

International Trade Remedies

No company operating in today's global economy can afford to ignore the laws regulating international trade. Whether expanding foreign markets or protecting domestic interests, businesses must decipher and comply with an expanding array of complex, interrelated regulations that can have a profound impact on their prospects.

For over 30 years, Miller & Chevalier has been helping clients open markets for their products and obtain relief from anti-competitive practices. Our International Trade Remedies team works with clients to maximize the opportunities and minimize the risks of international trade regulations. We have handled hundreds of trade remedy proceedings – antidumping and countervailing duty, safeguard, and other import relief issues – in the United States and overseas, including many of the largest and most significant actions to date.

Unique Blend of Experience

Miller & Chevalier's International Trade practice is consistently ranked in recognized publications, including *Chambers USA*, *Chambers Global* and *U.S. News – Best Lawyers® "Best Law Firms"*. Our team members have been at the center of high profile cases involving the biggest issues in trade remedy law and have repeatedly won major victories for our clients in those cases.

We bring a rigorous and multidisciplinary approach to trade remedy matters. We immerse ourselves in the facts and serve as trusted advisors on both factual and legal issues to government decision makers. Clients rely on us to perform a range of services, including advance planning related to pursuing or defending against trade remedy actions in both the U.S. and overseas and all-out mobilization of our substantial resources to obtain or defeat import relief in disputed cases. We also help to shape the political and policy landscape in which close cases and difficult or novel issues are resolved. Our trade policy practice, for example, provides legal and policy advice, negotiation, foreign and domestic government affairs advocacy, and litigation strategies and representation. Our unique blend of experience and knowledge offers our clients a distinct advantage in navigating global markets.

Track Record of Success

Miller & Chevalier's International Trade Remedies practice has been successful in hundreds of trade remedy/antidumping (AD) and countervailing duty (CVD)/safeguard actions, as well as other import relief proceedings, in the United States and overseas. Our case experience spans numerous sectors, including agriculture, chemicals, forest goods, information technology, metals, aerospace, textiles, and apparel products. We have successfully defended our clients' interests at every stage of the trade remedy process, from handling agency proceedings to challenging and defending agency determinations in U.S. federal courts and international dispute settlement proceedings (WTO).

Members of our group have compiled extensive records of success both in government and as private sector advocates. The group includes former senior level officials from the U.S. government agencies involved in trade remedy proceedings -- the Department of Commerce and Customs and Border Protection -- as well as former top Congressional trade staff.

Special Competencies

Beyond the basics of litigating U.S. agency-level trade remedy proceedings, the group has deep experience and widely-renowned capabilities with respect to:

Appeals: We have substantial experience challenging and helping to defend U.S. agency determinations, both in U.S. federal courts and in the special "NAFTA Chapter 19" system, where appeals involving Canadian and Mexican goods are litigated. We have been involved in more than 50 United States Court of International Trade appeals and more than a dozen appeals to the United States

Court of Appeals for the Federal Circuit. In the Chapter 19 context, we have appeared before many bi-national panels and have served as counsel in four ECC reviews.

Policy Work and Economic Analysis Related to AD/CVD/Safeguard Measures: Members of our group do significant policy and advocacy work on behalf of clients regarding the design and operation of the U.S. trade remedy regime, the continuing evolution of the U.S. statutory and international (WTO) rules governing that regime, and the public policy debates surrounding the use of trade remedy measures. This work includes regular participation in agency-level policy reviews, advocacy in Congress regarding trade remedy reform proposals, close collaboration with negotiators working on proposed reforms of the applicable WTO rules, and economic analysis of trade remedy measures. Our team also includes several adjunct law professors.

Foreign Trade Remedy Proceedings: Our lawyers have advised clients affected by trade remedy proceedings in Asia, Europe, Latin America, and Canada. In many cases, Miller & Chevalier partners with experienced local practitioners -- the firm has a close working relationship with leading law firms in all major trading countries, contributing broad strategic guidance and knowledge on the WTO rules applicable to trade remedy measures.

REPRESENTATIVE ENGAGEMENTS

Antidumping: Metals

- **Stainless Steel Sheet and Strip from Taiwan** (2008): Successfully achieved continuation of exclusion of supplier from antidumping order.
- **Steel Nails from China and the UAE** (2008): Successfully received no dumping (0%) margin for exporter client.
- **Stainless Butt-Weld Pipe Fittings from Taiwan** (2007): Assisted client exporter in receiving insignificant 0.52% antidumping import duty margin.
- **Cut-to-Length Plate from Mexico** (2007): Obtained revocation of antidumping and countervailing duty orders in a sunset review before the International Trade Commission.
- **Stainless Steel Bar from India** (2005): Assisted client in successfully qualifying for exclusion from the antidumping order after being found not to be dumping (0% dumping margins) for three years in a row.
- **Stainless Steel Flanges from India** (2005): Assisted client in successfully qualifying for exclusion from the antidumping order after being found not to be dumping (0% dumping margins) for three years in a row.
- **Oil Country Tubular Goods from China, Germany, Brazil, France, and Austria** (2002): Represented the major exporters to the United States. The case was terminated within 45 days, based on an ITC finding that the accused imports were non-injurious.

Antidumping: Chemicals

- **Urea from Russia** (2008): Obtained 0% dumping margin for exporter client, including successful opposition to petitioner effort to reintroduce non-market economy methodologies.
- **PET Film from China, Brazil, Thailand, and UAE** (2008): Assisted U.S. producer to revamp operations to avoid duties and successfully obtained no injury finding for one major supplying country, so avoided antidumping liability.
- **Granular Polytetrafluoroethylene Resin from Italy** (2008): Successfully excluded major products from the case.
- **Chlorinated Isocyanurates from China** (2006 - 2008): Successfully obtained a 75% reduction in the dumping margin for our exporter and importer clients, giving them a substantial advantage in the U.S. market for this product.

Anti-dumping: Agriculture/Forest Products

- **Certain Lined Paper Products from China** (2009): Advising client on scope issues.
- **Wooden Bedroom Furniture from China** (2008): Assisted exporter client in receiving by far the lowest antidumping import duty margin of any major respondent in any of the annual reviews to date. We were successful in getting DOC to switch the surrogate country for determining non-market economy dumping in a China case from India to the Philippines, which dramatically lowered the dumping margin and is an effort that many others had tried and failed in the past.
- **Kraft Liner Board from the U.S.** (Korea AD case, 2006 - 2007): Successfully assisted the client in having case terminated before completion.
- **Kraft Liner Board from the U.S.** (China AD case, 2006): Obtained the lowest antidumping import duty margin for our client of all the investigated U.S. exporters to China.

Countervailing Duty (Subsidy)

- **Circular Welded Austenitic Stainless Pressure Pipe from China** (2008): Obtained a 1.1% CVD rate in the final investigation decision, far below the 299% for noncooperative respondents. CVD cases against China are the hot new focus area in trade remedy law.
- **Cut-to-Length Plate from Mexico** (2007): Obtained revocation of antidumping and countervailing duty orders in sunset review before the International Trade Commission.
- **PET Film from India** (2006 - 2008): Represented the U.S. industry in two reviews as a result of which CVD import duties, initially found to be 20%+, were continued on imports of Indian PET film.
- **Movie Films from Canada** (2002, 2008): Represented the Government of Canada and the Canadian industry to entirely defeat a 2002 CVD case. When the U.S. industry refiled the case seeking to use a different statutory provision against the same subsidies, our original arguments prevailed again against them.
- **Softwood Lumber from Canada** (2001 - 2006): Represented the largest exporter to the United States in the largest U.S. CVD case ever, where case settled in the way desired.
- **Laminated Hardwood Flooring from Canada** (1996 - 1997): Represented the Government of Canada and a Canadian producer in the investigation. We achieved a *de minimis* (0%) duty rate for the Canadian producer.
- **Live Swine from Canada** (1992 - 1997): Represented the Government of Canada in six successive annual reviews of the CVD order. We won a unanimous Extraordinary Challenge Committee (ECC) favorable decision. We successfully defended the newly-designed FIPA and NISA programs as non-actionable subsidies. The CVD order was later revoked pursuant to a sunset review.
- **Softwood Lumber from Canada** (1990 - 1995): Represented the Government of British Columbia in the CVD case. Successfully defended appeals before a NAFTA bi-national panel and ECC.
- **Steel Wire Rod from Saudi Arabia** (1986 - 1994): Represented the Saudi producer, including in five consecutive annual reviews, with *de minimis* (0%) subsidy margins and ultimately got the CVD order against the client revoked.
- **Magnesium from Canada** (1991 - 1993): Represented the Government of Canada in the investigation and successfully negotiated a settlement agreement in the way desired.
- **Fresh Chilled and Frozen Pork from Canada** (1989 - 1993): Represented the Government of Canada in appeals before a NAFTA bi-national panel and in an ECC proceeding. At the ECC, we won a unanimous favorable decision.

GOVERNMENT EXPERIENCE

- General Counsel, U.S. Department of Commerce
- Counselor to the Secretary, U.S. Department of Commerce

- Deputy General Counsel, U.S. Department of Commerce
- Special Advisor, U.S. Trade Representative
- Assistant U.S. Trade Representative for Congressional Affairs, Executive Office of the President
- Deputy Assistant U.S. Trade Representative for Congressional Affairs, Executive Office of the President
- Trial Attorney, Counterintelligence and Export Controls Section, National Security Division, U.S. Department of Justice
- Counsel, Assistant Attorney General for National Security, U.S. Department of Justice
- Attorney-Advisor, Office of International Trade - Regulations & Rulings, U.S. Customs and Border Protection
- Senior Advisor and Special Assistant to the Assistant Secretary for Near Eastern and South Asian Affairs, U.S. Department of State

RANKINGS AND RECOGNITION

- *Chambers Global*: International Trade (United States), 2005 - 2015
- *Chambers USA*: International Trade (Nationwide), 2005 - 2014
- *Latinvex*: Latin America's Top 10 FCPA & Fraud Firm, 2015 - 2021
- *Legal 500*: Dispute Resolution: International Trade (U.S.), 2011, 2013 - 2020
- *U.S. News - Best Lawyers*[®] "Best Law Firms": International Trade and Finance Law (National), 2011 - 2021
- *U.S. News - Best Lawyers*[®] "Best Law Firms": International Trade and Finance Law (District of Columbia), 2011 - 2021