		
Supplemental:		
Issued to Company:		
Time Extended:		
Returned:		
Second Supplemental:		
Issued to Company:		
Time Extended:		
Returned:		
New Allegations:		
Issued to Company:		
Time Extended:		
Returned:		
DOC Preliminary Investigation Determination China	Original Determination:	24/06/2004
	First Amendment:	05/08/2004
	Second Amendment:	09/09/2004
DOC Preliminary Determination Comments		
Received from Variety of Firms:	??	69 FR 67313
DOC Preliminary Determination Ministerial Error Allegations		
Received from AFMCLT, Dongguan Lung Dong, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and	29/06/2004	69 FR 47417 DOC ADI Doc 1617



Techlane: Received from various Section A respondents:	29/06/2004	69 FR 47417
DOC Preliminary Investigation Extension of Time Limit Requested by AMFCFT:	31/03/2004	69 FR 19390
ITC Final Investigation Antidumping Questionnaires Received from Dongguan, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and Techlane:  Comments received from AFMCLT, Maria Yee, FBI, FRG, Brestl Inc et.al.: Returned	15/09/2004	DOC ADI Doc 1427, 1436, 1446, 1452, 1453, 1473, 1503  (USITC, 2004e)
DOC Final Investigation Surrogate Value Information Received from Various Companies:	17/08/2004	69 FR 67313
DOC Final Investigation Market Oriented Status DOC Issues Memorandum:	30/08/2004	69 FR 67313
DOC Final Investigation Clarification of Scope DOC Issues Clarification regarding Jewelry Armoires and Cheval Mirrors: DOC Issues Clarification regarding Mirrors:	31/08/2004  28/09/2004	69 FR 67313  69 FR 67313
DOC explains why it chose to reject numerous potential Section A respondents, because they were untimely:	16/09/2004	69 FR 67313
DOC explains why Decca's separate rate request was rejected, because they were untimely:	16/09/2004	69 FR 67313
DOC Final Investigation Antidumping		

<p>Questionnaire Responses Verification</p> <p>Cost Verification for Dorbest Lacquer Craft Dongguan Lung Dong Markor Shing Mark Starcorp Dalian Locke Fine Furniture: Sales Verification for Dorbest Lacquer Craft Dongguan Lung Dong Markor Shing Mark Starcorp Dalian Locke Fine Furniture: Sales and Cost Verification Reports: Response from AFMCLT</p>	<p>-</p> <p>-</p> <p>-</p> <p>-</p>	<p>69 FR 67315</p> <p>69 FR 67315</p> <p>69 FR 67315</p> <p>DOC ADI Doc 1530, 1541-3, 1562-4 and 1592- 3</p>
<p>DOC Final Investigation Case Briefs</p> <p>First:</p> <p>Received from Parties: AFMCLT, Dongguan, Dorbest, Lacquer, Markor, Shing Mark, Starcorp and Techlane</p> <p>Rebuttal by Parties:</p>	<p>06/10/2004</p> <p>14/10/2004</p>	<p>69 FR 67313</p> <p>DOC ADI Doc 1819, 1820, 1823, 1827, 1839, 1840, 1847 and 1854</p> <p>69 FR 67313</p>

DOC Final Investigation Hearing MOI and Section A Issues Attended by AFMCLT and others: On Issues Concerning the Selection of a Surrogate Country, Financial Ratios, Surrogate Values, and Mandatory Respondents. Attended by Company: On Scope Comments Attended by AFMCLT and others:	19/10/2004  20/10/2004  27/10/2004	69 FR 67313  69 FR 67313  69 FR 67313 DOC ADI Doc 2031
DOC Final Scope Amendment Request Received from Company: Request Withdrawn: Request Challenged by Company:		
DOC Final Investigation Determination China Original Determination: First Amendment:	17/11/2004 04/01/2004	69 FR 67313 70 FR 329
DOC Final Determination Ministerial Error Allegations Superwood SMEC Corp Dongguan Chunsan Trendex) AFMCLT Dorbest Lacquer Craft Dongguan Lung Dong Shing Mark Hongyu ASI/VCF Pulaski:	12/11/2004 22/11/2004	– 70 FR 329

ITC Commencement of Final Phase	28/01/2004	69 FR 4178
ITC Scheduling of Final Investigation	24/06/2004	69 FR 42452
ITC Final Investigation Pre-Hearing Report	26/10/2004	(USITC, 2004e)
ITC Final Investigation Pre-Hearing Briefs Received from AFMCLT, Maria Yee, CCCFP, FBI, FRG, Lacquer, Markor, CFTF:	02/11/2004	(USITC, 2004e) ITC Doc 217384 ITC Doc 217468 ITC Doc 217522 ITC Doc 217543 ITC Doc 217548 ITC Doc 217550
ITC Final Investigation Hearing Attendance On behalf of the International Trade Commission:  Commissioners: STEPHEN KOPLAN, CHAIRMAN DEANNA TANNER OKUN, VICE CHAIRMAN MARCIA E. MILLER, COMMISSIONER JENNIFER A. HILLMAN, COMMISSIONER CHARLOTTE R. LANE, COMMISSIONER DANIEL R. PEARSON, COMMISSIONER  Staff: MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION WILLIAM R. BISHOP, HEARINGS AND MEETINGS COORDINATOR FRED FISCHER, INVESTIGATOR BRIAN ALLEN, COMMODITY ANALYST WILLIAM DEESE, ECONOMIST	09/11/2004	69 FR 42453 ITC Doc 218859

JUSTIN JEE, ACCOUNTANT/AUDITOR  
NEAL REYNOLDS, ATTORNEY  
GEORGE DEYMAN, SUPERVISORY  
INVESTIGATOR

In support of the Imposition of Antidumping  
Duties:

On behalf of American Furniture Manufacturers

Committee for Legal Trade and its  
individual members; Cabinet Makers,  
Millmen, and Industrial Carpenters Local  
721: UBC Southern Council of Industrial  
Workers Local Union 2305: United Steel  
Workers of America Local 193U:  
Carpenters Industrial Union Local 2093:  
Teamsters, Chauffeurs, Warehousemen and  
Helpers Local 991: IUE, Industrial Division  
of CWA Local 82472:

JOHN D. BASSETT, III, Chairman, Steering  
Committee of the American Manufacturers  
Committee for Legal Trade: and President  
and CEO, Vaughan- Bassett Furniture  
Company

WYATT BASSETT, Executive Vice President,  
Vaughan-Bassett Furniture Company

KEITH R. SANDERS, Executive Vice President,  
Operations, Bassett furniture Industries

NOEL L. CHITWOOD, President, American of  
Martinsville

JOHN E. WENTWORTH, President, Moosehead  
Manufacturing Company

IRWIN ALLEN, President and CEO, Michels-

Pilliod Company

JOHN A. SANDBERG, President, Sandberg  
Furniture Manufacturing Company, Inc.

HAROLD BROWN, General Manager, Bassett  
Furniture Direct

KEN LORING, President, Boston Interiors

CHRISTOPHER HEINZ, Political and  
Legislative Director, United Brotherhood of  
Carpenters

KENNETH HERMAN BURNETTE, President,  
East Coast Plywood Company

BRUCE MALASHEVICH, President, Economic  
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In Opposition to the Imposition of Antidumping  
Duties:

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Furniture International

CRAIG SPOONER, Chief Financial Officer,  
Lexington Furniture Company

JOHN D. GREENWALD, Esquire

LYNN M. FISCHER, Esquire

DEIRDRE MALONEY, Esquire  
Wilmer Cutler Pickering Hale & Dorr, LLP  
Washington, D.C.

On behalf of Furniture Retailers of America  
(FRA):

JEFFREY SEAMAN, President and CEO,  
Rooms to Go, Inc.

CLARENCE RIDLEY, Chairman, Haverty  
Furniture Companies, Inc.

JAMES MCALISTER, Operations Manager,  
Quality and Sourcing, JCPenney  
Purchasing Corporation

JOHN G. REILLY, Economist, Nathan  
Associates, Inc.

WILLIAM SILVERMAN, Esquire

RICHARD P. FERRIN, Esquire

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Washington, D.C.

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MARTY RICHMOND, Manager, Corporate  
Communications, Furniture Brands  
International, Inc.

STANLEY J. MARCUSS, Esquire

JILL A. CRAMER, Esquire

Bryan Cave, LLP

Washington, D.C.

On behalf of Guangzhou Maria Yee Furnishings,  
Ltd. (GZMYFL); Pyla HK Limited (Pyla);  
and Maria Yee, Inc. Mr. Brad Brooks  
(MYI):

PETER YEE, President, GZMYFL; Director,  
Pyla; and CEO, MYI MARIA YEE, Vice  
President, GZMYFL; Director, Pyla; and  
President, MYI

STEVEN FREEMAN, Vendor Resource  
Manager, Room and Board, Inc.

HARVEY J. SILVERSTONE, Corporate  
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DANIEL J. GERKIN, Esquire

Venable, LLP

Washington, D.C.

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and Maria Yee, Inc. Mr. Brad Brooks  
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PATRICIA P. YEH, Esquire

Arent Fox, PLLC

Washington, D.C.

On behalf of Coalition of Certain China Furniture  
Producers:

MATTHEW P. JAFFE, Esquire

ERIN E. MIKITA, Esquire

CARRIE F. FLETCHER, Esquire

Crowell & Moring, LLP



Washington, D.C.		
Congressional Correspondence:		
Received from Elizabeth Dole, US Senator (Republican - NC)	08/01/2004	ITC Doc 198640
Carl Levin, US Senator (Democrat - MI)	22/11/2004	ITC Doc 218766
George Allen, US Senator (Republican - VA)	22/11/2004	ITC Doc 219863
Patrick Leahy, US Senator (Democrat - VT)		
Lindsey Graham, US Senator (Republican - SC)		
John Warner, US Senator (Republican - VA)		
Debbie Stabenow, US Senator (Democrat - MI)		
John Edwards, US Senator (Democrat - NC)		
Olympia J. Snowe, US Senator (Republican - ME)		
Susan M. Collins, US Senator (Republican - ME)		
Rick Boucher, Member of Congress (Democrat - VA)		
Mel Watt, Member of Congress (Democrat - NC)		
Jim Marshall, Member of Congress (Democrat - GA)		
John Spratt, Member of Congress (Democrat - SC)		
Max Sandlin, Member of Congress (Democrat - TX)		
Cass Ballenger, Member of		

<p>Congress (Republican - NC)  Walter Jones, Member of Congress  (Republican - NC)  John Peterson, Member of Congress  (Republican - PA)  John McHugh, Member of  Congress (Republican - NY)  Don Manzullo, Member of  Congress (Republican - IL)  Vigil Goode, Member of Congress  (Republican - VA)  Charles Taylor, Member of  Congress (Republican - NC)  Howard Coble, Member of  Congress (Republican - NC)  Jim Walsh, Member of Congress  (Republican - NY)  Richard Burr, Member of Congress  (Republican - NC)  Mark Souder, Member of Congress  (Republican - IN)  Robin Hayes, Member of Congress  (Republican - NC)  Jack Kingston, Member of  Congress (Republican - GA):</p>		
<p>ITC Final Investigation Post-Hearing Briefs  Received from AFMCLT, Lacquer,  Markor, CFTF, FRG:</p>	<p>17/11/2004</p>	<p>(USITC, 2004e)  ITC Doc 218373  ITC Doc 218535  ITC Doc 218563  ITC Doc 218583  ITC Doc 218584  ITC Doc 218586</p>

ITC Final Investigation Record Closing	03/12/2004	(USITC, 2004e)
ITC Final Investigation Final Comments Received from AFMCLT, Maria Yee, Lacquer, Markor, CFTF, CCCCFP, FBI, FRG:	07/12/2004	(USITC, 2004e) ITC Doc 219911 ITC Doc 219912 ITC Doc 219928
ITC Final Investigation Vote China Original Investigation:	22/12/2004	
ITC Final Investigation Transmission of Determination to DOC (Case Ends)	22/12/2004	69 FR 77779
ITC Final Investigation Report	Dec 2004	69 FR 77779
DOC Final Investigation Antidumping Duty Order Issued	04/01/2005	70 FR 329

**Table 62: Detailed Timeline for Wooden Bedroom Furniture from China**

Sources: (DOC ITA, 2007b, USGPO, 2007, USITC, 2004e, 2004f)

#### 15.2.4 Hand Trucks and Certain Parts Thereof from China

<b>DOC Investigation No:</b>	A-570-891	<b>ITC Investigation No:</b>	731-TA-1059
<b>Case Type:</b>	Antidumping Duty		
<b>Country(s):</b>	Peoples Republic of China (PRC / China)		
<b>DOC Case Name:</b>	Hand Trucks and Certain Parts Thereof from the People's Republic of China		
<b>ITC Case Name:</b>	Hand Trucks and Certain Parts Thereof From China		
<b>Subheading of the US Harmonized Tariff Schedule (HTSUS):</b>	8716.80.50 (10 / 60 / 90)		
<b>Original Investigation</b>			
<b>Petitioner(s):</b> Gleason Industrial Products, Inc. and Precision Products, Inc. (Gleason - Both companies are members of the Gleason Group)			
<b>Other Active Supporting Firm(s) / Groups:</b> Angelus Manufacturing (Angelus) Harper Trucks, Inc. (Harper) Magline, Inc. (Magline) Laborer's International Union of North America (LIUNA) United Food and Commercial Workers International Union (UFCWIU)			
<b>US Political Support Against the Petition:</b> -			
<b>Mandatory Responding Firm(s):</b> Qingdao Huatian Hand Truck Co., Ltd. (Huatian) Qingdao Taifa Group Co., Ltd (Taifa) Qingdao Xinghua Group Co., Ltd. (Xinghua) True Potential Co. (True Potential)			
<b>Section A Responding Firm(s):</b> Qingdao Future Tool Inc. (Future Tool) Shandong Machinery Import & Export Group (Shandong)			
<b>Other Active Responding Firm(s):</b> Quigdao Zhenhua Industrial Group Co., Ltd. (Zhenhua) Since Hardware (Guangzhou) Co., Ltd. (Since Hardware)			

Jiaonan Tianhe Hand Truck Co., Ltd. (Jiaonan)	
Safco Products Co., Liberty Diversified Industries, Inc. and Fully owned subsidiary	
Safco Products Co. (Safco)	
W.W. Grainger, Inc. (Grainger)	
Central Purchasing Inc. d/b/a Harbor Freight Tools (Central Purchasing)	
<b>Other Active Firm(s):</b>	
-	
<b>US Political Support Against the Petition:</b>	
-	
<b>Active Foreign Government(s) / Government Agencies:</b>	
China Chamber of Commerce for Import & Export of Machinery & Electronics (CCCIEME). Members include Huatian, Taifa, Zhenhua, Xinghua, Shandong and Tianhe.	
<b>Professional Service Firms and their Clients:</b>	
<b>Client</b>	<b>Legal Representation and Consulting Firms</b>
Gleason	Crowell & Moring, LLP Economic Consulting Services, LLC
Xinghua	Greenberg Traurig, LLP
Taifa	Greenberg Traurig, LLP
True Potential	Greenberg Traurig, LLP
Huatian	Greenberg Traurig, LLP
Shandong	Greenberg Traurig, LLP
Future Tool	Greenberg Traurig, LLP
CCCIEME	Greenberg Traurig, LLP
Safco	Katten Muchin Zavis Rosenman
Grainger	Sandler, Travis & Rosenberg, P.A.
<b>DOC Period of Investigation:</b>	01/04/2003 – 30/09/2003
<b>ITC Period of Investigation:</b>	01/01/2001 – 30/06/2004
<b>Duration:</b>	13/11/2003 – 01/12/2004
<b>DOC Preliminary Determination:</b>	24/05/2004
<b>Outcome of Original Investigation:</b>	Affirmative
<b>Cost Investigation:</b>	No

<b>Critical Circumstances Allegations:</b>		No	
<b>Duty Rates (Weighted-average Margin (%)):</b>		Preliminary	Final
<b>Mandatory Respondent(s):</b>	Xinghua	216.36 %	PRC-Wide
	Taifa	31.87 %	26.49 %
	True Potential	24.62 %	33.68 %
	Huatian	74.88 %	46.48 %
<b>Section A Respondent(s):</b>	Shandong	76.15 %	32.76 %
	Future Tool	76.15 %	32.76 %
<b>PRC-Wide Rate(s):</b>	-	346.94 %	383.60 %
<b>Administrative Reviews</b>			
<b>Period of Investigation for First Review (2006):</b>		01/12/2004 – 30/11/2005	
<b>Extended:</b>	03/08/2006 (71 FR 44018)	-	-
<b>Duty Rates (Weighted-average Margin (%)):</b>		Preliminary	Final
		72 FR 937	72 FR 27287
<b>Firm(s):</b>	Forecarry Corp	383.60 %	383.60 %
	Future Tool	PRC-Wide	-
	Since Hardware	12.22 %	0.00 %
	Shandong	PRC-Wide	-
	True Potential Co., Ltd	39.54 %	17.59 %
	PRC-Wide Rate	383.60 %	383.60 %
<b>Period of Investigation for Second Review (2007):</b>		01/12/2005 – 30/11/2006	
<b>Duty Rates (Weighted-average Margin (%)):</b>		Preliminary	Final
		73 FR 2214	
<b>Firm(s):</b>	Taifa	3.82 %	-
	PRC-Wide Rate	383.60 %	
<b>DOC Scope Reviews</b>			
<b>Reviews for Period Between:</b>			
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>
Vertex International, Inc.	Certain components of its Garden Cart, if imported separately, are not within the scope of the order.	29/12/2004 – 08/03/2006	70 FR 24537 71 FR 26050

Central Purchasing, LLC	Accessory carts are within the scope of the antidumping duty order.	--/--/-- - 03/06/2005	70 FR 55111
Central Purchasing, LLC	An accessory cart that is specifically designed to fit and carry a 'Breaker Hammer,' and is imported separately from the Breaker Hammer, is not included within the scope of the antidumping duty order.	22/11/2005 – 01/02/2006	71 FR 5647 71 FR 26050
Central Purchasing, LLC	Its two "welding carts" are not included within the scope of the antidumping duty order.	22/12/2005 – 15/02/2006	71 FR 5647 71 FR 26050
Faultless Starch/Bon Ami Co.	RuXXac and RuXXac Long hand trucks are within the scope of the antidumping duty order	--/--/-- - 03/06/2005	70 FR 55111
Gleason Industrial Products, Inc. and Precision Products, Inc.	The 'Black and Decker Workmate 525' and 'Black and Decker Workmate 500' are	07/02/2006 – 15/06/2006	71 FR 26051 71 FR 42807

	included within the scope of the antidumping duty order.		
Ameristep Corporation, Inc.	Its 'non-typical' deer cart (product no.7800) and its 'grizzly' deer cart (product no. 9800) are not within the scope of the antidumping duty order.	15/11/2006 – 18/05/2007	72 FR 5677 72 FR 43245
Bond Street Ltd.	The Stebco portable slide-flat cart (style no. 390009CHR) is included within the scope of the antidumping duty order.	08/12/2006 – 30/05/2007	72 FR 5677 72 FR 43245
Northern Tool & Equipment Co.	Whether a high-axle torch cart (item 164771) is within the scope of the antidumping duty order.	27/03/2007 -	72 FR 23802
American Lawn Mower Company	Terminated. The scope request for its 'Collect-It Garden Waste Remover' is not eligible for a scope ruling because the 'Collect-It	28/03/2007 – 03/08/2007	72 FR 23802 72 FR 43245



	Garden Waste Remover' was not yet in production.		
WelCom Products, Inc.	Whether its miniature Magna Cart in included in the scope.	20/08/2007 -	72 FR 62440
<b>DOC New Shipper Reviews</b>			
<b>Reviews for Period Between:</b>		24/06/2004 – 30/06/2005	
<b>Extended:</b>	28/02/2006 (71 FR 10010)	-	-
<b>Duty Rates (Weighted-average Margin (%)):</b>		Preliminary	Final
<b>Firm(s):</b>	<b>Duration:</b>	72 FR 937	72 FR 27287
Since Hardware	27/12/2005 – 15/05/2007 71 FR 5810 71 FR 30867	12.22 %	0.00 %
New Tec Integration (Xiamen) Co. Ltd	02/08/2007 – 72 FR 42392	Ongoing	Ongoing
<b>DOC Anti-circumvention Determinations</b>			
<b>Firm(s):</b>	<b>Outcome:</b>	<b>Date:</b>	<b>Source:</b>
-	-	-	-
<b>Alternative Respondent Prosecution Strategies</b>			
<b>World Trade Organization Dispute Settlement</b>		-	
<b>US Court of International Trade Appeal</b>		Yes	
Plaintiff: Vertex International, Inc. Outcome: Vertex's Garden Cart is outside the scope of the Order on hand trucks from China.		17/03/2005 - 28/04/2006	71 FR 25147 (USCIT, 2007a; No 05-00272 - Slip 00206-00210 / 00235)
Plaintiff: Gleason Industrial Products, Inc. Outcome: Ongoing case to determine if two welding carts are included in the scope of the investigation, after the DOC ruled the carts		16/03/2007 -	(USCIT, 2007a; Slip Op. 07-40)

outside the scope of investigation.			
<b>Agency Contacts</b>			
<b>DOC Import Administration</b>	<b>Name</b>	<b>Phone</b>	
Import Administration U.S. Department of Commerce 14 <sup>th</sup> Street and Constitution Avenue, NW Washington, D.C. 20230	Daniel J. Alexy	+1 (202) 482-1540	
	Stephen Cho	+1 (202) 482-3798	
	Audrey Twyman	+1 (202) 482-3534	
<b>ITC Office of Investigations</b>	<b>Name / email</b>	<b>Phone</b>	
<b>Investigator:</b>	Elizabeth Haines / elizabeth.haines@usitc.gov	+1 (202) 205-3200	
<b>Supervisory Investigator:</b>	George Deyman / george.deyman@usitc.gov	+1 (202) 205-3197	
<b>Federal Register Record for Case</b>			
<b>Entry</b>	<b>Agency</b>	<b>Notice Description</b>	<b>Date</b>
68 FR 65733	ITC	Institution of antidumping investigation and scheduling of a preliminary phase investigation.	21/11/2003
68 FR 68591	DOC	Initiation of antidumping duty investigation.	09/12/2003
69 FR 1603	ITC	Preliminary affirmative injury determination.	09/01/2004
69 FR 19153	DOC	Postponement of preliminary antidumping duty determination.	12/04/2004
69 FR 29509	DOC	Preliminary affirmative determination of sales at less than fair value.	24/05/2004
69 FR 32042	ITC	Scheduling of the final phase of an antidumping investigation.	08/06/2004
69 FR 60980	DOC	Final affirmative determination of sales at less than fair value.	14/10/2004
69 FR 65410	DOC	Amended final affirmative determination of sales at less than fair value.	12/11/2004

69 FR 69957	ITC	Final affirmative injury determination.	01/12/2004
69 FR 70122	DOC	Antidumping duty order.	02/12/2004
70 FR 24533	DOC	Scope rulings.	10/05/2004
70 FR 55110	DOC	Scope rulings.	20/09/2004
70 FR 72109	DOC	Opportunity to request review of antidumping or countervailing duty order, finding, or suspended investigation; opportunity to request administrative review. POI: 24/05/2004 – 30/11/2005	01/12/2005
71 FR 5241	DOC	Initiation of antidumping and countervailing duty administrative reviews and request for revocation in part. POI: 24/05/2004 – 30/11/2005	01/02/2006
71 FR 5646	DOC	Scope rulings.	02/02/2006
71 FR 5810	DOC	Initiation of new shipper review. POI: 24/05/2004 – 30/11/2005	03/02/2006
71 FR 9519	DOC	Initiation of antidumping and countervailing duty administrative reviews. POI: 01/12/2004 – 30/11/2005	24/02/2006
71 FR 25147	DOC	Decision of the Court of International Trade not in harmony.	28/04/2006
71 FR 26051	DOC	Scope rulings.	03/05/2006
71 FR 30867	DOC	Postponement of time limits for new shipper antidumping review in conjunction with administrative review. POI: 01/12/2004 – 30/11/2005	31/05/2006
71 FR 44019	DOC	Extension of time limits for preliminary results in antidumping duty administrative review and new shipper review.	03/08/2006

		POI: 01/12/2004 – 30/11/2005	
71 FR 42807	DOC	Scope rulings.	28/07/2006
72 FR 937	DOC	Preliminary results and partial rescission of administrative review and preliminary results of new shipper review. POI: 01/12/2004 – 30/11/2005	09/01/2007
72 FR 27287	DOC	Final results of administrative review and final results of new shipper review. POI: 01/12/2004 – 30/11/2005	15/05/2007
Original Investigation Stages		Effective Date	Source
Petition Filed			(USITC, 2003c)
Received	DOC/ITC	13/11/2003	68 FR 65734
Amendment to Petition	DOC	18/11/2003	68 FR 68591
Supplemental Questionnaire	DOC	19/11/2003	68 FR 68591
Received from	DOC	25/11/2003	68 FR 68591
Gleason			
Amendment to Petition	DOC	01/12/2003	68 FR 68591
ITC Institution of Antidumping Investigation China		13/11/2003	68 FR 65733
ITC Preliminary Investigation Antidumping Questionnaires Returned		26/11/2003	(USITC, 2003c)
ITC Preliminary Investigation Conference Attendance:		04/12/2003	68 FR 65733 ITC Doc 199080
On behalf of the International Trade Commission:  Staff: ROBERT CARPENTER, Director of Investigations GEORGE DEYMAN, Supervisory Investigator ELIZABETH HAINES, Investigator			

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IN SUPPORT OF THE IMPOSITION OF

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BARBARA A. MURPHY, Of Counsel

MARK R. LEVENTHAL, Of Counsel Adducci, Mastriani & Schaumberg Washington, D.C.		
ITC Preliminary Investigation Post-Conference Briefs  Received from Gleason, W.W. Granger, Central Purchasing and CCCME:	09/12/2003	(USITC, 2003c) ITC Doc 197181 ITC Doc 197190 ITC Doc 197202 ITC Doc 197218
ITC Preliminary Investigation Vote	29/12/2003	(USITC, 2003c)
ITC Preliminary Investigation Injury Determination Transmitted to the DOC	29/12/2003	68 FR 1603
ITC Preliminary Investigation Views Published	Dec 2003	68 FR 1603
DOC Initiation of Antidumping Investigation China Original Investigation:	09/12/2003	68 FR 68591
DOC Preliminary Determination Clarification of Petition First:  Received from Company: Rebuttal by Company:		
DOC Preliminary Determination Requests for Comments / Information from Firms Determination Industry Support Requested: Time Extended: Received from CCCIEME: Rebuttal by Gleason: Letter from UFCWIU in Support:	??  02/12/2003 03/12/2003 03/12/2003	68 FR 68591  68 FR 68591 68 FR 68591
Determination Scope of Investigation / Product Coverage Requested:	09/12/2003	68 FR 68591

Time Extended:		
Original:		
Amendment:		
Received from Angelus:	04/05/2004	69 FR 29510
Rebuttal by Company:		
Determination Model Matching Criteria		
Requested:	22/12/2003	69 FR 29510
Time Extended:		
Received from Gleason, Taifa,	06/01/2004	69 FR 29510
Xinghua, Shandong, Zhenhua	28/01/2004	CD Doc 46
and Huatian:		
Rebuttal by Company:		
Determination Surrogate Country		
Requested:	22/03/2004	69 FR 29510
Time Extended:		
Received from Gleason, Huatian,	08/04/2004	9 FR 29510
Taifa and True Potential:		
Rebuttal by Company:		
Valuing Factors of Production		
Requested:	22/03/2004	69 FR 29510
Time Extended:		
Received from Gleason, Huatian,	08/04/2004	9 FR 29510
Taifa and True Potential:		
Rebuttal by Company:		
Conversion Tables and Formulas		
Requested:		
Time Extended:		
Received from Company:		
Rebuttal by Company:		
US HTS Headings		
Requested:		
Time Extended:		
Received from Company:		

Rebuttal by Company:		
DOC Preliminary Determination Request to Assess Government Control Over Industry Received from Gleason: Rebuttal by Company:	19/03/2004	69 FR 29510
DOC Preliminary Investigation Selection of Mandatory Respondents	06/02/2004	69 FR 29510
DOC Preliminary Investigation Antidumping Questionnaires Partial Section A (Quantity and Value for POI): Issued to All Producers/Exporters and top 70% of Exporters by Quantity: Returned by Xinghua, Zhenhua, Huatian, Shandong, Fuzhou, Taifa: Full Section A: Issued to Future Tool, Zhenhua and Shandong: Returned: Full Antidumping: Issued to Huatian, Taifa, Xinghua and True Potential: Returned: Supplemental: Issued to Huatian, Taifa, Xinghua and True Potential: Returned:	16/01/2004  ??  ??  06/02/2004  Mar-Apr 2004	69 FR 29510  CD Doc 55, 58, 61  69 FR 29510  69 FR 29510
DOC Preliminary Investigation Determination China Original Determination: First Amendment:	17/05/2004	69 FR 29509
DOC Preliminary Determination Comments Received from Company:	??	



Rebuttal by Company:	??	
DOC Preliminary Determination Ministerial Error Allegations First: Received from Company: Rebuttal by Company:		
DOC Preliminary Investigation Extension of Time Limit Requested by DOC: Requested by DOC:	12/04/2004 06/04/2004	69 FR 19153 69 FR 29510
DOC Final Investigation Extension of Time Limit Requested by Huatian, Taifa, Xinghua and True Potential: Request Withdrawn: Request Challenged by Company:	11/05/2004	69 FR 29510
DOC Final Investigation Antidumping Questionnaires Supplemental: Issued to Huatian, Taifa, Xinghua and True Potential: Time Extended: Returned:	May 2004 June 2004	69 FR 60980 69 FR 60980
DOC Final Investigation Antidumping Questionnaire Responses Verification Cost Verification for Huatian: Sales Verification for Huatian: Cost Verification for Taifa: Sales Verification for Taifa:	08/07/2004 – 15/07/2004 08/07/2004 – 15/07/2004 19/07/2004 – 23/07/2004 19/07/2004 – 23/07/2004	69 FR 60980 69 FR 60980 69 FR 60980 69 FR 60980

Cost Verification for Xinghua:	26/07/2004 – 30/07/2004	69 FR 60980
Sales Verification for Xinghua:	26/07/2004 – 30/07/2004	69 FR 60980
Cost Verification for True Potential:	16/07/2004 – 19/07/2004	69 FR 60980
Sales Verification for True Potential:	16/07/2004 – 19/07/2004	69 FR 60980
Comments on Taifa Verification by Gleason:	10/09/2004	69 FR 60981
Rejected by DOC: Sales and Cost Verification Reports:	16/09/2004	69 FR 60981
DOC Final Investigation Corrections Sales and FOP:		
Received from Huatian and Taifa:	30/07/2004	69 FR 60980
DOC Requests Resubmission by Taifa:	03/09/2004	69 FR 60980
Meeting Between DOC and Taifa:	08/09/2004	69 FR 60980
DOC Requests Resubmission and Comments	09/09/2004	69 FR 60980
Comments by Taifa:	13/09/2004	69 FR 60980
Comments by Gleason:	15/09/2004	69 FR 60980
DOC Final Investigation Case Briefs		
Received from Gleason, Huatian, Taifa, True Potential and Zhenhua:	10/09/2004	69 FR 60981
Rebuttal by Gleason, Huatian, Future Tool, Taifa and True Potential:		69 FR 60981
DOC Rejects Gleason Submission:	17/09/2004	69 FR 60981
Resubmission by Gleason:	21/09/2004	69 FR 60981
DOC Final Investigation Hearing		

Attended by Gleason, Huatian, Taifa, True Potential Xinghua and Zhenhua:	17/09/2004	69 FR 60981
DOC Final Investigation Determination China	Original Determination: 14/10/2004 First Amendment: 12/11/2004	69 FR 60981 69 FR 65410
DOC Final Determination Ministerial Error Allegations	Received from Gleason, Huatian, Taifa, True Potential: 15/10/2004 Rebuttal by Gleason, Huatian, Taifa, True Potential: 20/10/2004	69 FR 65410 69 FR 65410
ITC Commencement of Final Phase	09/01/2004	69 FR 1603
ITC Scheduling of Final Investigation	24/05/2004	69 FR 32042
ITC Final Investigation Antidumping Questionnaires Returned	17/08/2004	(USITC, 2004a)
ITC Final Investigation Pre-Hearing Report	23/09/2004	(USITC, 2004a)
ITC Final Investigation Pre-Hearing Briefs Received from Gleason, Liberty Diversity Products and “CCCME:	30/09/2004	(USITC, 2004a) ITC Doc 215081 ITC Doc 215270 ITC Doc 215283 ITC Doc 215291
ITC Final Investigation Hearing Attendance: On behalf of the International Trade Commission:  Commissioners: STEPHEN KOPLAN, CHAIRMAN (presiding) DEANNA TANNER OKUN, VICE CHAIRMAN	07/10/2004	69 FR 69957 ITC Doc 215919

MARCIA E. MILLER, COMMISSIONER  
JENNIFER A. HILLMAN, COMMISSIONER  
CHARLOTTE R. LANE, COMMISSIONER  
DANIEL R. PEARSON, COMMISSIONER

MARILYN R. ABBOTT, SECRETARY TO  
THE COMMISSION

WILLIAM R. BISHOP, HEARINGS AND  
MEETINGS COORDINATOR

Staff:

ELIZABETH HAINES, INVESTIGATOR  
PEDER ANDERSEN, COMMODITY  
ANALYST

CLARK WORKMAN, ECONOMIST

DAVID BOYLAND, ACCOUNTANT

KAREN DRISCOLL, ATTORNEY

DOUGLAS CORKRAN, SUPERVISORY  
INVESTIGATOR

In Support of the Imposition of Antidumping  
Duties:

On behalf of Gleason Industrial Products, Inc.;  
Precision Products, Inc.; Harper Trucks,  
Inc.; Magline, Inc.:

HOWARD SIMON, Chief Operating Officer,  
Gleason Industrial Products, Inc., and  
Precision Products, Inc.

JAY KVASNICKA, Corporate Vice President,  
Sales and Marketing, Gleason Industrial  
Products, Inc.

BILL MALONE, Vice President, Manufacturing,

Gleason Industrial Products, Inc.

DAVID A. RIFE, Vice President, Sales, Harper  
Trucks, Inc.

DAVID STRAW, President and Chief Operating  
Officer, Magline, Inc.

BRUCE MALASHEVICH, President, Economic  
Consulting Services

Of Counsel:

MATTHEW P. JAFFE, Esquire

ALEXANDER H. SCHAEFER, Esquire

SOBIA HAQUE, Esquire

Crowell & Moring, LLP

Washington, D.C.

In Opposition to the Imposition of Antidumping  
Duties:

On behalf of Liberty Diversified Products, Inc.;

Safco Products Company ("Safco"):

PAM LaFONTAINE, Director, Product  
Development

Marketing, Safco

DAN ZDON, General Manager, Safco

Of Counsel:

MARK S. ZOLNO, Esquire

DAVID R. STEPP, Esquire

Katten, Muchin, Zavis & Rosenman

Chicago, Illinois

On behalf of China Chamber of Commerce for

<p>Import and Export of Machinery and Electronics; Qingdao Huatian Hand Truck Co., Ltd.; Qingdao Taifa Group Co., Ltd.; Qingdao Zhenhua Industrial Group Co., Ltd.; Qingdao Xinghua Group Co., Ltd.; Shandong Machinery Import and Export Group Corp.; Jiaonan Tianhe Hand Truck Co., Ltd.:</p> <p>FENG XUELOU, Chairman, Qingdao Taifa Group Co., Ltd.</p> <p>GE ZHIQIANG, Vice General Manager, Qingdao Taifa Group Import and Export Corp.</p> <p>LIU HUIJUAN, Project Director, China Chamber of Commerce for Import and Export of Machinery and Electronics</p> <p>WEI-MO LIU, Assistant Director, Greenberg Traurig, LLP</p> <p>Of Counsel:</p> <p>PHILIPPE M. BRUNO, Esquire</p> <p>ROSA JEONG, Esquire</p> <p>Greenberg Traurig, LLP</p> <p>Washington, D.C.</p>		
<p>Congressional Correspondence:</p> <p>Received from Company:</p>	-	-
<p>Other Political Correspondence:</p> <p>Received from Company:</p>	-	-
<p>ITC Final Investigation Post-Hearing Briefs</p> <p>Received from Gleason, Liberty Diversity Products and “CCCME:</p>	15/10/2004	(USITC, 2004a) ITC Doc 216312 ITC Doc 216305 ITC Doc 216346

ITC Final Investigation Record Closing	03/11/2004	(USITC, 2004a)
ITC Final Investigation Final Comments Received from Gleason and Liberty Diversity Products:	05/11/2004	(USITC, 2004b) ITC Doc 217776 ITC Doc 217909
ITC Final Investigation Vote Original Investigation:	10/11/2004	(USITC, 2004b)
ITC Final Investigation Transmission of Determination to DOC (Case Ends)	22/11/2004	69 FR 69957
ITC Final Investigation Report		
DOC Final Investigation Antidumping Duty Order Issued	02/12/2004	69 FR 70122

**Table 63: Case Summary for Hand Trucks and Certain Parts Thereof from China**

**Sources: (DOC ITA, 2007b, USGPO, 2007, USITC, 2003c, 2004b)**

### 15.2.5 Outboard Engines From Japan

<b>DOC Investigation No:</b>	A-588-865	<b>ITC Investigation No:</b>	731-TA-1069
<b>Case Type:</b>	Antidumping Duty		
<b>Country(s):</b>	Japan (Japan)		
<b>DOC Case Name:</b>	Outboard Engines from Japan		
<b>ITC Case Name:</b>	Outboard Engines From Japan		
<b>Subheading of the US Harmonized Tariff Schedule (HTSUS):</b>	8407.21.00 (40/80)		
<b>Original Investigation</b>			
<b>Petitioner(s):</b>			
Mercury Marine, a division of Brunswick Corp., Fond du Lac, WS. (Mercury)			
<b>Active Supporting Firm(s):</b>			
Bombardier Motor Corporation and Bombardier Recreational Products Inc. (Bombardier / BRP)			
<b>US Political Support for the Petition:</b>			
Herb Khol, US Senator (Democrat - WI)			
Jerry F. Costello, Member of Congress (Democrat - IL)			
John J. Duncan, Jr., Member of Congress (Republican - TN)			
Mark Kirk, Member of Congress (Republican - IL)			
Russell D. Feingold, US Senator (Democrat - WI)			
Walter B. Jones, Member of Congress (Republican - NC)			
William H. Frist, US Senator (Republican - TN)			
Thomas E. Petri, Member of Congress (Republican - WI)			
Jim Doyle, Governor (WI)			
<b>Unclear US Political Support Regarding the Petition:</b>			
Christopher S. Bond, US Senator (Republican - MO)			
<b>Mandatory Responding Firm(s):</b>			
Yamaha Motor Company, Ltd., Yamaha Marine Company, Ltd., and Yamaha Motor Corporation, USA (Yamaha)			
<b>Other Active Foreign Responding Firm(s):</b>			
American Honda Motor Co., Inc., and Honda Motor Co., Ltd. (Honda)			
Nissan Marine Co., Ltd. (Nissan)			



Suzuki Motor Corporation and American Suzuki Motor Corporation (Suzuki)  
 Tohatsu Corporation, Tohatsu Marine Corporation, and Tohatsu American Corporation  
 (Tohatsu)

**Active Responding US Firm(s) / Individual(s):**

Genmar Holdings, Inc.  
 Godfrey Conveyer Company, Inc. d.b.a. Godfrey Marine (Godfrey)  
 Route 6 Marine (Route 6)  
 Ocean House Marina (Ocean House)  
 Edge Water Power Boats (Edge Water)  
 Captain’s Choice Marine, Inc. (Captain’s Choice)  
 Prop & Sail, Inc. (Prop & Sail)  
 Preferred RV-Marine-ATV (Preferred)  
 Mike Loughran – Equity Analyst  
 American Marine & Motorsports Supercenter (AMMS)  
 Gerald T. Fulginiti – Boat Seller  
 Marine Outlet, Inc. (Marine Outlet)  
 Custom Marine (Custom Marine)  
 Buzz’s Marine (Buzz’s)

**US Political Support Against the Petition:**

-

**Active Foreign Government(s):**

-

**Professional Service Firms and their Clients:**

<b>Firm / Government</b>	<b>Legal Representation and Consulting Firms</b>
Mercury	Dewey Ballantine LLP
Bombardier	Harris Ellsworth & Levin Capital Trade Incorporated
Yamaha	Willkie Farr & Gallagher, LLP Arthur Consulting Group, Inc.
Honda	Gibson, Dunn & Crutcher, LLP
Nissan	Adduci, Mastriani & Schaumberg Co-counsel Morgan, Lewis & Bockius, LLP
Suzuki	Buchanan Ingersoll

Tohatsu	Adduci, Mastriani & Schaumberg Co-counsel Morgan, Lewis & Bockius, LLP		
Godfrey	Barnes & Thornburg		
<b>DOC Period of Investigation:</b>		01/01/2003 – 31/12/2003	
<b>ITC Period of Investigation:</b>		01/01/2001 – 30/09/2004	
<b>Duration:</b>		08/01/2004 – 23/02/2005	
<b>DOC Preliminary Determination:</b>		12/08/2004	
<b>Outcome of Original Investigation:</b>		Negative	
<b>Cost Investigation:</b>		Yes	
<b>Critical Circumstances Allegations:</b>		No	
<b>Duty Rates (Weighted-average Margin (%)):</b>		Preliminary	Final
<b>Mandatory Respondent(s):</b>	Yamaha	22.52 %	19.98 %
<b>All Other(s):</b>	-	22.52 %	19.98 %
<b>DOC Administrative Reviews</b>			
<b>Period of Investigation for First Review:</b>		Not Applicable	
<b>Alternative Prosecution Strategies</b>		No	
World Trade Organization Dispute Settlement		-	-
US Court of International Trade Appeal		-	-
<b>Agency Contacts</b>			
<b>DOC Import Administration</b>	<b>Name</b>	<b>Phone</b>	
Operations	James Kemp	+1 (202) 482-5346	
Office 1	Shane Subler	+1 (202) 482-0189	
Import Administration			
U.S. Department of Commerce			
Room 3099			
14 <sup>th</sup> Street and Constitution			
Avenue, NW			
Washington, D.C. 20230			
<b>ITC Office of Investigations</b>	<b>Name / email</b>	<b>Phone</b>	
<b>Investigator:</b>	Olympia Hand olympia.hand@usitc.gov	+1 (202) 205-3182	
<b>Supervisory Investigator:</b>	Diane Mazur	+1 (202) 205-3184	

**Federal Register Record for Case**

<b>Entry</b>	<b>Agency</b>	<b>Notice Description</b>	<b>Date</b>
69 FR 2158	ITC	Institution of antidumping investigation and scheduling of a preliminary phase investigation.	14/01/2004
69 FR 5316	DOC	Initiation of antidumping duty investigation.	04/02/2004
69 FR 9643	ITC	Preliminary affirmative injury determination.	01/03/2004
69 FR 49864	DOC	Preliminary affirmative determination of sales at less than fair value.	12/08/2004
69 FR 51859	ITC	Scheduling of the final phase of an antidumping investigation.	23/08/2004
69 FR 76009	ITC	Commission determination to conduct a portion of the final hearing in camera.	20/12/2004
70 FR 326	DOC	Final affirmative determination of sales at less than fair value.	04/01/2005
70 FR 1739	ITC	Revised schedule for final phase of investigation.	10/01/2005
70 8822	ITC	Final negative injury determination.	23/02/2005
<b>Original Investigation Stages</b>		<b>Effective Date</b>	<b>Source</b>
Petition Filed by Mercury			
Received	DOC / ITC	08/01/2004	69 FR 2158
Supplemental Information	DOC	22/01/2004	69 FR 5316
Supplemental Information	DOC	20/01/2004	69 FR 5316
ITC Institution of Antidumping Investigation Japan			
	Outboard Engines	08/01/2004	69 FR 2158
ITC Preliminary Investigation Antidumping Questionnaires			
	Returned:	12/01/2004	(USITC, 2004c)
ITC Preliminary Investigation Conference		29/01/2004	69 FR 9643

Attendance:

ITC Doc 201160

On behalf of the International Trade Commission:

Staff :

ROBERT CARPENTER, DIRECTOR OF  
INVESTIGATIONS

LARRY REAVIS, INVESTIGATOR

KAREN DRISCOLL, ATTORNEY/ADVISER

JAMES FETZER, ECONOMIST

CHARLES YOST, ACCOUNTANT

DEBORAH McNAY, INDUSTRY ANALYST

In Support of the Imposition of Antidumping

Duties:

On behalf of Mercury Marine, a division of

Brunswick Corp. :

DENNIS W. SHELLER, Vice President of

Marine Strategy

RICK DAVIS, Vice President of Engine

Development and Chief Technology Officer

JOSEPH H. POMEROY, General Counsel

WILLIAM A. NOELLERT, Economist, Dewey

Ballantine

Of Counsel:

ALAN WOLFF, Esquire

KEVIN DEMPSEY, Esquire

BILL MILLER, Esquire

Dewey Ballantine, LLP

Washington, D.C.

In Opposition to the Imposition of Antidumping

Duties:

On behalf of Yamaha Motor Co., Ltd., and

Yamaha Motor Corp., USA:

PHILLIP DYSKOW, President, Marine Group,  
Yamaha Motor Corp., USA

BEN SPECIALE, General Manager, Operations  
and Planning, Marine Group

RUSSELL D. JURA, Senior Vice President and  
General Counsel, Yamaha Motor Corp.,  
USA

U.S. boat builders:

IRWIN JACOBS, Chairman, Genmar Holdings

BOB DEPUTY, Vice President, Godfrey Marine

SCOTT DEAL, President, Maverick Boat  
Company

DOUG GOMES, Vice President for Sales and  
Marketing, Grady White Boats, Inc.

U.S. boat and marine equipment dealers:

JOHN HADDON, Sea Witch Marine

JEFF KALIBAT, K&K Outboard

BRIAN VALOT, Attwood Lake Boats

JACK MUDGETT, Action Marine

Of Counsel:

WILLIAM H. BARRINGER, Esquire

CHRISTOPHER A. DU", Esquire

JOCELYN C. FLY", Esquire

REBECCA GRIFFIN, Esquire

Wilkie Farr & Gallagher

Washington, D.C.

On behalf of Honda Motor Co., Ltd., and

American Honda Motor Co., Inc. :

WADE TERRY, Vice President, Power  
Equipment Division, American Honda  
Motor Co.

TOM RIGGLE, Senior Manager, Honda Marine  
Group, American Honda Motor Co.

Of Counsel:

DONALD HARRISON, Esquire

CHRIS WOOD, Esquire

GREG GERDES, Esquire

Gibson, Dunn & Crutcher, LLP

Washington, D.C.

On behalf of Suzuki Motor Corp. and American  
Suzuki Motor Corp.:

LARRY VANDIVER, Marketing Director,  
American Suzuki Motor Corp.

Of Counsel:

JOHN H. KORNS, Esquire

Buchanan Ingersoll

Washington, D.C.

On behalf of Tohatsu CorD., Tohatsu Marine  
Corp., Tohatsu America Corp., and Nissan  
Marine Co., Ltd.:

JIM MORGENTHALER, General Manager,  
Tohatsu America Corp.

SETH KAPLAN, Charles River Associates

Of Counsel:

TOM M. SCHAUMBERG, Esquire

BARBARA MURPHY, Esquire

Adduci, Mastriani & Schaumberg, LLP Washington, D . C .  SCOTT A. STEMPEL, Esquire MICHAEL S. KELLY, Esquire Morgan, Lewis & Bockius, LLP		
ITC Preliminary Investigation Post-Conference Briefs  Received from Mercury, Honda, Nissan:, Suzuki, Tohatsu, Yamaha:	03/02/2004	69 FR 2159 ITC Doc 200125 ITC Doc 200322 ITC Doc 200447 ITC Doc 200459 ITC Doc 200463
ITC Preliminary Investigation Vote	23/02/2004	(USITC, 2004c)
ITC Preliminary Investigation Injury Determination Transmitted to the DOC	23/02/2004	69 FR 9643
ITC Preliminary Investigation Views Published	01/03/2004	69 FR 9643
DOC Initiation of Antidumping Investigation Japan                                      Outboard Engines	28/01/2004	69 FR 49863
DOC Preliminary Determination Requests for Comments / Information from Firms Determination of Scope of Investigation / Product Coverage  Requested: Received from Honda: Received from Nissan: Received from Suzuki: Received from Tohatsu: Received from Yamaha: Rebuttal by Mercury:	04/02/2004 24/02/2004 24/02/2004 24/02/2004 24/02/2004 24/02/2004 Unknown	69 FR 5317 69 FR 49863 69 FR 49863 69 FR 49863 69 FR 49863 69 FR 49863 69 FR 49864
Determination of Model Matching Criteria Requested:	03/02/2004	69 FR 49863

Received from Mercury:	20/02/2004	69 FR 49863
Received from Honda:	20/02/2004	69 FR 49863
Received from Nissan:	20/02/2004	69 FR 49863
Received from Suzuki:	20/02/2004	69 FR 49863
Received from Tohatsu:	20/02/2004	69 FR 49863
Received from Yamaha:	20/02/2004	69 FR 49863
Received from Bombardier:	27/02/2004	69 FR 49863
DOC Preliminary Investigation Selection of Mandatory Respondents	11/03/2004	69 FR 49864 FV2-0022 FV2-0024 FV2-0026
DOC Preliminary Investigation Questionnaires Quantity and Value		
Issued to Honda:	01/03/2004	69 FR 49864
Returned:	04/03/2004	69 FR 49864
Issued to Nissan:	01/03/2004	69 FR 49864
Returned:	04/03/2004	69 FR 49864
Issued to Suzuki:	01/03/2004	69 FR 49864
Returned:	04/03/2004	69 FR 49864
Issued to Tohatsu:	01/03/2004	69 FR 49864
Returned:	04/03/2004	69 FR 49864
Issued to Yamaha:	01/03/2004	69 FR 49864
Returned:	04/03/2004	69 FR 49864
First Antidumping:		
Issued to Yamaha:	11/03/2004	69 FR 49863
Time Extended:		
Returned:		
Rebuttal by Mercury and BRP:	Unknown	FV3-0001 FV3-0006
DOC Preliminary Investigation Extension of Time Limit		
First:		
Requested by Mercury:	30/04/2004	69 FR 49863



Second: Requested by Mercury:	22/06/2004	69 FR 49863
DOC Preliminary Investigation Hearing Requested by Company:	Not Held	
DOC Preliminary Investigation Determination Japan Original Determination:	12/08/2004	69 FR 49864
DOC Preliminary Determination Comments First: Received from Mercury: Rebuttal by Company:	??	FV4-0039
DOC Final Investigation Extension of Time Limit Requested by Yamaha:	Unknown	69 FR 49864
DOC Final Investigation Questionnaire Responses Verification Cost Verification for Yamaha: Sales Verification for Yamaha: Sales and Cost Verification Reports:	Sep/Oct 2004 Sep/Oct 2004 01/11/2004	70 FR 326 70 FR 326 70 FR 327
Rebuttal by Mercury and BRP:	Unknown	FV5-0083 AF3a-0002
DOC Final Investigation Case Briefs First: Received from Mercury: Received from BRP: Received from Honda: Received from Suzuki: Received from Tohatsu: Received from Nissan: Received from Yamaha: Rebuttal Briefs: Received from Mercury: Received from BRP: Received from Yamaha:	10/11/2004 10/11/2004 10/11/2004 10/11/2004 10/11/2004 10/11/2004 10/11/2004 17/11/2004 17/11/2004 17/11/2004	70 FR 327 70 FR 327 70 FR 327 70 FR 327 70 FR 327 70 FR 327 70 FR 327 70 FR 327 70 FR 327 70 FR 327

DOC Final Investigation Hearing Requested by Company:	Not Held	70 FR 327
DOC Final Scope Amendment Request Received from Mercury: Comments by Yamaha: Response from Mercury:	17/11/2004 23/11/2004 30/11/2004	70 FR 328 70 FR 328 70 FR 328
DOC Final Investigation Determination Japan Original Determination:	04/01/2005	70 FR 326
DOC Final Determination Ministerial Error Allegations First: Received from Mercury, BRP and Yamaha: Rebuttal by Company:		FV5-0072 FV5-0073 FV5-0070
ITC Commencement of Final Phase	01/03/2004	69 FR 9643
ITC Scheduling of Final Phase	12/08/2004	69 FR 51860
ITC Revised Scheduling of Final Phase	10/01/2005	70 FR 1739
ITC Final Investigation Antidumping Questionnaires Returned	28/10/2004	(USITC, 2005d)
ITC Final Investigation Pre-Hearing Staff Report	02/12/2004	(USITC, 2005d)
ITC Final Investigation Pre-Hearing Briefs Received from Mercury, Honda, Nissan:, Suzuki, Tohatsu, Yamaha, BRP:	09/12/2004	(USITC, 2005d) ITC Doc 220025 ITC Doc 220062 ITC Doc 220074
ITC Final Investigation Hearing Request for In Camera Hearing by Honda, Suzuki, Nissan, Tohatsu and Yamaha: Attendance: On behalf of the International Trade Commission:	14/12/2004 Unknown	70 FR 8822 69 FR 76009 ITC Doc 220782

Commissioners:

STEPHEN KOPLAN, COMMISSIONER

(presiding)

DEANNA TANNER OKUN, VICE CHAIRMAN

MARCIA E. MILLER, COMMISSIONER

JENNIFER A. HILLMAN, VICE CHAIRMAN

CHARLOTTE R. LANE, COMMISSIONER

DANIEL R. PEARSON, COMMISSIONER

MARILYN R. ABBOTT, SECRETARY TO THE  
COMMISSION

WILLIAM R. BISHOP, HEARINGS AND  
MEETINGS COORDINATOR

Staff:

SHARON BELLAMY, HEARINGS  
ASSISTANT

OLYMPIA HAND, INVESTIGATOR

DEBORAH McNAY, INDUSTRY ANALYST

JAMES FETZER, ECONOMIST

CHARLES YOST, ACCOUNTANT/AUDITOR

KAREN DRISCOLL, ATTORNEY

DIANE MAZUR, SUPERVISORY  
INVESTIGATOR

Congressional Witness:

THE HONORABLE THOMAS E. PETRI, U.S.

Congressman, U.S. House of

Representatives, State of Wisconsin, 6th

District

State Witness:

THE HONORABLE JIM DOYLE, Governor,  
State of Wisconsin

In Support of the Imposition of Antidumping  
Duties:

On behalf of Mercury Marine ("Mercury"):

PATRICK MACKEY, President, Mercury

DENNIS SHELLER, Vice President, Marine  
Strategy, Mercury

RICK DAVIS, Vice President, Engine  
Development; and Chief Technology  
Officer, Mercury

JOSEPH POMEROY, General Counsel, Mercury

GENE HERMAN, President, Local 1947,  
International Association of Machinists and  
Aerospace Workers

EARL BENTZ, President, Triton Boat Company

LEE KIMMELL, Chairman and CEO, American  
Marine Holdings

REGGIE FOUNTAIN, Chairman and CEO,  
Fountain Powerboats

ED RENKEN, Executive Vice President, Sea Fox  
Boats

RICK GROVER, Owner, Angler's Marine

JEFF MILLER, President and General Manager,  
Millers Boating Center

ANDY WOLF, Owner, M-W Marine

RON WILSON, Owner, Wilson Marine

WILLIAM A. NOELLERT, Economist, Dewey  
Ballantine, LLP

Of Counsel:

ALAN WM. WOLFF, Esquire

KEVIN M. DEMPSEY, Esquire

DAVID A. YOCIS, Esquire

Dewey Ballantine, LLP

Washington, D.C.

In Opposition to the Imposition of Antidumping

Duties:

On behalf of Yamaha Motor Co., Ltd.; Yamaha  
Marine Co., Ltd.; Yamaha Motor Corp.,  
USA - ("Yamaha"):

RUSSELL D. JURA, Executive Vice President  
and General Counsel, Yamaha

PHILIP DYSKOW, President, Marine Group,  
Yamaha

BENJAMIN SPECIALE, General Manager,  
Operations, and Planning, Marine Group,  
Yamaha

IRWIN JACOBS, Chairman, Genmar Holdings

KRIS CARROLL, President, Grady White

JOAN MAXWELL, President, Regulator Marine

SCOTT DEAL, President, Maverick

TOM GOOTEE, President, Gootee Marine

ROBERT GOWENS, Consultant, Gowens  
Consulting

Of Counsel:

WILLIAM H. BARRINGER, Esquire

CHRISTOPHER DUNN, Esquire

ROBERT DeFRANCESCO, Esquire

REBECCA GRIFFIN, Esquire

Wilkie Farr & Gallagher, LLP

Washington, D.C.

On behalf of Godfrey Marine:

ROBERT DEPUTY, President, Godfrey Marine

Of Counsel:

RANDOLPH STAYIN, Esquire

Barnes & Thornburg

Washington, D.C.

On behalf of Suzuki Motor Corp.; American

Suzuki Motor Corp. - ("Suzuki"):

LARRY VANDIVER, Marine Marketing

Director, Suzuki

JOHN B. WALSH, Esquire, Corporate Legal

Office, Suzuki

LARRY CARPENTER, President, Master Marine

Services, Inc.

KATRINA COGHILL, President, Pearson's

Marina

Of Counsel:

JOHN H. KORNS, Esquire

Buchanan Ingersoll, PC

Washington, D.C.

On behalf of Tohatsu Corp.; Tohatsu Marine

Corp.; Tohatsu America Corp. - ("Tohatsu");

Nissan Marine Co., Ltd.

JIM MORGENTHALER, General Manager,

Tohatsu

SETH KAPLAN, Vice President, Charles River

Associates

<p>Of Counsel:</p> <p>BARBARA MURPHY, Esquire  WILLIAM SJOBERG, Esquire  Adduci, Mastriani &amp; Schaumberg, LLP  Washington, D.C.</p> <p>On behalf of American Honda Motor Co., Inc.;</p> <p style="padding-left: 40px;">Honda Motor Co., Ltd. - ("Honda"):</p> <p>WADE TERRY, Vice President, Power  Equipment Division, Honda</p> <p>JOHN FULCHER, Senior Manager, Marine  Group, Honda</p> <p>TONY ZIELINSKI, President, American Marina  WAYNE LOCKHART, President, Hooked on the  Bay</p> <p>Of Counsel:</p> <p>DONALD HARRISON, Esquire  CHRIS WOOD, Esquire  GREG GERDES, Esquire  Gibson, Dunn &amp; Crutcher, LLP  Washington, D.C.</p>		
<p>Congressional Correspondence:</p> <p style="padding-left: 40px;">Received from  Herb Khol, US Senator (Democrat -  WI)</p> <p style="padding-left: 40px;">Jerry F. Costello, Member of  Congress (Democrat - IL)</p> <p style="padding-left: 40px;">John J. Duncan, Jr., Member of  Congress (Republican - TN)</p> <p style="padding-left: 40px;">Mark Kirk, Member of Congress  (Republican - IL)</p>	-	<p>ITC Doc 219418  ITC Doc 220566  ITC Doc 220958  ITC Doc 220959  ITC Doc 220960  ITC Doc 220961  ITC Doc 220962  ITC Doc 220963  ITC Doc 223043</p>

<p>Russell D. Feingold, US Senator (Democrat - WI)</p> <p>Walter B. Jones, Member of Congress (Republican - NC)</p> <p>William H. Frist, US Senator (Republican - TN)</p> <p>Thomas E. Petri, Member of Congress (Republican - WI)</p> <p>Christopher S. Bond, US Senator (Republican - MO):</p>		<p>ITC Doc 223447</p> <p>ITC Doc 224009</p>
<p>Other Political Correspondence:</p> <p>Received from Jim Doyle, Governor (WI):</p>	-	ITC Doc 220082
<p>ITC Final Investigation Post-Hearing Briefs</p> <p>Received from Mercury, Honda, Nissan:, Suzuki, Tohatsu, BRP::</p>	21/12/2004	<p>(USITC, 2005d)</p> <p>ITC Doc 220664</p> <p>ITC Doc 220666</p> <p>ITC Doc 220669</p> <p>ITC Doc 220676</p> <p>ITC Doc 220720</p>
<p>Other Factual Information Regarding Brunswick's Acquisition of the Sea Pro, Palmetto, and Sea:</p> <p>Received from BRP, Honda, Yamaha, Mercury:</p>	21/01/2005 - 24/01/2005	<p>ITC Doc 222350</p> <p>ITC Doc 222409</p> <p>ITC Doc 222473</p> <p>ITC Doc 222559</p>
ITC Final Investigation Record Closing	25/01/2005	(USITC, 2005d)
<p>ITC Final Investigation Final Comments</p> <p>Received from Mercury, Honda, Nissan:, Suzuki, Tohatsu, BRP:</p>	27/01/2005	<p>(USITC, 2005d)</p> <p>ITC Doc 222996</p> <p>ITC Doc 223005</p> <p>ITC Doc 223027</p>



ITC Final Investigation Vote Japan	Original Determination:	02/02/2005	(USITC, 2005d)
ITC Final Investigation Transmission of Determination to DOC (Case Ends)		17/02/2005	70 FR 8822
ITC Final Investigation Report		Feb 2005	70 FR 8823
DOC Final Investigation Antidumping Duty Order Issued		Not Applicable	

**Table 64: Case Summary for Outboard Engines From Japan**

Sources: (DOC ITA, 2007b, USGPO, 2007, USITC, 2004c, 2005d)

### 15.3 Appendix C: Participation of Firms in the Prosecution of the Five Cases

#### 15.3.1 DRAM Semiconductors from Korea

##### 15.3.1.1 US Producers of DRAM During Period of Investigation

<b>Company Details:</b>	<b>Source</b>	<b>Position on Petition</b>	<b>Activity during Part or all of POR</b>
<p><b>Micron Technology, Inc.</b>  P.O. Box 6  8000 South Federal Way  Boise, ID 83707-0006  Tel: 208-368-4000  Fax: 208-368-4435  www.micron.com  Contact person: Michael Sadler,  Vice President of Sales</p>	<p>Petition &amp;  ITC Final  Report</p>	<p>Petitioner</p>	<p>Fabrication  Assembly and Testing  Module Assembly</p>
<p><b>Dominion Semiconductor / MTV</b>  9600 Godwin Dr.  Manassas, VA 201 10-4162  Contact: Richard DiSalvo  Tel: 703-396-1094</p>	<p>Petition &amp;  ITC Final  Report</p>	<p>Support</p>	<p>Fabrication</p>
<p><b>Infineon Technologies Richmond</b>  6000 Technology Blvd.  Sandston, VA 23 150-5000  Tel: 804-952-6000  http://www.infineonrichmond.com  Contact Person: Henry Becker,  Managing Director and Vice  President</p>	<p>Petition &amp;  ITC Final  Report</p>	<p>Support</p>	<p>Fabrication  Assembly and Testing  Module Assembly</p>

<b>Hynix Semiconductor Manufacturing America</b> 1830 Willow Creek Circle Eugene, OR 97402 Tel: 541-338-5000 <a href="http://www.hea.com">http://www.hea.com</a>	Petition & ITC Final Report	Oppose	Fabrication
<b>Samsung Austin Semiconductor (“SAS”)</b> 12100 Samsung Boulevard Austin, Texas 78754 Tel: 512-672-1000 Fax 5 12-672- 1025 <a href="http://www.sas.samsung.com">http://www.sas.samsung.com</a> Contact person: Sung W. Lee, President	Petition & ITC Final Report	Oppose	Fabrication
<b>Kingston / Payton</b> 17600 Newhope St. Fountain Valley, CA 92708 <a href="http://www.kingston.com">http://www.kingston.com</a>	ITC Final Report & Website	No Position	Assembly and Testing Module Assembly
<b>Fujitsu Microelectronics America, Inc.</b> 3545 N. First Street San Jose, CA 95134 Tel: 408-922-9179 Fax: 408-432-9044 <a href="http://www.fma.fujitsu.com">http://www.fma.fujitsu.com</a>	Petition & ITC Final Report	Not Disclosed	Fabrication
<b>IBM Microelectronics Division</b> Route 52 Hopewell Junction, NY 12533 Tel: 914-892-2121 Contact Person: John E. Hickey, Attorney	Petition & ITC Final Report	Not Disclosed	Fabrication Assembly and Testing

<b>NEC Electronics America, Inc.</b> <b>(NECELAM)</b> 7501 Foothills Blvd Roseville, CA 95747 Tel: 415-960-6000 Fax: 415-965-6130 http://www.necel.com Contact Person: Toshio Nakajima, President and CEO	Petition & ITC Final Report	Not Disclosed	Fabrication Assembly and Testing
Okii	Petition	-	Ceased either production or assembly / testing operations in the US prior to conclusion of Inv. No. 731-TA-811. See USITC Pub. 3256 (December 1999), at III-2 - III- 6.
Matsushita	Petition	-	
Mitsubishi	Petition	-	
Hitachi	Petition	-	
Twinstar	Petition	-	
Texas Instruments	Petition	-	

**Table 65: US Producers of DRAMs**

**Source: (Hale and Dorr LLP, 2002; p.2-5, USITC, 2003a)**

### 15.3.1.2 US Importers of DRAM from Korea During Period of Investigation

Company Details:	Source	Contact Details
Samsung Semiconductor, Inc	Petition	3655 North First St. San Jose, CA 95134 Tel: 408-544-4000 <a href="http://www.usa.samsungsemi.com">http://www.usa.samsungsemi.com</a> Fax: 408-544-4907
Hynix Semiconductor America Inc.	Petition	3101 North First Street San Jose, CA 95134 U.S.A Tel: 1-408-232-8000 Fax: 1-408-232-81 10

**Table 66: US Importers of DRAMs**

Source: (Hale and Dorr LLP, 2002; p.133)

### 15.3.1.3 US Purchasers of DRAM During Period of Investigation

Company Details:	Source	Contact Details
No clear data for identifying significant US purchasers who prosecuted the trade remedy case.	-	-

**Table 67: US Purchasers of DRAMs**

**Source: N/A**

### 15.3.1.4 Korean Producers of DRAM During Period of Investigation

Exporter / Manufacturer Name			
Republic of Korea			
	<b>Preliminary Net Subsidy Rate (ad valorem)</b>	<b>Final Net Subsidy Rate (ad valorem)</b>	<b>Revised Final Net Subsidy Rate (ad valorem)</b>
<b>Countervailing Duty</b>			
The petitioners identified Samsung Electronics Co. and Hynix Semiconductor Inc., as accounting for virtually all DRAM produced in Korea producers/exporters of DRAM from Korea and benefiting from subsidies.			
	<b>68 FR 16766</b>	<b>68 FR 37122</b>	<b>68 FR 44290</b>
Samsung Electronics Co., Ltd. (Believed at the time to account for 27.1 percent of worldwide shipments to US)	0.16 %	0.04 % (de minimis)	Unchanged
Hynix Semiconductor Inc. (formerly, Hyundai Electronics Industries Co., Ltd. Believed at the time to account for 15.7 percent of worldwide shipments to US)	57.37 %	44.71 %	44.29 %
All Others	57.37 %	44.71 %	44.29 %

**Table 68: Korean Producers of DRAMs and Their Original Duty Margins**

Sources: (Hale and Dorr LLP, 2002; p.13-14, USGPO, 2007)

## 15.3.2 Bottle-Grade PET Resin from India

### 15.3.2.1 US Producers of PET Resin During Period of Investigation

Firms	Location	Position taken with respect to the petition		
		Support	Oppose	Takes no position
DAK Americas, LLC, a wholly owned subsidiary of Alpek S.A. de C.V., (Mexico)	NC / SC	Petitioner	-	-
Invista (formerly KoSa), a wholly owned subsidiary of Kock Industries (Wichita, KS)	SC	Yes	-	-
M&G Polymers USA, LLC	WV	Yes	-	-
Nan Ya Plastics Corporation America, a wholly owned subsidiary of Nan Ya Plastics Corporation (Taiwan)	SC	Petitioner	-	-
StarPet Inc.	NC	Not Public	Not Public	Not Public
Voridian, a Division of Eastman Chemical Company	TN / SC	Petitioner	-	-
Wellman, Inc.	SC / MS	Petitioner	-	-
<p><b>Notes:</b></p> <p>1. The Petitioners formed a coalition called the U.S. PET Resin Producers' Coalition to bring the case.</p>				

**Table 69: US Producers of PET Resin**

Source: (Howrey Simon Arnold & White, 2004; p.4-5, USITC, 2005c; III-2)



### 15.3.2.2 US Importers of PET Resin During Period of Investigation

<b>Company Name:</b>	<b>India 533</b>	<b>Indonesia 560</b>	<b>Thailand 549</b>	<b>Taiwan 583</b>
Amcor PET Packaging			Yes	Yes
ATCO Rubber Products	Yes		Yes	
Aurrizon			Yes	
B & H Polymers	Yes			Yes
Bankok Market			Yes	
BMT Commodity	Yes			Yes
Bonne Bell				Yes
Burcham International	Yes			
CNC Container		Yes		
Connell Brothers USA		Yes	Yes	
Continental Pet Tech.		Yes		
DAK Resins	Yes			
Dev Technology Labs Inc.		Yes		
Electraform Ind.				Yes
Global Polymers			Yes	
Golden Alpha				Yes
Grafcó International		Yes		
Far Eastern Textile				Yes
Hanmi				Yes
Iwatani				Yes
Jain Chem	Yes			
Kortec				Yes
Koyo				Yes
Lion Chemical Ind. Inc.		Yes	Yes	
Mid State Packaging	Yes			
Mitsubishi Corp.	Yes		Yes	
Mitsubishi Intl.			Yes	
Oxyde Chemicals		Yes	Yes	
Pactiv		Yes		

Plastipet				Yes
PMC		Yes		
PWP Ind.		Yes		
Richards Packaging				Yes
Rocheux Intl.				Yes
Sabert	Yes			
Schmalbach Lubeca				Yes
S K Global America		Yes		
Telechem Intl.			Yes	Yes
Ventex International		Yes		
Winkler Forming		Yes		

**Table 70: US Importers of PET Resin**

**Source: (Howrey Simon Arnold & White, 2004; Exhibit 13)**

### 15.3.2.3 US Purchasers of PET Resin During Period of Investigation

Company Details:	Source	Contact Details
No clear data for identifying significant US purchasers who prosecuted the trade remedy case.	-	-

**Table 71: US Purchasers of PET Resin**

**Source:**

### 15.3.2.4 Foreign Producers of PET Resin During Period of Investigation

<b>India</b>			
<b>Antidumping Duty</b>	<b>Source</b>	<b>Preliminary Weighted–Average Margin</b>	<b>Final Weighted–Average Margin</b>
		<b>69 FR 62856</b>	<b>70 FR 13451</b>
South Asia Petrochem Ltd. (SAPL)	ITC Doc 203707-1	21.23 %	21.05 %
Reliance Industries Ltd.	Petition	52.54 %	52.54 %
All Others	-	21.23 %	21.05 %
<b>Countervailing Duty</b>		<b>Preliminary Net Subsidy Rate (ad valorem)</b>	<b>Final Net Subsidy Rate (ad valorem)</b>
		<b>69 FR 52866</b>	<b>70 FR 13460</b>
Reliance Industries Ltd.	Petition	30.24 %	20.26 %
South Asia Petrochem Ltd.	Petition	19.13 %	19.08 %
Futura Polyesters Ltd	Petition	1.62 %	6.15 %
Elque Polyesters Ltd	Petition	12.02 %	12.41 %
All Others	-	24.01 %	14.63 %
<b>Indonesia</b>			
<b>Antidumping Duty</b>		<b>Preliminary Weighted–Average Margin</b>	<b>Final Weighted–Average Margin</b>
		<b>69 FR 62861</b>	<b>70 FR 13456</b>
P.T. Indorama Synthetics Tbk.	Petition	0.74 % (de minimis)	0.00 %
P.T. Polypet Karyapersada.	Petition	27.61 %	27.61 %
P.T. SK Keris	Petition	27.61 %	27.61 %
All Others	-	18.65 %	18.41 %

<b>Taiwan</b>			
		<b>Preliminary Weighted– Average Margin</b>	<b>Final Weighted– Average Margin</b>
<b>Antidumping Duty</b>		<b>69 FR 62868</b>	<b>70 FR 13454</b>
Far Eastern Textile Ltd	Petition	0.09 %	0.10 %
Hualon Corporation	Petition	-	-
Shinkong Synthetic Fibers Corporation	Petition	-	-
All Others	-	0.09 %	0.10 %
<b>Thailand</b>			
		<b>Preliminary Weighted– Average Margin</b>	<b>Final Weighted– Average Margin</b>
<b>Antidumping Duty</b>		<b>69 FR 62850</b>	<b>70 FR 13453</b>
Bangkok Polyester Public Company Ltd	Petition	26.03 %	24.83 %
Thai Shinkong Industry Corporation Ltd	Petition	41.28 %	41.28 %
Thai PET Resin Co. Ltd.	Petition	-	-
All Others	-	26.03 %	24.83 %
		<b>Preliminary Net Subsidy Rate (ad valorem)</b>	<b>Final Net Subsidy Rate (ad valorem)</b>
<b>Countervailing Duty</b>		<b>69 FR 52862</b>	<b>70 FR 13462</b>
Thai Shinkong Industry Corporation Ltd	Petition	0.09 %	0.31 %
Bangkok Polyester Public Company Ltd	Petition	0.57 %	0.73 %
Indopet (Thailand) Ltd	Petition	0.37 %	0.70 %
Thai PET Resin Co. Ltd.	Petition	-	-
All Others Rate	-	0.26 %	0.47 %

**Table 72: Foreign Producers of PET Resin and Their Original Duty Margins**

Sources: (USGPO, 2007)

### 15.3.3 Hand Trucks and Certain Parts Thereof from China

#### 15.3.3.1 US Producers of Hand Trucks and Certain Parts Thereof During Period of Investigation

<b>Company Name:</b>	<b>Source</b>	<b>Position on Petition</b>
Gleason Industrial Products, Inc. 10474 Santa Monica Blvd., Suite 400 Los Angeles, CA 90025 Tel. 310-470-6001 www.gleasoncorporation.com	Petition & ITC Final Report	Petitioner
Angelus Manufacturing 5220 Edison Ave. Chino, CA 91710-5719 Tel. 909-902-0973 Contact Person: Mr. Dom Quintana	Petition & ITC Final Report	-
American Power Pull Corp. ("American Power") Wauseon, OH	ITC Final Report	-
Anthony Welded Products, Inc. 1447 So. Lexington Delano, CA 93 125 Tel. 805-721-7211 <a href="http://www.anthonycarts.com">http://www.anthonycarts.com</a> Contact Person: Mr. Frank S. Salvucci, Sr Chairman	Petition & ITC Final Report	-
B&P Manufacturing 805 1 East Boon Road Cadillac, MI 49601 Tel. 800-334-7141 <a href="http://www.bpmfg.cod">http://www.bpmfg.cod</a> Contact Person: Mr. Larry Paine	Petition & ITC Final Report	Support

President		
Clarín, a Division of Greenwich Industries (“Clarín”) Lake Bluff, IL	ITC Final Report	-
Durable USA (“Durable”) Grand Prairie, TX	ITC Final Report	-
Dutro Company 1333 62 <sup>nd</sup> Street Emeryville, CA 94608 Tel. 510-652-9130 <a href="http://www.dutro.com">http://www.dutro.com</a> Contact Person: Mr. William A. Dutro CEO	Petition & ITC Final Report	-
Elkay Products Co., Inc. 35 Brown Ave. Springfield, NJ 0708 1 Tel. 973-376-7550 <a href="http://www.elkayprod.com/">http://www.elkayprod.com/</a> Contact Person: Mr. Steven Piller President	Petition & ITC Final Report	-
Faultless-Nutting (“Faultless”) Watertown, SD	ITC Final Report	-
Frederick Tool Corp. 214 W. Jefferson Street Goshen, IN 46527-0783 Tel. 219-533-2684 Contact Person: Mr. Jack Wait, Sr. President	Petition & ITC Final Report	-
Harper Trucks Inc. (A subsidiary of Ruffin Companies) 1522 S. Florence Wichita, KS 67209 Tel. 800-835-4099 <a href="http://www.harpertrucks.com/">http://www.harpertrucks.com/</a>	Petition & ITC Final Report	Support

Contact Person : Mr. Phil Ruffin Owner & CEO Ruffin Companies		
Honeyman Aluminum (“Honeyman”) Beaverton, OR	ITC Final Report	-
Lockwood Manufacturing (“Lockwood”) Livonia, MI	ITC Final Report	-
Magline Inc. 503 South Mercer Street Pinconning, MI 48650-93 10 Tel. 800-624-5463 <a href="http://www.magliner.com/">http://www.magliner.com/</a> Contact Person: Mr. Brian Law Chairman and CEO	Petition & ITC Final Report	Support
Olympia Inc. City of Industry, CA	ITC Final Report	-
RWM, Gastonia NC	ITC Final Report	-
The Fairbanks Company (“Fairbanks”) Rome, GA	ITC Final Report	-
Wesco Industrial Products, Inc. 1250 Welsh Road P.O. Box 47 Lansdale, PA 19446 Tel. 2 15-689-7031 <a href="http://www.wescomfg.com/">htt://www.wescomfg.com/</a> Contact Person: Mr. Allen Apter President	Petition	Support
Valley Craft (A subsidiary of Liberty Diversified Industries) 2001 South Highway 61 Lake City, Minnesota 55041 U.S.A. Tel. 651-345-3386	Petition	-



<a href="http://www.valleycraft.com/">http://www.valleycraft.com/</a> Contact Person: Mr. Mike Fiterman (800-421-1270) President & CEO		
Liberty Diversified Industries Yeats Appliance Dolly Mfg. Co., LLC 924 E. Walnut Avenue, Box 3 176 Fullerton, CA 92834 Tel. 800-535-7471 <a href="http://www.yeats.net/">http://www.yeats.net/</a> Contact Person: Mr. Brian Anderson President	Petition	-

**Table 73: US Producers of Hand Trucks**

**Sources: (Crowell & Moring, 2003; p.2-4, USITC, 2004a; p.I-2)**

**15.3.3.2 US Importers of Hand Trucks and Certain Parts Thereof During Period of Investigation**

<b>Company Name:</b>	<b>Source/Citation:</b>
Alton Industries, Inc. 1582 Parkway Loop, Suite B Tustin, CA 92780 Tel. 714-259-8988	Petition
C&H Distributors LLC 770 South 70th Street P.O. Box 14770 Milwaukee, WI 53214 Tel. 800-558-9966 www.chdist.com	Petition
China Depot 34 Mount Avenue Lincoln, RI 02865 Tel. 401 -725-8141 www.chinadepot.com	Petition
The Fairbanks Co. 202 Division Street Rome, GA 30162 Tel. 706-234-6701	Petition
W.W. Grainger Inc. 100 Grainger Parkway Lake Forest, IL 60045-5201 Tel. 847-535-1 000 www.grainger.com	Petition
Hamilton Caster & Manufacturing Co. 1637 Dixie Highway Hamilton, OH 4501 1-4087 Tel. 5 13-863-3300 www.hamiltoncaster.com	Petition

<p>The Home Depot, Inc.  2455 Paces Ferry Road  Atlanta, GA 30339-4024  Tel. 770-443-821 1  www .homedepot.com</p>	<p>Petition</p>
<p>Lowe’s Companies, Inc.  1605 Curtis Bridge Rd  Wilkesboro, NC 28697  Tel. 336-65 8-4000  www.lowes.com</p>	<p>Petition</p>
<p>MSC Industrial Direct Co.  75 Maxess Road  Melville, NY 11747-3 15 1  Tel. 5 16-8 12-2000  www.mscdirect.com</p>	<p>Petition</p>
<p>McMaster Can Supply Co.  9630 Nonvalk Blvd.  Santa Fe Springs, CA 90670  Tel. 213-945-1311</p>	<p>Petition</p>
<p>Sears, Roebuck &amp; Co.  3333 Beverly Road  Hoffman Estates, IL 607 19  Tel. 847-286-2500  www.sears.com</p>	<p>Petition</p>
<p>The Stanley Works  1000 Stanley Drive  New Britain, CT 06053  Tel. 860-225-5 1 11  www.stanleyworks.com</p>	<p>Petition</p>
<p>Tractor Supply Co.  320 Plus Park Boulevard  Nashville, TN 372 17</p>	<p>Petition</p>

<p>Tel. 6 15-366-4600  www.mvtscstore.com  UnionTools, Inc. (a wholly-owned subsidiary of)</p>	
<p>Acorn Products Inc.  390 West Nationwide Boulevard  Columbus, OH 43215  Tel. 614-222-4400  www.uniontools.com</p>	<p>Petition</p>
<p>Wal-Mart Stores, Inc.  702 SW Eighth St.  Bentonville, AR 727 16-8611  Tel. 479-273-4000  www .walmart.com</p>	<p>Petition</p>
<p>Wesco Industrial Products, Inc.  1250 Welsh Road  P.O. Box 47  Lansdale, PA 19446  Tel. 21 5-689-703 1  www.wescomfg.com</p>	<p>Petition</p>

**Table 74: US Importers of Hand Trucks**

**Sources: (Crowell & Moring, 2003; p.15-17)**

**15.3.3.3 US Purchasers of Hand Trucks and Certain Parts Thereof During Period of Investigation**

<b>Company Details:</b>	<b>Source</b>	<b>Contact Details</b>
No clear data for identifying significant US purchasers who prosecuted the trade remedy case.	-	-

**Table 75: US Purchasers of Hand Trucks**

**Source:**

**15.3.3.4 Chinese Producers of Hand Trucks and Certain Parts Thereof During  
Period of Investigation**

<b>Exporter / Manufacturer Name</b>			
<b>People's Republic of China</b>			
<b>Antidumping Duty</b>	<b>Preliminary Weighted- Average Margin</b>	<b>Final Weighted- Average Margin</b>	<b>Revised Weighted- Average Margin</b>
	<b>69 FR 29509</b>	<b>69 FR 60980</b>	<b>69 FR 65410</b>
Xinghua	216.36 %	386.75 %	-
Qingdao Taifa Group Co., Ltd Quindao Yinzhu Hand Truck Factory Qinzhou Road, Xu Hul District Shangahi, China Jiaonan, Qingdao City, China Fax: 86-532-3195614 <a href="http://www.chinataifa.com">http://www.chinataifa.com</a> Excerpt from Brochure Attached as Exhibit 6 86-532-3195599,86-21-64518592 Source: Petition	31.87 %	27.00 %	26.49 %
True Potential Co.	24.62 %	24.90 %	33.68 %
Qingdao Huatian Hand Truck Co., Ltd. Yinzhu 26643 1, Qingdao, Jiaonan, P.R. China 86-532-3196367 Fax: 86-532-3195157 <a href="http://www.huatian-china.com">http://www.huatian-china.com</a> Excerpt from Brochure attached as Exhibit 5 Source: Petition	74.88 %	45.04 %	46.48 %
Shandong Machinery Import & Export Group	76.15 %	30.56 %	32.76 %
Qingdao Future Tool Inc.	76.15 %	30.56 %	32.76 %

Quigdao Zhenhua Industrial Group Co., Ltd. Yinzhu, Jiaonan, Qingdao, China Fax: 86-532-3 192258 <a href="http://chinazhenhua.com/ennlish/eprogram/index.asp">http://chinazhenhua.com/ennlish/eprogram/index. asp</a> Excerpt from Brochure Attached as Exhibit 7 Source: Petition	-	-	-
PRC-wide Rate	346.94 %	386.75 %	383.60 %

**Table 76: Chinese Producers of Hand Trucks and Their Original Duty Margins**

Sources: (Crowell & Moring, 2003; p.14-15, USGPO, 2007)

### 15.3.4 Wooden Bedroom Furniture from China

#### 15.3.4.1 US Producers of Wooden Bedroom Furniture During Period of Investigation

<b>Company Name:</b>	<b>Source</b>	<b>Position on Petition</b>
The American Furniture Manufacturers Committee for Legal Trade (AFMCLT)	Petition	Petitioner
American Drew	Petition	Member of AFMC
American of Martinsville	Petition	Member of AFMC
Bassett Furniture Industries	Petition	Member of AFMC
Carolina Furniture Works, Inc	Petition	Member of AFMC
Century Furniture Industries	Petition	Member of AFMC
Copeland Furniture	Petition	Member of AFMC
Crawford Furniture Mfg. Co.	Petition	Member of AFMC
Crescent Manufacturing Co.	Petition	Member of AFMC
Harden Furniture, Inc.	Petition	Member of AFMC
Hart Furniture, Inc	Petition	Member of AFMC
Higdon Furniture	Petition	Member of AFMC
Hooker Furniture Corporation	Petition	Member of AFMC
Johnston / TomBigbee Furn. Mfg.	Petition	Member of AFMC
Kincaid Furniture Co. Inc.	Petition	Member of AFMC
L. & J.G. Stickley, Inc.	Petition	Member of AFMC
Lea Industries	Petition	Member of AFMC
Michels-Pilliod Company	Petition	Member of AFMC
MJ Wood Products, Inc.	Petition	Member of AFMC
Mobel Furniture	Petition	Member of AFMC
Moosehead Manufacturing Company	Petition	Member of AFMC
Pennsylvania House, Inc.	Petition	Member of AFMC
Sandberg Furniture	Petition	Member of AFMC
Stanley Furniture	Petition	Member of AFMC
Vaughan Furniture	Petition	Member of AFMC
Vaughan-Bassett Furniture	Petition	Member of AFMC
Vermont Tubbs	Petition	Member of AFMC



Webb Furniture	Petition	Member of AFMC
A & B Furniture, Inc.	Petition	Other US Producers
Adden Furniture, Inc.	Petition	Other US Producers
Annan Run	Petition	Other US Producers
Archbold Furniture Company	Petition	Other US Producers
Armstrong Creek Company	Petition	Other US Producers
Ashley Furniture Industries Inc.	Petition	Other US Producers
Baker Furniture Company	Petition	Other US Producers
Baker Road Furniture	Petition	Other US Producers
Bausman & Company	Petition	Other US Producers
Bebe Furniture	Petition	Other US Producers
Bentwood Furniture	Petition	Other US Producers
Bernard Collection	Petition	Other US Producers
Bernhardt Furniture	Petition	Other US Producers
Blackhawk Furniture	Petition	Other US Producers
Borkholder Furniture Company	Petition	Other US Producers
Boyd Furniture Company	Petition	Other US Producers
Brownwood Furniture Inc.	Petition	Other US Producers
Bush Industries, Inc.	Petition	Other US Producers
Camelot Furniture Corporation	Petition	Other US Producers
Carolina Cabinet Company, Inc.	Petition	Other US Producers
Cherry Valley Furniture	Petition	Other US Producers
Chests Unlimited	Petition	Other US Producers
Child Craft Industries, Inc.	Petition	Other US Producers
Chromcraft Revington Inc.	Petition	Other US Producers
Cisco Brothers Corp.	Petition	Other US Producers
Collegiate Furnishings Inc.	Petition	Other US Producers
Conie Chair Company	Petition	Other US Producers
Councill Craftsmen	Petition	Other US Producers
Country Craft Furniture	Petition	Other US Producers
Country Furniture Inc.	Petition	Other US Producers
Craftique	Petition	Other US Producers

Creative Elegance	Petition	Other US Producers
Custom Lodge Pole	Petition	Other US Producers
Duracase LLC	Petition	Other US Producers
E.J. Victor, Inc.	Petition	Other US Producers
Elden Collections	Petition	Other US Producers
Ello Furniture Manufacturing Co.	Petition	Other US Producers
Ethan Allen Interiors, Inc.	Petition	Other US Producers
Farmhouse Furniture Inc.	Petition	Other US Producers
Forest Designs	Petition	Other US Producers
Ferguson Copeland, Ltd.	Petition	Other US Producers
Furniture Brands International	Petition	Other US Producers
Furniture by Thurston, Inc.	Petition	Other US Producers
Furniture Factory	Petition	Other US Producers
Furniture Traditions	Petition	Other US Producers
Greens Mill Log Furniture	Petition	Other US Producers
Guy Chaddock & Company	Petition	Other US Producers
H & H Furniture	Petition	Other US Producers
Habersham	Petition	Other US Producers
Harden Manufacturing Corp.	Petition	Other US Producers
Hekman Furniture Company	Petition	Other US Producers
Henkel-Harris Company, inc.	Petition	Other US Producers
Hickory White Company	Petition	Other US Producers
Highland Designs	Petition	Other US Producers
Hillside Cottage Furniture Co.	Petition	Other US Producers
IMM, Inc. - Gonzalez & Associates	Petition	Other US Producers
Inwood Furniture Manufacturing	Petition	Other US Producers
John Greenleaf / Whittier Wood	Petition	Other US Producers
Karges Furniture Company, Inc.	Petition	Other US Producers
Keller Manufacturing Company, Inc.	Petition	Other US Producers
Khoury, Inc.	Petition	Other US Producers
Kimball International, Inc.	Petition	Other US Producers
Kindel Furniture Company	Petition	Other US Producers

Kushwood Manufacturing, Inc.	Petition	Other US Producers
Legends Furniture	Petition	Other US Producers
Lexington Home Brands	Petition	Other US Producers
Madison Square Furniture	Petition	Other US Producers
Maine Woods Furniture Co.	Petition	Other US Producers
Maine Woodworks / Creative Work	Petition	Other US Producers
Marge Carson Inc.	Petition	Other US Producers
Mastercraft	Petition	Other US Producers
Maywood Shops / Pine	Petition	Other US Producers
McCall Woodworks Inc.	Petition	Other US Producers
Michaels Furniture	Petition	Other US Producers
Modern Furniture Mfgs. Inc.	Petition	Other US Producers
Nantucket Bookcase Company	Petition	Other US Producers
Nichols & Stone Company	Petition	Other US Producers
Oak Tree Furniture, Inc.	Petition	Other US Producers
Oakwood Interiors	Petition	Other US Producers
Orleans Furniture, Inc.	Petition	Other US Producers
Orman Grubb Co.	Petition	Other US Producers
O'Sullivan Industries, Inc.	Petition	Other US Producers
Pacer Furniture Manufacturing Co.	Petition	Other US Producers
Parker House Furniture	Petition	Other US Producers
Pinewood Cottage	Petition	Other US Producers
Ploi & Company	Petition	Other US Producers
Pulaski Furniture Corp.	Petition	Other US Producers
Purdue Woodworks	Petition	Other US Producers
R.M.K.	Petition	Other US Producers
Richardson Brothers	Petition	Other US Producers
Riverside Furniture Corp.	Petition	Other US Producers
Rkadia Fine Wood	Petition	Other US Producers
Rocky Butte Mfg.	Petition	Other US Producers
Rocky Mountain Lodgepole Furniture	Petition	Other US Producers
Romweber Company	Petition	Other US Producers

Rustic Natural Ceder Furniture	Petition	Other US Producers
RW Ranch Furniture	Petition	Other US Producers
Samuel Lawrence Furniture Co.	Petition	Other US Producers
Sauder Woodworking	Petition	Other US Producers
Simmons Juvenile Products	Petition	Other US Producers
Skog Furniture	Petition	Other US Producers
Southwood Furniture Corporation	Petition	Other US Producers
Standard Furniture Manufacturing	Petition	Other US Producers
Statton Furniture Manufacturing Company	Petition	Other US Producers
Stoney Creek Woodworks	Petition	Other US Producers
Stuarts Fine Furniture	Petition	Other US Producers
Terra Furniture, inc.	Petition	Other US Producers
Texture Design Furniture, Inc.	Petition	Other US Producers
The Bunk House	Petition	Other US Producers
Thomas Moser Furniture	Petition	Other US Producers
Thornwood	Petition	Other US Producers
Through the Barn Door Furniture Company	Petition	Other US Producers
Thunderbird	Petition	Other US Producers
Timbercrest Furniture	Petition	Other US Producers
Tom Seely Furniture	Petition	Other US Producers
Trendwood Inc.	Petition	Other US Producers
Vanguard Furniture Company, Inc.	Petition	Other US Producers
Wallbeds	Petition	Other US Producers
Warnbold Furniture (Kallen Industries)	Petition	Other US Producers
Whalen Furniture Manufacturing	Petition	Other US Producers
WoodAmerica Furniture Corp.	Petition	Other US Producers
Woodcraft Industries, Inc.	Petition	Other US Producers
Woodland Furniture	Petition	Other US Producers
Wood-N-You Imagine	Petition	Other US Producers
Wright Table Company	Petition	Other US Producers

**Table 77: US Producers of Wooden Bedroom Furniture**  
**Source: (King and Spalding LLP, 2003; Exhibit 1 & 2)**

Firms	Location	Position taken with respect to the petition			Position Public	
		Support (1)	Oppose	Takes no position	Yes	No
Adden	MA	-	-	-		Y
American Drew (2)	NC	Petitioner			Y	
American of Martinsville (2)	VA	Petitioner			Y	
Ashley	WI		Y		Y	
Bassett	VA	Petitioner			Y	
Bebe	CA	Y			Y	
Bernhardt	NC	-	-	-		Y
Carolina Furniture Works	SC	Petitioner			Y	
Century	NC	Petitioner			Y	
Chromcraft Revington	IN	-	-	-		Y
Country Craft (3)	VA	Y			Y	
Craftique	NC	Y			Y	
Crawford	NY	Petitioner			Y	
Crescent (5)	TN			Y	Y	
E.J. Victor	NC	Y			Y	
Ethan Allen	CT	-	-	-		Y
Furniture Brands (6)	MO		Y		Y	
Harden Manufacturing (AL)	AL	-	-	-		Y
Harden Furniture (NY)	NY	Petitioner			Y	
Hart	TN	Petitioner			Y	
Higdon	FL	Petitioner			Y	
Hooker (5)	VA	-	-	-		Y
Johnston-Tombigbee	MO	Petitioner			Y	
Khoury (3)	MI	-	-	-		Y
Kincaid (2)	NC	Petitioner			Y	
L. & J.G. Stickley	NY	Petitioner			Y	
Lea (2)	NC	Petitioner			Y	
Lexington	NC	-	-	-		Y
Michels & Company	CA	Petitioner			Y	
MJ Wood Products	VT	Petitioner			Y	
Mobel	IN	Petitioner			Y	
Modern (7)	WA	Y			Y	
Moosehead	ME	Petitioner			Y	
O'Sullivan	MO	Y			Y	
Oakwood Interiors	CA	Y			Y	

Pennsylvania House (2)	NC	Petitioner			Y	
Perdues	SD	Y			Y	
Progressive (8)	OH	-	-	-		Y
Samuel Lawrence (9)	AZ	-	-	-		Y
Sandberg	CA	Petitioner			Y	
Sauder	OH	-	-	-		Y
Standard	AL		Y		Y	
Stanley	VA	Petitioner			Y	
Statton	MD	Y			Y	
T. Copeland & Sons	VT	Petitioner			Y	
Thornwood (7)	AZ	-	-	-		Y
Through The Barn Door	NC	-	-	-		Y
Tom Seely	WV	Y			Y	
Trendwood	AZ	-	-	-		Y
Vaughan	VA	Petitioner			Y	
Vaughan-Bassett	VA	Petitioner			Y	
Vermont Tubbs	VT	Petitioner			Y	
Webb (10)	VA	Petitioner			Y	
Whittier Wood Products	OR	-	-	-		Y
<b>Total</b>	<b>(54)</b>	<b>38</b>	<b>9</b>	<b>7</b>	<b>39</b>	<b>15</b>
Number of Petitioners:		25				

**Notes:**

- 1 Five labor unions are co-petitioners and support the petition: UBC Southern Council of Industrial Workers, Local Union 2305, Columbus, MS; United Steelworkers of America, Local 193U, Lewisburg, PA; Carpenters Industrial Union, Local 2093, Phoenix, AZ; and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 991, Bay Minette, AL; and the IUE, Industrial Division of CWA, Local 82472, Hagerstown, MD.
- 2 Firm is a wholly owned subsidiary of La-Z-Boy Inc., Monroe, MI.
- 3 Firm provided limited, substantially incomplete, or unusable data; therefore its response is not included in the report, except as noted.
- 4 Data not reported.
- 5 Firm was a petitioner during the preliminary phase investigation; however, firm is not a petitioner in the final phase investigation.
- 6 Furniture Brands owns five U.S. producers: Broyhill, Lenoir, NC; Drexel Heritage, High Point, NC; Henredon, Morganton, NC; Maitland-Smith, High Point, NC; and Thomasville, Thomasville, NC.
- 7 Firm provided a questionnaire response in the preliminary phase investigation but not in the final phase investigation.
- 8 Progressive is a wholly owned subsidiary of Sauder Woodworking Company (Sauder),

Archbold, OH.

9 Samuel Lawrence is owned by Woodstuff Manufacturing which is owned \*\*\*. Samuel Lawrence closed its production facilities in March 2004.

10 Firm is a 50/50 joint venture owned by Vaughan Furniture and Vaughan-Bassett Furniture, Galax, VA.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table 78: U.S. Wooden Bedroom Furniture Producers, Locations of Corporate Headquarters, Positions Taken with Respect to the Petition**

**Source: (USITC, 2004g)**

**15.3.4.2 US Importers of Wooden Bedroom Furniture During Period of Investigation**

<b>US Importer Name:</b>	<b>Source / Citation:</b>
Acme Furniture	Petition
AGA Warehouse Co., Inc.	Petition
AICO - Amini Innovation Corp.	Petition
Alpert's Furniture Showplace	Petition
Amarillo Hardware	Petition
American Drew	Petition
American Factory Direct Furniture Outlets Inc	Petition
American Furniture Warehouse	Petition
American of Martinsville	Petition
American TV (Furniture Division)	Petition
A-Plus International	Petition
Art Van - Administrative Offices	Petition
Ashley Furniture Industries Inc 1	Petition
Badcock Furniture	Petition
Baer's Furniture Co. Inc	Petition
Bassett Furniture Industries	Petition
Bau-Lo Wooden Furniture, Inc	Petition
Bedtime, Inc.	Petition
Berkshire Hathaway - Furniture Division	Petition
Bernards, Inc	Petition
Bernhardt Furniture CO	Petition
Big Lots Stores Inc	Petition
Blackhawk Furniture Inc	Petition
Bob's Discount Furniture, Inc	Petition
Breuners Home Furnishings Corp	Petition
Broyhill Furniture Industries	Petition
Cabot House Furniture	Petition
Capris Furniture	Petition



Carolina Home Classics	Petition
Century Furniture Industries	Petition
Chesapeake, Inc	Petition
Child Craft / Legacy	Petition
City Furniture	Petition
Coaster	Petition
Cochrane Furniture	Petition
Crate & Barrel	Petition
Crystal Bedding Inc	Petition
Dania Furniture	Petition
Discount Furniture Sales	Petition
Drexel Heritage Furnishing Inc	Petition
Eads Brothers Furniture Co	Petition
Easy Life Furniture Inc	Petition
ebbe, Inc.	Petition
El Dorado Furniture	Petition
Emerald Home Furnishings, Inc.	Petition
Ethan Allen	Petition
F A Hulett & Sons	Petition
Fraenkel Company	Petition
Furniture Brands International	Petition
Furniture Depot	Petition
Gallery Furniture	Petition
Gardner-White Furniture	Petition
Global Furniture, Inc	Petition
GPS Furniture	Petition
Greengrass USA, Inc	Petition
Hank's Furniture Inc	Petition
Hank's Furniture Warehouse	Petition
Hansen's Furniture	Petition
Havertys	Petition
Henredon Furniture	Petition

Hickory White	Petition
Highland Design	Petition
Highpoint Furniture	Petition
Hillsdale House Ltd	Petition
Home Decorators Collection	Petition
Home Furniture Company	Petition
Homemakers Furniture	Petition
Homerica	Petition
Homerica East	Petition
Hooker Furniture Corporation	Petition
Huffman Koos	Petition
IKEA Wholesale Inc	Petition
Jamestone Furniture	Petition
JC Penny	Petition
Johnny Janosik Furniture	Petition
JohnstodTomBigbee Furn. Mfg.	Petition
Kemp Enterprises Inc	Petition
Kincaid Furniture Co., Inc.	Petition
Lacks Furniture	Petition
Lam Brothers Company	Petition
Lane Furniture Industries	Petition
Lanza Products Inc	Petition
Largo International Inc	Petition
Lea Industries	Petition
Legacy Classic Furniture	Petition
Levitz Home Furnishing	Petition
Lifestyle Enterprises Inc	Petition
Lorts Manufacturing Company	Petition
Louis Mohana Furniture	Petition
Magnussen Home Furnishings, Ltd.	Petition
Manchester Furniture Group Inc	Petition
Masten Furniture Co	Petition

Master Design Inc	Petition
May Department Stores International Inc	Petition
Michels-Pilliod Company	Petition
Miskelly Furniture Warehouse Inc	Petition
N D Cunningham Co. Inc	Petition
Natunwood Home Furnishings	Petition
New Classic Home Furniture Inc.	Petition
New Deal Home Furnishings	Petition
New York Bedroom Group Ltd	Petition
Novello Home Furnishings	Petition
Orleans International	Petition
Orleans/Magnolia Classics	Petition
Otsuka's Furniture Appliance	Petition
P.J. Kids LLC	Petition
Peir 1 Imports Inc	Petition
Pennsylvania House, Inc.	Petition
Pepper Home Furnishings	Petition
Pottery Barn	Petition
Poundex Assoc. Corp	Petition
Powell	Petition
Presidential Furniture	Petition
Progressive Furniture	Petition
Pulaski Furniture Corp.	Petition
Raymond Oak	Petition
Raymour & Flanigan	Petition
RC Willey and Sons	Petition
Reeds & Sons Furniture	Petition
Regency House Inc	Petition
Rhodes Furniture	Petition
Roomful Express Furniture	Petition
Rooms To Go	Petition
Royola Pacific Ltd of GA	Petition

S & A Imports	Petition
Samuel Lawrence Furniture Co	Petition
Schnadig Corp	Petition
Schneidermans Furniture	Petition
Seamans Furniture	Petition
Signature Home Furnishings Co Inc	Petition
Silver Furniture Co. Inc	Petition
Slumberland Furniture	Petition
Southland Furniture	Petition
Standard Furniture	Petition
Stanley Furniture	Petition
Steinhafels Furniture	Petition
Sunset Trading	Petition
Tartone Enterprise Inc	Petition
The America Group	Petition
The Best Master Enterprises	Petition
The Bombay Company	Petition
The Room Store	Petition
Thomasville Home Furnishings Stores	Petition
Titan Importer Co.	Petition
Top-Line Furniture Warehouse Corp.	Petition
Totten Furniture of Georgia	Petition
Tradewins, LLC	Petition
Trivetts Family Furniture	Petition
Ukid	Petition
Universal Furniture	Petition
Value City	Petition
Vantage Furniture Inc	Petition
Vaughan Furniture	Petition
Vaughan-B as se tt Furniture	Petition
Verini LLC	Petition
Vermont Tubbs	Petition

Visions - LA Distributors	Petition
Walker Furniture	Petition
Weatherby's Furniture Guild	Petition
Webb Furniture	Petition
WG & R Furniture	Petition
Whitewood Industries Inc.	Petition
Wickes Furniture	Petition
Winners Only Inc	Petition
Wynwood (division of DMI Furniture)	Petition

**Table 79: US Importers of Wooden Bedroom Furniture**

**Source: (King and Spalding LLP, 2003; Exhibit 7)**

### 15.3.4.3 US Retailers (Purchasers) of Wooden Bedroom Furniture

Company Name:	Individual	Source / Citation:	Position on Petition
<p>This Table includes the names of 35 US purchasers of Wooden Bedroom Furniture that had letters of support accepted on to the official ITC record for the preliminary phase of the injury investigation. A total of 579 purchasers submitted letters of support for the case and an example of the pro forma letter distributed by petitioners to firms for guidance on how to show support is included Table 81. This sample of firms is provided as an example and readers should refer to ITC Doc 196774 (USITC, 2007b) for full details of the names of US purchasers that submitted letters of support.</p>			
J & R Furniture and Carpet	Bob Richardson Dorothy Richardson	ITC Doc 195582	Support
Steger's Furniture	Jack Steger	ITC Doc 195583	Support
Hometown Furniture Outlet, Inc.	John D. Somers Jo A. Somers	ITC Doc 195682	Support
Home Décor by Somerset Furniture	Greg Nelson	ITC Doc 195715	Support
Basset Furniture Direct	Eric Azoff	ITC Doc 195716	Support
American Furniture Company	Kevin Meacham	ITC Doc 195717	Support
Southern Wholesale Furniture	A.B. Blackwell	ITC Doc 195718	Support
Jos. Maiella & Sons, Inc.	Frank Green	ITC Doc 195719	Support
B.J. Mundel Furniture Co.	Randy Mundel	ITC Doc 195721	Support
Gilleon's Home Furnishings Inc.	Kendall Gilleon	ITC Doc 195722	Support
Legate Furniture Co., Inc.	Davis Legate	ITC Doc 195889	Support
Gibbs Furniture Market	Gordon Gary	ITC Doc	Support

		195893	
Royal Furniture Co.	C. Mike Tricou	ITC Doc 195894	Support
SIMS Furniture Galleries, LLC (d/b/a Bassett Furniture Direct)	John D. Sims	ITC Doc 195895	Support
Clarksville Furniture Co., Inc.	Larry Kindley	ITC Doc 195899	Support
The Furniture Showplace	Chris Pottle	ITC Doc 195902	Support
T-Mark Furniture Corporation	Theodore Azoff	ITC Doc 195903	Support
Cardi's Furniture	Ron Cardi	ITC Doc 195906	Support
People's Furniture	Nicholas Spagnola	ITC Doc 195907	Support
Carl Harz Furniture Co.	Joseph C. Harz	ITC Doc 195909	Support
Southern Home Furnishings Family	Sussie S. Parker	ITC Doc 195910	Support
Basset Furniture Direct	Jerry Helms	ITC Doc 195911	Support
Marcum's Furniture & Appliance	Keith Marcum	ITC Doc 195912	Support
Ewald Furniture	Joseph L. Ewald	ITC Doc 195913	Support
Houston's Yuma Furniture Galleries	Richard Houston	ITC Doc 195914	Support
Sultan Financial / Aaron's Sales & Lease Ownership	Randall Sultan	ITC Doc 196024	Support
Howell's Furniture Company	Jeffrey R. Witt	ITC Doc 196048	Support
Carl Hatcher Furniture Co., Inc	Marty Duncan	ITC Doc 196050	Support

The Furniture House	Kathy Gosser	ITC Doc 196051	Support
Regal House Furniture & Mattress Store	Debra Holden	ITC Doc 196052	Support
Lundquist's Furniture	Brian Lundquist	ITC Doc 196053	Support
Sweeney & Son, Inc., Furniture & Carpet Gallery	- Amber Hemming James Moore Eileen Rutledge	ITC Doc 196440 196441 196442	Support
Livingston's Furniture, Inc.	Robert W. Wipple	ITC Doc 196443	Support
Further 544 firms had their letters accepted onto the record collectively.		ITC Doc ??	Support

**Table 80: US Retailers (Purchasers) of Wooden Bedroom Furniture Commenting on Case**  
**Sources: (USITC, 2007b)**



**DEALER SUPPORT LETTER INSTRUCTIONS:**

[PLACE LETTER ON COMPANY LETTERHEAD]  
[FAX BY FRIDAY, NOV. 14 TO 276-238-2234]

MAIL ORIGINAL TO: WYATT BASSETT  
VAUGHAN-BASSETT FURNITURE  
P.O. BOX 815  
GALAX, VA 24333

[LETTER WILL BE PART OF THE PUBLIC RECORD]

(Date) *11-13-03*

The Honorable Deanna Tanner Okun  
Chairman of the U.S. International Trade Commission  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

Re: Wooden Bedroom Furniture From China/Inv. No. 731-TA-1058

I am a furniture dealer in the United States who supports the Committee For Legal Trade's antidumping petition against wooden bedroom furniture imports from China.

Although we believe in free trade, we also believe in fair trade. Moreover, it is not in the best interests of furniture dealers or our customers for additional U.S. plants producing bedroom furniture to close. Furniture dealers need to have the choice of buying from domestic bedroom furniture manufacturers, and their long-term and continued health is in our best interest. The loss of more U.S. bedroom manufacturing plants would limit the buying options available to me as a dealer and, in turn, limit the choices available to our customers.

Thank you for your consideration.

Sincerely,



(Name)  
(Title)  
(Name of Furniture Company)

*BRUCE WEISIGER*  
*PRESIDENT*  
*DREAM-MAKERS SLEEP CENTER, INC.*

Table 81: Example of Template Furniture Retailer Letter Distributed by Vaughan Bassett  
Sources: (USITC, 2007b; ITC Doc No. 196774-196771 p.196772)

### 15.3.4.4 Chinese Producers of Wooden Bedroom Furniture During Period of Investigation

Chinese Exporter / Manufacturer Name					
People's Republic of China					
Antidumping Duty	24 Jun 2004 Preliminary Weighted- Average Margin	05 Aug 2004 Amended Preliminary Weighted- Average Margin	09 Sep 2004 Amended Preliminary Weighted- Average Margin	Final Weighted- Average Margin	Amended Final Weighted- Average Margin
Company	69 FR 35312 69 FR 54643	69 FR 47417 69 FR 54643	- 69 FR 54643	69 FR 67317 -	70 FR 331 -
Dongguan Lung Dong Furniture Co., Ltd., or Dongguan Dong He Furniture Co., Ltd	-	-	-	2.22 %	2.32 %
Rui Feng Woodwork Co., Ltd., or Rui Feng Lumber Development Co., Ltd. or Dorbest Limited	-	-	-	16.70 %	7.87 %
Lacquer Craft Mfg. Co., Ltd	-	-	-	6.95 %	2.66 %
Markor International Furniture (Tianjin) Manufacturing Company, Ltd	-	-	-	0.79 %	0.83 %
Shing Mark Enterprise Co., Ltd., or Carven Industries Limited (BVI), or Carven I Industries Limited (HK), or Dongguan Zhenxin Furniture Co., Ltd., or Dongguan Yongpeng Furniture Co., Ltd	-	-	-	5.07 %	4.96 %
Starcorp Furniture (Shanghai) Co., Ltd., or Orin Furniture (Shanghai) Co., Ltd., or Shanghai Starcorp Furniture Co., Ltd	-	-	-	15.24 %	15.78 %
Alexandre International Corp., or Southern Art Development Limited, or Alexandre Furniture (Shenzhen) Co., Ltd., or Southern Art Furniture Factory	-	10.92 %	12.91 %	8.64 %	6.65 %
Art Heritage International, Ltd., or Super Art Furniture Co., Ltd., or Artwork Metal & Plastic Co., Ltd., or Jibson Industries, Ltd., or Always Loyal International	-	10.92 %	12.91 %	8.64 %	6.65 %
Billy Wood Industrial (Dong Guan) Co., Ltd., or Great Union Industrial (Dongguan) Co., Ltd., or Time Faith Limited	-	-	12.91 %	8.64 %	6.65 %
Changshu HTC Import & Export Co., Ltd	-	-	12.91 %	8.64 %	6.65 %
Cheng Meng Furniture (PTE) Ltd., or China Cheng Meng Decoration & Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Chuan Fa Furniture Factory	-	10.92 %	12.91 %	8.64 %	6.65 %

Classic Furniture Global Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Clearwise Company Limited	-	10.92 %	12.91 %	8.64 %	6.65 %
COE, Ltd.	-	10.92 %	12.91 %	8.64 %	6.65 %
Dalian Guangming Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dalian Huafeng Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Cambridge Furniture Co., or Glory Oceanic Company, Limited	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Chunsan Wood Products Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Dongguan Creation Furniture Co., Ltd., or Creation Industries Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Grand Style Furniture, or Hong Kong Da Zhi Furniture (Grand Style Group)	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Great Reputation Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Hero Way Woodwork Co., Ltd., or Dongguan Da Zhong Woodwork Co., Ltd., or Hero Way Enterprises Ltd., or Well Earth International Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Dongguan Hung Sheng Artware Products Co., Ltd., or Coronal Enterprise Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Kin Feng Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Kingstone Furniture Co., Ltd., or Kingstone Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Liaobushangdun Huada Furniture Factory, or Great Rich (HK) Enterprise Company Limited	-	-	12.91 %	8.64 %	6.65 %
Dongguan Qingxi Xinyi Craft Furniture Factory (Joyce Art Factory)	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Singways Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Dongguan Sunrise Furniture Co., or Taicang Sunrise Wood Industry Co., Ltd., or Shanghai Sunrise Furniture Co., Ltd., or Fairmont Designs	-	10.92 %	12.91 %	8.64 %	6.65 %
Dongying Huanghekou Furniture Industry Co., Ltd	-	-	-	8.64 %	6.65 %
Dream Rooms Furniture (Shanghai) Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Eurosa (Kunshan) Co., Ltd., or Eurosa Furniture Co., (PTE) Ltd. (Eurosa)	10.92 %	-	12.91 %	8.64 %	6.65 %
Ever Spring Furniture Company Ltd., or S.Y.C. Family Enterprise Co., Ltd. (Everspring)	10.92 %	-	12.91 %	8.64 %	6.65 %
Fine Furniture (Shanghai) Limited	10.92 %	-	12.91 %	8.64 %	6.65 %
Foshan Guanqiu Furniture Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Fujian Lianfu Forestry Co., Ltd., or Fujian Wonder Pacific Inc. (Fujian)	10.92 %	-	12.91 %	8.64 %	6.65 %

Gaomi Yatai Wooden Ware Co., Ltd., or Team Prospect International Limited, or Money Gain International Co.	-	10.92 %	12.91 %	8.64 %	6.65 %
Garri Furniture (Dong Guan) Co., Ltd., or Molabile International, Inc., or Weei Geo Enterprise Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Green River Wood (Dongguan) Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Guangming Group Wumahe Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Hainan Jong Bao Lumber Co., Ltd., or Jibbon Enterprise Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Hamilton & Spill Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Hang Hai Woodcraft's Art Factory	10.92 %	-	12.91 %	8.64 %	6.65 %
Hualing Furniture (China) Co., Ltd., or Tony House Manufacture (China) Co., Ltd., or Buysell Investments Ltd., or Tony House Industries Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Jardine Enterprise, Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Jiangmen Kinwai Furniture Decoration Co., Ltd	-	-	-	8.64 %	6.65 %
Jiangmen Kinwai International Furniture Co., Ltd	-	-	-	8.64 %	6.65 %
Jiangsu Weifu Group Fullhouse Furniture Manufacturing. Corp	10.92 %	-	12.91 %	8.64 %	6.65 %
Jiangsu Yuexing Furniture Group Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Jiedong Lehouse Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
King's Way Furniture Industries Co., Ltd., or Kingsyear Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Kuan Lin Furniture (Dong Guan) Co., Ltd., or Kuan Lin Furniture Factory, or Kuan Lin Furniture Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Kunshan Lee Wood Product Co., Ltd	-	-	-	8.64 %	6.65 %
Kunshan Summit Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Langfang Tiancheng Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Leefu Wood (Dongguan) Co., Ltd., or King Rich International, Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Link Silver Ltd. (V.I.B.), or Forward Win Enterprises Company Limited, or Dongguan Haoshun Furniture Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Locke Furniture Factory (dba Kai Chan Furniture Co., Ltd.), or Kai Chan (Hong Kong) Enterprise Limited, or Taiwan Kai Chan Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Longrange Furniture Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Nanghai Baiyi Woodwork Co., Ltd	-	-	-	8.64 %	6.65 %
Nanghai Jiantai Woodwork Co., Ltd., or Fortune Glory Industrial Ltd. (H.K. Ltd.)	-	-	-	8.64 %	6.65 %
Nantong Dongfang Orient Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %

Nantong Yushi Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Nathan International Ltd., or Nathan Rattan Factory	10.92 %	-	12.91 %	8.64 %	6.65 %
Orient International Holding Shanghai Foreign Trade Co., Ltd	-	-	-	8.64 %	6.65 %
Passwell Corporation, or Pleasant Wave Limited	-	10.92 %	12.91 %	8.64 %	6.65 %
Perfect Line Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Prime Wood International Co., Ltd., or Prime Best International Co., Ltd., or Prime Best Factory, or Liang Huang (Jiaxing) Enterprise Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
PuTian JingGong Furniture Co., Ltd	-	-	-	8.64 %	6.65 %
Qingdao Liangmu Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Restonic (Dongguan) Furniture Ltd., or Restonic Far East (Samoa) Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
RiZhao SanMu Woodworking Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Season Furniture Manufacturing Co., or Season Industrial Development Co. (Season Group)	10.92 %	-	12.91 %	8.64 %	6.65 %
Sen Yeong International Co., Ltd., or Sheh Hau International Trading Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shanghai Aosen Furniture Co., Ltd	10.92 %	-	12.91 %	-	-
Shanghai Jian Pu Export & Import Co., Ltd	-	-	-	8.64 %	6.65 %
Shanghai Maoji Imp and Exp Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Sheng Jing Wood Products (Beijing) Co., Ltd., or Telstar Enterprises Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shenyang Shining Dongxing Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shenzhen Forest Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shenzhen Jiafa High Grade Furniture Co., Ltd., or Golden Lion International Trading Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shenzhen New Fudu Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shenzhen Wonderful Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shenzhen Xiande Furniture Factory	-	10.92 %	12.91 %	8.64 %	6.65 %
Shenzhen Xingli Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Shun Feng Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Songgang Jasonwood Furniture Factory, or Jasonwood Industrial Co., Ltd. S.A	10.92 %	-	12.91 %	8.64 %	6.65 %
Starwood Furniture Manufacturing Co. Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Starwood Industries Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Strongson Furniture (Shenzhen) Co., Ltd., or Strongson Furniture Co., Ltd., or Strongson (HK) Co	10.92 %	-	12.91 %	8.64 %	6.65 %

Sunforce Furniture (Hui-Yang) Co., Ltd., or Sun Fung Wooden Factory, or Sun Fung Company, or Shin Feng Furniture Co., Ltd., or Stupendous International Co., Ltd. (Sunforce)	10.92 %	-	12.91 %	8.64 %	6.65 %
Superwood Co., Ltd., or Lianjin Zongyu Art Products Co., Ltd	-	-	-	8.64 %	6.65 %
Tarzan Furniture Industries Ltd. & Samsco Industries Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Teamway Furniture (Dong Guan) Ltd. & Brittomart Inc	10.92 %	-	12.91 %	8.64 %	6.65 %
Tech Lane Wood Mfg. or Kee Jia Wood Mfg.	-	-	-	198.08 %	PRC Wide
Techniwood Industries Ltd., or Ningbo Furniture Industries Limited, or Ningbo Hengrun Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Tianjin Fortune Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Tianjin Master Home Furniture	-	10.92 %	12.91 %	8.64 %	6.65 %
Tianjin Phu Shing Woodwork Enterprise Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Tianjin Sande Fairwood Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Tube-Smith Enterprise (ZhangZhou) Co., Ltd., or Tube-Smith Enterprise (Haimen) Co., Ltd., or Billionworth Enterprises Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Union Friend International Trade Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
U-Rich Furniture (Zhangzhou) Co., Ltd., or U-Rich Furniture Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Wanhengtong Nueevder (Furniture) Manufacture Co., Ltd., or Dongguan Wanengtong Industry Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Woodworth Wooden Industries (Dong Guan) Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Xiamen Yongquan Sci-Tech Development Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Jiangsu XiangSheng Bedtime Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Xingli Arts & Crafts Factory of Yangchun	10.92 %	-	12.91 %	8.64 %	6.65 %
Yangchun Hengli Company Limited	10.92 %	-	12.91 %	8.64 %	6.65 %
Yeh Brothers World Trade, Inc	10.92 %	-	12.91 %	8.64 %	6.65 %
Yichun Guangming Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Yida Co., Ltd., or Yitai Worldwide, Ltd., or Yili Co., Ltd., or Yetbuild Co., Ltd	-	10.92 %	12.91 %	8.64 %	6.65 %
Yihua Timber Industry Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Zhang Zhou Sanlong Wood Product Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Zhangjiagang Zheng Yan Decoration Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Zhangzhou Guohui Industrial & Trade Co. Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %

Zhanjiang Sunwin Arts & Crafts Co., Ltd	-	-	12.91 %	8.64 %	6.65 %
Zhong Shan Fullwin Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Zhongshan Fookyik Furniture Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Zhongshan Golden King Furniture Industrial Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
Zhoushan For-Strong Wood Co., Ltd	10.92 %	-	12.91 %	8.64 %	6.65 %
PRC-Wide Rate	198.08 %	-	-	198.08 %	198.08 %

**Table 82: Chinese Producers of Wooden Bedroom Furniture and Their Original Duty Margins**

**Sources: (USGPO, 2007)**

### 15.3.5 Outboard Engines From Japan

#### 15.3.5.1 US Producers of Outboard Engines During Period of Investigation

Company Name:	Locations of Production Facilities	Source / Citation	Position with respect to the petition
<p>Mercury Marine  A division of Brunswick Corporation (“Mercury”)  W6250 Pioneer Road  Fond du Lac, Wisconsin 54936-1939  Phone: (920) 929-5000  Fax: (920) 929-5060  Attn: Joseph H. Pomeroy  Divisional General Counsel</p>	<p>Fond du Lac, WI</p>	<p>Petition</p>	<p>Petitioner</p>
<p>Bombardier Recreational Products, Inc. (“BRP”)  Boats and Outboard Division Main Plant, Administration, Outboard Engines  10101 Science Drive  Sturtevant, Wisconsin 53 177  Telephone: (262) 884-5001  Fax: (262) 884-5194  Attn: Roch Lambert  Vice President and General Manager,  Boats and Outboard Engines Division</p>	<p>Sturtevant, WI  Andrews, NC  Delavan, WI  Spruce Pine, NC</p>	<p>Petition</p>	<p>Support</p>
<p>Outboard Marine Corp. (“OMC”) A third U.S. producer who went into bankruptcy in December 2000.</p>	<p>-</p>	<p>ITC Final Report</p>	<p>Bankrupt Producer</p>

**Table 83: US Producers of Outboard Engines**

Source: (Dewey Ballantine LLP, 2004; Exhibit I-2-A & I-2-B, USITC, 2005b; p.I-2 & III-1)



### 15.3.5.2 US Importers of Outboard Engines During Period of Investigation

Company Name:	Source/Citation:
American Honda Motor Co., Inc. (“Honda”) 4900 Marconi Drive Alpharetta, GA 30005-25 19 Phone: (770) 497-6400	Petition & ITC Final Report
American Suzuki Motor Corporation (“Suzuki”) 325 1 East Imperial Highway Brea, CA 92821-6722 Phone: (714) 996-7040	Petition & ITC Final Report
Bombardier Recreational Products, Inc. Boats and Outboard Division Main Plant, Administration, Outboard Engines 10101 Science Drive Sturtevant, Wisconsin 53 177 Telephone: (262) 884-5001 Fax: (262) 884-5 194	Petition & ITC Final Report
Mercury Marine, division of Brunswick Corporation W6250 Pioneer Road Fond du Lac, Wisconsin 54936-1939 Phone: (920) 929-5000 Fax: (920) 929-5060	Petition & ITC Final Report
Tohatsu America Corporation (“Tohatsu”) 1624 W. Crosby Rd., Suite 101 Carrollton, Texas 75006 Phone: (972) 323-6003	Petition & ITC Final Report
Yamaha Motor Corporation, U.S.A. (“Yamaha”)	Petition & ITC Final Report
6555 Katella Avenue Cypress, CA 90630 Phone: (714) 761-7300	1270 Chastain Road Northwest Kennesaw, GA 30144 Phone (800) 962-7926

**Table 84: US Importers of Outboard Engines**

Source: (Dewey Ballantine LLP, 2004; Exhibit I-6, USITC, 2005b; p.I-2)

### 15.3.5.3 US Purchasers of Outboard Engines During Period of Investigation

Company Name:	Source/Citation:	
Genmar Industries	ITC Final Report	OEM Boat Builder
Tracker Marine	ITC Final Report	OEM Boat Builder
<p><b>Note from Petition:</b></p> <p>There are many purchasers of outboard engines, both original equipment manufacturers (“OEM”) boat builders and dealers. Genmar Industries and Tracker Marine are the largest independent OEM boat builders.</p>		

**Table 85: Purchasers of Outboard Engines**

Sources: (USITC, 2005b; p.I-2)

**15.3.5.4 Japanese Producers and Exporters of Outboard Engines During Period of Investigation**

<b>Japanese Exporter / Manufacturer Name</b>			
<b>Antidumping Duty</b>	<b>Source</b>	<b>Preliminary Weighted-Average Margin</b>	<b>Final Weighted-Average Margin</b>
	-	<b>69 FR 49863</b>	<b>70 FR 326</b>
<b>Yamaha Motor Co., Ltd.</b> 2500 Shingai Iwata-shi, Shizuoka-ken Japan Phone: (81) 538-37-1 115 Fax: (81) 538-37-4252	Petition & Federal Register	22.52 %	18.98 %
<b>Suzuki Motor Corporation</b> 300 Takatsuka, Hamamatsu Shizuoka 432-861 1 Japan Phone: (8 1) 534-40-2904 Fax: (81) 534-40-2776	Petition	All Others Rate	All Others Rate
<b>Nissan Motor Co., Ltd.</b> 2, Takara-cho, Kanagawa-ku Yokohama, Kanagawa 220-8623 Japan Phone: (81) 454-61-7410 Fax: (81) 335-44-0109	Petition	All Others Rate	All Others Rate

<b>Honda Motor Co., Ltd.</b> 1 - 1,2-chome, Minami-Aoyama Minato-ku, Tokyo 107-8556 Japan Phone: (81) 334-23-1 11 1 Fax:	Petition	All Others Rate	All Others Rate
<b>Tohatsu Corporation</b> 5-4, Azusawa 3-Chome, Itabashi-ku Japan Phone: (81) 339-66-31 11 Fax: Tokyo 174-005 1	Petition	All Others Rate	All Others Rate
<b>Tohatsu Marine Corporation</b> 3-1-3 Shnmei-Cho, Okaya City, Nagano 394-0004 Japan Phone: (81) 266-23-4051 Fax:	Petition	All Others Rate	All Others Rate
All Others	Federal Register	22.52 %	18.98 %
<b>Note from the petition:</b> Nissan does not produce outboard engines. However, Petitioner is aware that outboard engines under the Nissan brand are sold in the U.S. market. Those engines are apparently produced by Tohatsu Corporation. Tohatsu Marine Corporation is a joint venture between Mercury Marine and Tohatsu Corporation.			

**Table 86: Japanese Producers and Exporters of Outboard Engines and Their Original Duty Margins**

Sources: (Dewey Ballantine LLP, 2004; Exhibit 1-4, USGPO, 2007)

**15.4 Appendix D: Import Statistics for General US Trade and Case Specific HTS Categories 1996 - 2006**

General US Import Statistics USD	1996	1997	1998	1999	2000
<b>DRAMs</b>					
8542.21.8005	0	0	0	0	0
8542.21.8021	0	0	0	0	0
8542.21.8029	0	0	0	0	0
<b>Memory Modules Containing DRAMs</b>					
8473.30.1040	0	0	0	0	0
8473.30.1080	0	0	0	0	0
DRAMs Sub-total:	0	0	0	0	0
<b>Hand Trucks</b>					
8716.80.5010	5,789,680	7,237,446	7,071,549	7,600,765	6,657,284
8716.80.5090	17,885,888	22,441,661	25,154,373	29,756,851	541,353,199
8716.90.5060	6,148,800	6,262,093	10,051,911	14,623,229	20,446,580
Hand Truck Sub-total:	29,824,368	35,941,200	42,277,833	51,980,845	568,457,063
<b>Wooden Bedroom Furniture</b>					
9403.50.9040	5,060,177	12,677,017	29,079,628	64,961,846	139,210,400
9403.50.9080	23,997,791	28,020,834	52,634,277	104,496,749	219,542,229
7009.92.5000	3,603,723	6,672,637	12,466,198	20,395,587	31,698,933
9403.90.7000	13,711,055	24,999,956	29,312,081	55,508,425	87,277,346
Wooden Bedroom Furniture Sub-total:	46,372,746	72,370,444	123,492,184	245,362,607	477,728,908
<b>Outboard Engines</b>					
8407.21.0040	38,484,347	43,428,851	45,902,356	59,047,498	91,192,947
8407.21.0080	134,769,423	160,655,427	226,230,660	339,381,202	376,281,782
Outboard Engines Sub-total:	173,253,770	204,084,278	272,133,016	398,428,700	467,474,729
<b>PET Resin</b>					
3907.60.0010	4,800	0	233,689	1,167,891	5,148,835
3907.60.0050	0	112,962	1,400,527	1,019,101	1,419,413
PET Resin Sub-total:	4,800	112,962	1,634,216	2,186,992	6,568,248
<b>Total for All Cases:</b>	249,455,684	312,508,884	439,537,249	697,959,144	1,520,228,948
<b>Total US Imports ('000 000):</b>	791,314,694	870,212,652	913,884,882	1,024,765,977	1,216,887,532

**Table 87: Import Statistics for Case Specific General US Trade HTS Categories 1996 – 2006**  
Source: USITC Interactive Tariff and Trade DataWeb (<http://dataweb.usitc.gov/>)

General US Import Statistics USD	2001	2002	2003	2004	2005	2006
<b>DRAMs</b>						
8542.21.8005	0	35,466,979	58,513,448	56,428,836	41,774,865	31,407,403
8542.21.8021	0	2,945,955	2,737,254	715,519	0	0
8542.21.8029	0	370,636,409	435,639,519	786,917,403	0	0
<b>Memory Modules Containing DRAMs</b>						
8473.30.1040	1,103,362,277	1,463,049,039	1,250,527,737	1,889,276,149	1,564,830,362	1,921,538,807
8473.30.1080	60,619,322	78,447,924	73,594,670	123,930,790	85,016,712	34,281,077
DRAMs Sub-total:	1,163,981,599	1,950,546,306	1,821,012,628	2,857,268,697	1,691,621,939	1,987,227,287
<b>Hand Trucks</b>						
8716.80.5010	7,671,035	12,160,192	16,780,693	15,722,556	12,574,043	12,182,143
8716.80.5090	69,891,474	68,274,018	86,502,210	107,909,987	127,935,750	143,200,236
8716.90.5060	18,231,751	23,380,455	37,170,746	67,229,266	92,918,012	140,567,523
Hand Truck Sub-total:	95,794,260	103,814,665	140,453,649	190,861,809	233,427,805	295,949,902
<b>Wooden Bedroom Furniture</b>						
9403.50.9040	167,901,309	293,577,282	398,621,761	397,605,449	444,555,437	487,133,003
9403.50.9080	309,464,617	523,765,846	764,115,586	840,199,992	948,064,440	1,022,046,695
7009.92.5000	46,952,113	74,468,639	97,171,089	115,041,508	138,896,403	161,522,338
9403.90.7000	95,106,087	152,901,760	171,355,832	213,448,109	287,110,450	347,921,946
Wooden Bedroom Furniture Sub-total:	619,424,126	1,044,713,527	1,431,264,268	1,566,295,058	1,818,626,730	2,018,623,982
<b>Outboard Engines</b>						
8407.21.0040	67,574,742	81,338,842	83,840,496	86,941,748	79,667,191	95,949,677
8407.21.0080	387,579,646	513,671,997	594,286,228	661,872,052	701,901,155	640,028,297
Outboard Engines Sub-total:	455,154,388	595,010,839	678,126,724	748,813,800	781,568,346	735,977,974
<b>PET Resin</b>						
3907.60.0010	6,797,575	11,732,331	32,235,618	5,560,659	50,111,466	103,009,958
3907.60.0050	331,232	277,744	621,820	697,231	550,537	1,001,516
PET Resin Sub-total:	7,128,807	12,010,075	32,857,438	6,257,890	50,662,003	104,011,474
Total for All Cases:	2,341,483,180	3,706,095,412	4,103,714,707	5,369,497,254	4,575,906,823	5,141,790,619
Total US Imports ('000):	1,141,959,128	1,163,548,546	1,259,395,640	1,469,673,408	1,670,940,373	1,855,119,262

**Table 87: Import Statistics for Case Specific General US Trade HTS Categories '96 – '06 (Cont.)**  
Source: USITC Interactive Tariff and Trade DataWeb (<http://dataweb.usitc.gov/>)

## 15.5 Appendix E: Extracts from the Harmonized Tariff Schedule of the United States Showing the Classification of Imported Merchandise Headings for Cases

### Harmonized Tariff Schedule of the United States (2007) Annotated for Statistical Reporting Purposes

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty	
				1 General	2 Special

#### Hand Trucks and Certain Parts Thereof from China

8716.80		Other vehicles:				
8716.80.10	00	Farm wagons and carts .....	No.	Free		Free
8716.80.50		Other .....		3.2%	Free (A,AU,BH,CA, CL,E,IL,J,JO, MA,MX,P,SG)	45%
	10	Industrial hand trucks .....	No.			
	20	Other:				
	90	Portable luggage carts .....	No.			
	90	Other .....	No.			
8716.90		Parts:				
8716.90.10	00	Parts of farm wagons and carts .....	kg	Free		Free
8716.90.30	00	Castors, other than those of heading 8302 .....	kg	5.7%	Free (A,AU,BH,CA, CL,E,IL,J,JO, MA,MX,P,SG)	45%
8716.90.50		Other .....		3.1%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,P,SG)	45%
	10	Axles and parts thereof .....	kg			
	30	Wheels .....	kg			
	60	Other .....	kg			

#### Wooden Bedroom Furniture from China

9403.50		Wooden furniture of a kind used in the bedroom:				
9403.50.40	00	Bent-wood furniture .....	X	Free		42.5%
		Other:				
9403.50.60	00	Designed for motor vehicle use .....	X	Free		25%
9403.50.90		Other .....		Free		40%
	40	Beds .....	No.			
	80	Other .....	X			
7009		Glass mirrors, whether or not framed, including rear-view mirrors:				
7009.10.00	00	Rear-view mirrors for vehicles .....	No.	3.9%	Free (A,AU,B,BH, CA,CL,E,IL,J,JO, MA,MX, P,SG)	50%
		Other:				
		Unframed:				
7009.91		Not over 929 cm <sup>2</sup> in reflecting area .....	cm <sup>2</sup>	7.8%	Free (A,AU,B,BH, CA,CL,E,IL,J,JO, MA,MX, P,SG)	50%
7009.91.10	00		No.			
7009.91.50	00	Over 929 cm <sup>2</sup> in reflecting area .....	cm <sup>2</sup>	6.5%	Free (A,AU,B,BH, CA,CL,E,IL,J,JO, MA,MX, P,SG)	45%
7009.91.10	00		No.			
		Framed:				
7009.92		Not over 929 cm <sup>2</sup> in reflecting area .....	cm <sup>2</sup>	7.8%	Free (A,AU,B,BH, CA,CL,E,IL,J,JO, MA,MX, P,SG)	50%
7009.92.10	00		No.			
7009.92.50	00	Over 929 cm <sup>2</sup> in reflecting area .....	cm <sup>2</sup>	6.5%	Free (A,AU,B,BH, CA,CL,E,IL,J,JO, MA,MX, P,SG)	45%
7009.92.10	00		No.			
9403.90		Parts:				
9403.90.10		Of furniture of a kind used for motor vehicles .....		Free		25%
	40	Of metal .....	X			
	50	Of textile material, cut to shape .....	X			
	85	Other .....	X			
		Other:				
9403.90.25		Of cane, osier, bamboo or similar materials .....		Free		60%
	40	Of rattan .....	X			
	80	Other .....	X			
		Of rubber or plastics:				
9403.90.40	00	Of reinforced or laminated plastics .....	X	Free		65%
9403.90.50	00	Other .....	X	Free		25%
9403.90.60	00	Of textile material, except cotton .....	X	Free		80%
9403.90.70	00	Of wood .....	X	Free		40%
9403.90.80		Other .....		Free		45%
	40	Of metal .....	X			
	50	Of cotton, cut to shape .....	X			
	85	Other .....	X			

#### Outboard Engines from Japan

8407.21.00		Marine propulsion engines:				
	40	Outboard motors		Free		35%
	80	Less than 22.38 kW .....	No.			
		Other .....	No.			

**Harmonized Tariff Schedule of the United States (2007)**  
Annotated for Statistical Reporting Purposes

Heading/ Subheading	Stat Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
3907.60.00		Poly(ethylene terephthalate) .....		6.5%	Free (A*, AU, BH, CA, CL, E, IL, J, JO, K, MA, MX, P, SG)	15.4¢/kg + 45%
	10	Bottle-grade resins .....	kg			
	50	Other .....	kg			

**Bottle-Grade Polyethylene Terephthalate (PET) Resin from India**

**Dynamic Random Access Memory Semiconductors from Korea**

**Harmonized Tariff Schedule of the United States (2005)**  
Annotated for Statistical Reporting Purposes

Item changed	Nature of change	Effective date	Comment
8542.21.8020	Added	January 1, 2005	484(f)
8542.21.8021	Deleted	January 1, 2005	484(f)
8542.21.8022	Deleted	January 1, 2005	484(f)
8542.21.8023	Deleted	January 1, 2005	484(f)
8542.21.8026	Added	January 1, 2005	484(f)
8542.21.8027	Added	January 1, 2005	484(f)
8542.21.8028	Added	January 1, 2005	484(f)
8542.21.8029	Deleted	January 1, 2005	484(f)

Source: <http://hotdocs.usitc.gov/docs/tata/hts/bychapter/0500chgs.pdf>

**Harmonized Tariff Schedule of the United States (2007)**  
Annotated for Statistical Reporting Purposes

Item changed	Nature of change	Effective date	Comment
8473.30.1040	Deleted	February 3, 2007	PP 8097
8473.30.1080	Deleted	February 3, 2007	PP 8097
8542.21.8005	Deleted	February 3, 2007	PP 8097

**Harmonized Tariff Schedule of the United States (2007)**  
Annotated for Statistical Reporting Purposes

Heading/ Subheading	Stat Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
8542		Electronic integrated circuits; parts thereof:				
	00	Electronic integrated circuits: Processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits	No. ....	Free		35%
		Memories: .....		Free		35%
		Dynamic read-write random access:				
	01	Not over 128 megabits .....	No.			
	20	Over 128 megabits but not over 256 megabits .....	No.			
	21	Over 256 megabits but not over 512 megabits .....	No.			
	22	Over 512 megabits but not over 1 gigabit .....	No.			
	23	Over 1 gigabit .....	No.			
	40	Static read-write random access (SRAM) .....	No.			
	50	Electrically erasable programmable read-only memory (EEPROM) .....	No.			
	60	Erasable (except electrically) programmable read-only memory (EPROM) .....	No.			
	70	Other .....	No.			

Source: <http://hotdocs.usitc.gov/docs/tata/hts/bychapter/0700htsa.pdf>



## **15.6 Appendix F: Scope of Investigation for Five Cases**

### **15.6.1 DRAM Semiconductors from Korea Petition**

“The products covered by this investigation are Dynamic Random Access Memory semiconductors (“DRAMs”) from Korea, whether assembled or unassembled. Assembled DRAMs include all package types. Unassembled DRAMs include processed wafers, uncut die, and cut die. Processed wafers fabricated in Korea, but assembled into finished semiconductors outside Korea are also included in the scope. Processed wafers fabricated outside Korea and assembled into finished semiconductors in Korea are not included in the scope. The scope of this investigation additionally includes memory modules containing DRAMs from Korea. A memory module is a collection of DRAMs, the sole function of which is memory. Memory modules include single in-line processing modules (“SIPs”), single in-line memory modules (“SIMMs”), dual in-line memory modules (“DIMMs”), small outline dual in-line memory modules (“SODIMMs”), Rambus in-line memory modules (“RIMMs”), and memory cards or other collections of DRAMs, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items which alter the function of the module to something other than memory, such as video graphics adapter (“VGA”) boards and cards, are not included in the scope. This investigation also covers future DRAM module types. The scope of this investigation additionally includes, but is not limited to, video random access memory (“VRAM”), and synchronous graphics RAM (“SGRAM”), as well as various types of DRAMs, including fast pagemode (“FPM”), extended data-out (“EDO”), burst extended data-out (“BEDO”), synchronous dynamic RAM (“SDRAM”), Rambus DRAM (“RDRAM”) and Double Data Rate DRAM, (“DDR SDRAM”). The scope also includes any future density, packaging, or assembling of DRAMs. Also included in the scope of this investigation are removable memory modules placed on motherboards, with or without a central processing unit (“CPU”), unless the importer of the motherboards certifies

with the Customs Service that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this investigation does not include DRAMs or memory modules that are re-imported for repair or replacement. The DRAMs subject to this investigation are currently classifiable under subheadings 8542.21.8005 and 8542.21.8021 through 8542.21.8029 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The memory modules containing DRAMs from Korea, described above, are currently classifiable under subheadings 8473.30.10.40 or 8473.30.10.80 of the HTSUS. Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department’s written description of the scope of this investigation remains dispositive.”

DOC Scope of Investigation (USGPO, 2007; 67 FR 70927)

### **15.6.2 Bottle-Grade PET Resin from India Petition**

“The merchandise covered by each of these investigations is bottle–grade polyethylene terephthalate (PET) resin, defined as having an intrinsic viscosity of at least 0.68 deciliters per gram but not more than 0.86 deciliters per gram. The scope includes bottle–grade PET resin that contains various additives introduced in the manufacturing process. The scope does not include post–consumer recycle (PCR) or post–industrial recycle (PIR) PET resin; however, included in the scope is any bottle–grade PET resin blend of virgin PET bottle–grade resin and recycled PET (RPET). Waste and scrap PET is outside the scope of the investigations. Fiber–grade PET resin, which has an intrinsic viscosity of less than 0.68 deciliters per gram, is also outside the scope of the investigations. The merchandise subject to these investigations is properly classified under subheading 3907.60.0010 of the Harmonized Tariff Schedule of the United States (HTSUS); however, merchandise classified under HTSUS subheading 3907.60.0050 that otherwise meets the written description of the scope is also subject to these investigations. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.”

DOC Scope of Investigation (USGPO, 2007; 69 FR 21083)

### **15.6.3 Wooden Bedroom Furniture from China Petition**

“The following language describes the imported merchandise from the People’s Republic of China (“PRC”) that Petitioners intend to be included in the scope of the investigation: The merchandise subject to this investigation is wooden bedroom furniture (i.e., subject merchandise). Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise are made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particleboard, and fiberboard; with or without wood veneers, wood overlays, or laminates; with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins; and whether or not assembled, completed, or finished. The subject merchandise includes (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether standalone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen’s chests, bachelor’s chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobetype cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests [1], highboys [2], lowboys [3], chests of drawers [4], chests [5], door chests [6], chiffoniers [7], hutches [8], and armoires [9]; (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list. The scope of the petition excludes (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables,

chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktails tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; and (8) bedroom furniture in which bentwood parts predominate.[10] Imports of subject merchandise are classified under statistical category 9403.50.9040 of the Harmonized Tariff Schedule of the United States (“HTSUS”) as “wooden \* \* \* beds” and under statistical category 9403.50.9080 of the HTSUS as “other \* \* \* wooden furniture of a kind used in the bedroom.” In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under statistical category 9403.50.9040 of the HTSUS as “parts of wood” and framed glass mirrors may also be entered under statistical category 7009.92.5000 of the HTSUS as “glass mirrors \* \* \* framed.” This investigation covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.”

Footnotes:

[1] A chest-on-chest is typically a tall chest-of drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[2] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[3] A lowboy is typically a short chest of drawers, not more than four feet

high, normally set on short legs.

[4] A chest of drawers is typically a case containing drawers for storing clothing.

[5] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[6] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[7] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[8] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[9] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audiovisual entertainment systems.

[10] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency, and then set by cooling or drying. See Customs' Headquarters' Ruling Letter 043859, dated may 17, 1976.

DOC Scope of Investigation (USGPO, 2007; 68 FR 65875)

#### **15.6.4 Hand Trucks and Certain Parts Thereof from China Petition**

“For the purpose of this investigation, the product covered consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof. A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load. That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the Harmonized Tariff Schedule of the United States (“HTSUS”), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination

thereof, are typically imported under heading 8716.90.5060 of the HTSUS. Although the HTSUS subheadings are provided for convenience and for the purposes of U.S. Customs and Border Protection, the Department's written description of the scope is dispositive. Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks."

DOC Scope of Investigation (USGPO, 2007; 68 FR 68591)



### **15.6.5 Outboard Engines from Japan Petition**

“For the purpose of this investigation, the products covered are outboard engines (also referred to as outboard motors), whether assembled or unassembled; and powerheads, whether assembled or unassembled. The subject engines are gasoline-powered sparkignition, internal combustion engines designed and used principally for marine propulsion for all types of light recreational and commercial boats, including, but not limited to, canoes, rafts, inflatable, sail and pontoon boats. Specifically included in this scope are two-stroke, direct injection two-stroke, and four-stroke outboard engines. Outboard engines are comprised of (1) a powerhead assembly, or an internal combustion engine, (2) a midsection assembly, by which the outboard engine is attached to the vehicle it propels, and (3) a gearcase assembly, which typically includes a transmission and propeller shaft, and may or may not include a propeller. To the extent that these components are imported together, but unassembled, they collectively are covered within the scope of this investigation. An “unassembled” outboard engine consists of a powerhead as defined below, and any other parts imported with the powerhead that may be used in the assembly of an outboard engine. Powerheads are comprised of, at a minimum, (1) a cylinder block, (2) pistons, (3) connecting rods, and (4) a crankshaft. Importation of these four components together, whether assembled or unassembled, and whether or not accompanied by additional components, constitute a powerhead for purposes of this investigation. An “unassembled” powerhead consists of, at a minimum, the four powerhead components listed above, and any other parts imported with it that may be used in the assembly of a powerhead. The scope does not include parts or components (other than powerheads) imported separately. The outboard engines and powerheads subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 8407.21.0040 and 8407.21.0080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.”

DOC Scope of Investigation (USGPO, 2007; 69 FR 5316)

## 15.7 Appendix G: Interview Protocol Used in Fieldwork

### **PhD Interview Protocol Book**

Case: Description Goes Here

Interview Number: Number Goes Here

Interview Date: Date Goes Here

## **1. Pre-interview Preparations**

### **1.1. Pre-interview Review of Case:**

N/A

### **1.2. Pre-interview Notes:**

N/A

### **1.3. Pre-interview Reflection:**

N/A

## **2. Personal Interview**

### **2.1. Basic Information:**

Interview Date:

Transcription Date:

Place:

Interview Type:

Interviewer: Johan Lindeque

Interviewee: Name:

Position:

Company:

Alias:

Telephone:

email:

Website:

Time Interview Started:

Time Interview Ended:

Interview Length:

### **2.2. Points to make:**

- I would like your permission to record the interview.
- A speakerphone is being used to allow the interview to be recorded, but the conversation is private and no other people are listening.
- The information provided in the interview will not be used in a manner which identifies the interviewee or their firm if made public or used in any publications under these circumstances without prior consent.

**2.3. Questions to ask:**

15. Could you please tell me a little bit about your experience in antidumping, countervailing duty and safeguard petitions?

16. What is your experience of antidumping, countervailing duty and section 201 cases?

	<b>None</b>	<b>Little</b>	<b>Some</b>	<b>Majority</b>	<b>All</b>
<b>Antidumping</b>	0	1	2	3	4
<b>Countervailing Duty</b>	0	1	2	3	4
<b>Section 201 SG</b>	0	1	2	3	4

17. Have you represented mostly petitioners or respondents?

	<b>None</b>	<b>Little</b>	<b>Some</b>	<b>Majority</b>	<b>All</b>
<b>Petitioners</b>	0	1	2	3	4
<b>Respondents</b>	0	1	2	3	4

18. Can we agree to discuss (circle as agreed):

<b>Petition Type</b>	<b>Side</b>	
AD	Petitioner	Respondent
CVD	Petitioner	Respondent
SG Sec. 201	Petitioner	Respondent

19. What are the key aspects of an AD/CVD/SG petition from the perspective of the petitioner?
20. How does this differ for the prefiling period of time, the investigation phase and administrative review period?
21. What does a company in the petitioning industry need to be able to do to support the petition?
22. What are the key aspects of an AD/CVD/SG petition from the perspective of the respondent?
23. How does this differ for the prefiling period of time, the investigation phase and administrative review period?
24. What do the respondent industry's companies need to be able to do to be successful?
25. What is the importance of money in AD/CVD/SG proceedings?
26. What is the importance of information in AD/CVD/SG proceedings?
27. What other factors are important for companies to consider in AD/CVD/SG proceedings?
28. Is there any other issue that I should be addressing?

**2.4. Interview Transcription:**

N/A

**2.5. Notes:**

N/A

**3. Post-interview Reflection and Notes:**

**3.1. Post-interview Notes:**

N/A

**3.2. Post-interview Reflections:**

N/A