
Trade Remedies Litigation

International Trade, Investment and Market Access

We develop both offensive and defensive legal and policy strategies to protect or advance our clients' international market position through the trade remedies laws of the United States, the EU, China and other jurisdictions, and we litigate (or support local counsel in litigating) trade remedy cases on behalf of petitioners and respondents. Our lawyers also have extensive experience in EU State Aid cases.

Areas of Focus

Antidumping Investigations

In the United States, our antidumping practice regularly includes high-stakes litigation before the US Commerce Department and the International Trade Commission. We also advise companies on programs to reduce the risk of antidumping liability through corporate planning and Commerce Department administrative reviews, and work with US Customs and Border Patrol to address circumvention and enforcement issues. In addition, we represent clients in appellate litigation before the US Court of International Trade, the US Court of Appeals for the Federal Circuit and NAFTA panels.

In Europe, we have extensive experience working with the European Commission, lobbying the Anti-Dumping Advisory Committee and appealing cases to the European Court of First Instance.

We have also represented clients in foreign antidumping proceedings arising under the laws of Argentina, Canada, Mexico, Uruguay, China, Indonesia, Korea, Australia, Malaysia, New Zealand, South Africa, Thailand and Venezuela, and in numerous GATT and WTO appeals. One of our lawyers, while in government, served as lead counsel in multiple US WTO challenges to foreign antidumping duties on US products.

Countervailing Duty Investigations and Government Subsidies

WilmerHale's trade practice has established an international track record in countervailing duty investigations and government subsidy disputes. Both within and outside the practice, our lawyers have extensive experience in cases at the cutting edge of policy, law and economic analysis. Some of our lawyers also have extensive government experience dealing with subsidies issues.

Safeguard Investigations

Safeguard investigations, such as US investigations under section 201 of the Trade Act of 1974 and the China-specific safeguards, arise when a domestic industry believes it is being injured by fairly traded imports. Safeguard cases entail complexities that other trade remedy investigations do not, given that the final decision to impose import restrictions rests with the President of the United States. These cases also often involve multiple products and countries.

Given these complexities, legal, policy and political tools are generally necessary to achieve a client's objective—tools that our team has developed from their experience in private practice and government.

Experience

ANTIDUMPING INVESTIGATION

Represented Chrysler in the antidumping case brought by China against imports of automobiles from the US.

ANTIDUMPING INVESTIGATION

Represented Smiths Detection in a successful antidumping case brought in the EU challenging Nuctech, its Chinese competitor; we are defending Smiths in the antidumping case subsequently brought by China.

ANTIDUMPING INVESTIGATION

Represented DuPont and other US chemical companies in numerous successful antidumping investigations, administrative reviews and sunset reviews, including related court appeals, covering imports of several different polymer products from a variety of countries.

ANTIDUMPING INVESTIGATION

Represented two of the largest Chinese producers in the biggest antidumping case against China to date. The two producers are the only two Chinese companies not subject to antidumping duties.

ANTIDUMPING INVESTIGATION

Represented the Japanese oil country tubular goods industry in securing revocation of a US antidumping order through a US International Trade Commission sunset review and federal court appeal.

ANTIDUMPING INVESTIGATION

Represented the Chinese ball bearing industry in successfully defending against a US antidumping petition at the US International Trade Commission and in a federal court appeal.

ANTIDUMPING INVESTIGATION

Represented numerous companies and associations, as well as the European Commission itself, in appeals before the European Court of Justice CFI concerning EU customs and antidumping rules.

COUNTERVAILING DUTY INVESTIGATION

Represented companies, trade associations and governments in numerous countervailing duty investigations in the US and the EU.

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GOVERNMENT SUBSIDIES

Represented companies in litigation before the US Court of International Trade, the US Court of Appeals for the Federal Circuit, and the European Court of First Justice involving appeals of countervailing duty determinations.

GOVERNMENT SUBSIDIES

Advised clients in cutting-edge WTO subsidies disputes, including regarding EU and US support for large civil aircraft as well as the *Brazil—Aircraft*, *Foreign Sales Corporation*, *EC—Sugar*, and *Brazil—Desiccated Coconut* cases.

GOVERNMENT SUBSIDIES

Represented companies seeking to address improper use of subsidies by other countries to bolster domestic industries.

GOVERNMENT SUBSIDIES

Advised governments in structuring their programs to ensure consistency with international subsidy rules.

SAFEGUARD INVESTIGATION

Serving as the USTR's safeguards lawyer, including representing the United States in the WTO challenges to US safeguard measures on lamb meat and steel wire rod and as Third Party in the WTO challenge to Argentina's safeguard measure on peaches.

SAFEGUARD INVESTIGATION

Negotiating the special safeguard mechanism for China as well as the US implementing regulations.

SAFEGUARD INVESTIGATION

Serving as the lead US government lawyer in the first petition to use the China special safeguard mechanism, as well as assisting in defending the President's decision before the Court of International Trade.

SAFEGUARD INVESTIGATION

Negotiating the safeguard provisions in various US bilateral free trade agreements and drafting the implementing legislation.

