

problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: May 11, 2001.

Lowell F. Ploss,

Deputy Regional Director, Mid-Pacific Region.
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INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: International Trade Commission.

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission ("Commission") has issued an annual report on the status of its practice with respect to violations of its administrative protective orders ("APOs") in investigations under Title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than Title VII and violations of the Commission's rule on bracketing business proprietary information ("BPI") (the "24-hour rule"), 19 CFR 207.3(c). This notice provides a summary of investigations of breaches in Title VII investigations completed during calendar year 2000. There were no completed investigations of breaches for other Commission proceedings or for 24-hour rule violations during that period. The Commission intends that this report educate representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission and the corresponding types of actions the Commission has taken.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205-3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205-1810. General information concerning the Commission can also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: Representatives of parties to investigations conducted under Title VII of the Tariff Act of 1930 may enter into APOs that permit them, under strict conditions, to obtain access to BPI of other parties. See 19 U.S.C. 1677f; 19 CFR 207.7. The discussion below describes APO breach investigations that the Commission has completed, including a description of actions taken in response to breaches. The discussion covers breach investigations completed during calendar year 2000.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and the 24-hour rule. See 56 FR 4846 (Feb. 6, 1991); 57 FR 12,335 (Apr. 9, 1992); 58 FR 21,991 (Apr. 26, 1993); 59 FR 16,834 (Apr. 8, 1994); 60 FR 24,880 (May 10, 1995); 61 FR 21,203 (May 9, 1996); 62 FR 13,164 (March 19, 1997); 63 FR 25,064 (May 6, 1998); 64 FR 23,355 (April 30, 1999); 65 FR 30,434 (May 11, 2000). This report does not provide an exhaustive list of conduct that will be deemed to be a breach of the Commission's APOs. APO breach inquiries are considered on a case-by-case basis.

As part of the effort to educate practitioners about the Commission's current APO practice, the Commission Secretary issued in March 2001 a third edition of *An Introduction to Administrative Protective Order Practice in Import Injury Investigations* (Pub. No. 3403). This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, tel. (202) 205-2000.

I. In General

The current APO form for antidumping and countervailing duty investigations, which the Commission has used since March 1995, requires the applicant to swear that he or she will:

- (1) Not divulge any of the BPI obtained under the APO and not otherwise available to him, to any person other than—
 - (i) personnel of the Commission concerned with the investigation,

- (ii) the person or agency from whom the BPI was obtained,

- (iii) a person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

- (iv) other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decisionmaking for the interested party which is a party to the investigation; and (d) have submitted to the Secretary a signed Acknowledgment for Clerical Personnel in the form attached hereto (the authorized applicant shall sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

- (2) Use such BPI solely for the purposes of the Commission investigation [or for binational panel review of such Commission investigation or until superceded by a judicial protective order in a judicial review of the proceeding];

- (3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;

- (4) Whenever materials (*e.g.*, documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

- (5) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

- (6) Transmit such document containing BPI disclosed under this APO:

- (i) with a cover sheet identifying the document as containing BPI,

- (ii) with all BPI enclosed in brackets and each page warning that the document contains BPI,

- (iii) if the document is to be filed by a deadline, with each page marked "Bracketing of BPI not final for one business day after date of filing," and

- (iv) if by mail, within two envelopes, the inner one sealed and marked "Business Proprietary Information—To

be opened only by [name of recipient]”, and the outer one sealed and not marked as containing BPI;

(7) Comply with the provision of this APO and section 207.7 of the Commission’s rules;

(8) Make true and accurate representations in the authorized applicant’s application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (e.g., change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledge that breach of the APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate including the administrative sanctions and actions set out in this APO. The APO further provides that breach of a protective order may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person’s partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission; and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

Commission employees are not signatories to the Commission’s APOs and do not obtain access to BPI through APO procedures. Consequently, they are not subject to the requirements of the APO with respect to the handling of BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI, and face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; Title 5, U.S. Code; and Commission

personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission’s authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

An important provision of the Commission’s rules relating to BPI is the “24-hour” rule. This rule provides that parties have one business day after the deadline for filing documents containing BPI to file a public version of the document. The rule also permits changes to the bracketing of information in the proprietary version within this one-day period. No changes—other than changes in bracketing—may be made to the proprietary version. The rule was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule. If a party wishes to make changes to a document other than bracketing, such as typographical changes or other corrections, the party must ask for an extension of time to file an amendment document pursuant to section 201.14(b)(2) of the Commission’s rules.

II. Investigations of Alleged APO Breaches

Upon finding evidence of a breach or receiving information that there is a reason to believe one has occurred, the Commission Secretary notifies relevant offices in the agency that an APO breach investigation file has been opened. Upon receiving notification from the Secretary, the Office of General Counsel (OGC) begins to investigate the matter. The OGC prepares a letter of inquiry to be sent to the possible breacher over the Secretary’s signature to ascertain the possible breacher’s views on whether a breach has occurred. If, after reviewing the response and other relevant information, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating or aggravating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. In some cases, the Commission determines that although a breach has occurred, sanctions are not warranted, and therefore has found it unnecessary to issue a second letter concerning what sanctions might be appropriate. Instead, it issues a warning letter to the individual. The Commission retains sole authority to determine whether a breach has occurred and, if so, the appropriate action to be taken.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, section 135(b) of the Customs and Trade Act of 1990, and 19 U.S.C. 1677f(g).

The breach most frequently investigated by the Commission involves the APO’s prohibition on the dissemination of BPI to unauthorized persons. Such dissemination usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included: the failure to bracket properly BPI in proprietary documents filed with the Commission; the failure to report immediately known violations of an APO; and the failure to supervise adequately non-legal personnel in the handling of BPI.

Counsel participating in Title VII investigations have reported to the Commission potential breaches involving the electronic transmission of public versions of documents. In these cases, the document transmitted appears to be a public document with BPI omitted from brackets. However, the BPI is actually retrievable by manipulating codes in software. The Commission has recently completed an investigation of such a breach that will be reported in the annual **Federal Register** notice for calendar year 2001. In that case, the Commission found that the electronic transmission of a public document containing BPI in a recoverable form was a breach of the APO.

The Commission advised in the preamble to the notice of proposed rulemaking in 1990 that it will permit authorized applicants a certain amount of discretion in choosing the most appropriate method of safeguarding the confidentiality of the BPI. However, the Commission cautioned authorized applicants that they would be held responsible for safeguarding the confidentiality of all BPI to which they are granted access and warned applicants about the potential hazards of storage on hard disk. The caution in that preamble is restated here:

[T]he Commission suggests that certain safeguards would seem to be particularly useful. When storing business proprietary information on computer disks, for example, storage on floppy disks rather than hard disks is recommended, because deletion of information from a hard disk does not necessarily erase the information, which can often be retrieved using a utilities program.

Further, use of business proprietary information on a computer with the capability to communicate with users outside the authorized applicant's office incurs the risk of unauthorized access to the information through such communication. If a computer malfunctions, all business proprietary information should be erased from the machine before it is removed from the authorized applicant's office for repair. While no safeguard program will insulate an authorized applicant from sanctions in the event of a breach of the administrative protective order, such a program may be a mitigating factor. Preamble to notice of proposed rulemaking, 55 FR 24,100, 21,103 (June 14, 1990).

In 2000, the Commission conducted four investigations of instances in which members of a law firm or consultants working with a firm were granted access to APO materials by the firm although they were not APO signatories. In all these cases, the firm and the person using the BPI mistakenly believed an APO application had been filed for that person. The Commission has completed three of these investigations to date and determined in all three cases that the person who was a non-signatory, and therefore did not agree to be bound by the APO, could not be found to have breached the APO. These persons could be sanctioned, however, under Commission rule 201.15 (19 CFR 201.15) for good cause shown. In all three cases, the Commission decided that the non-signatory was a person who appeared regularly before the Commission and was aware of the requirements and limitations related to APO access and should have verified their APO status before using the BPI. In all three cases the Commission issued warning letters because it was the first time the persons in question were subject to possible sanctions under section 201.15 and there were no aggravating circumstances. These investigations will be individually summarized in the **Federal Register** notice summarizing cases completed in 2001.

Sanctions for APO violations serve two basic interests: (a) preserving the confidence of submitters of BPI that the Commission is a reliable protector of BPI; and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, "the effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI. The Commission considers whether there are prior breaches by the same person or persons in other investigations and multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit economists or consultants to obtain access to BPI under the APO if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. 19 CFR 207.7(a)(3) (B) and (C). Economists and consultants who obtain access to BPI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or consultant may also be held responsible for the breach of the APO.

III. Specific Investigations in Which Breaches Were Found

The Commission presents the following case studies to educate users about the types of APO breaches found by the Commission. The case studies provide the factual background, the actions taken by the Commission, and the factors considered by the Commission in determining the appropriate actions. The Commission has not included some of the specific facts in the descriptions of investigations where disclosure of such facts could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the

facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

Case 1: One associate attorney breached an APO by failing to redact BPI from the public version of his firm's Final Comments. Although the BPI was aggregate data, it had been bracketed in the Commission's staff report because it could be used with other publicly available data to determine the market share of one company. The BPI in the confidential version of the firm's Final Comments was properly bracketed.

The Commission Secretary discovered the breach. Letters of inquiry were sent to three other attorneys in addition to the associate because their names were on the Final Comments. Responses to the letters showed that the associate had been responsible for the error and had been the only attorney to sign the public version of the Final Comments. Therefore, the Commission determined that the associate attorney had breached the APO and the three other attorneys had not. The Commission issued a private letter of reprimand to the associate because the record did not clearly show that the BPI had not been reviewed by a non-signatory.

Three parties on the public service list, who were not signatories to the APO, received the Final Comments. One of these parties had forwarded the document to three client officials, one of whom had made copies. Although they destroyed all copies of the page with the BPI, their certifications did not state that they had not reviewed the document.

In reaching its decision, the Commission also considered that the breach had been inadvertent and that the associate made prompt efforts to limit the possibility of disclosure to persons not already under the APO. This was the associate's first breach of an APO.

Cases 2, 3, and 4: A law firm, new to Commission practice, became involved in a series of breaches in one investigation. Case 2 was a breach in which one of the partners had submitted BPI obtained under the Commission's APO to the Commerce Department. Before that information was retrieved, it had been read by individuals who were non-signatories to the Commission's APO. Case 3 involved two breaches. The first breach was caused by a junior associate attorney serving the BPI version of the prehearing brief on parties who were not APO signatories. In the second breach, the same associate served the public version of the post hearing brief while failing to redact one instance of BPI. Case 4 was a breach in which the law firm and the economic consulting firm working with the law

firm on the investigation failed to file certificates of destruction or return of the BPI obtained under the APO.

The Commission found that all five of the attorneys in the law firm breached the APO. Two of the attorneys were given public letters of reprimand with six months suspension from access to BPI. Three of the attorneys, including the associate, were given private letters of reprimand. For the final breach, the economic consultants were issued warning letters.

The Commission decided on the sanctions it imposed after considering the role of each of the attorneys in the preparation of the prehearing and posthearing briefs and the failure of the partners and senior attorneys to adequately supervise the junior associate and to develop procedures for the handling of BPI to avoid all of these breaches.

The Commission found that the first breach, sending Commission BPI to Commerce, was the sole responsibility of one attorney who is a partner practicing for many years. The second and third breaches involving the pre hearing and post hearing briefs were the responsibility of the associate, the lead attorney, and a partner of the firm. The lead attorney prepared the briefs with the assistance of the associate and the partner reviewed the documents. The associate was given the sole responsibility for proofreading, cite checking, implementing final changes, filing, and serving the documents. Both the lead attorney and the partner were issued a public letter of reprimand and were suspended from access to BPI for six months because they delegated primary responsibility for APO compliance to a junior attorney and then failed to provide appropriate supervision of that attorney, which resulted in two APO breaches; they repeatedly failed to remedy obvious flaws in their firm's procedures for protecting BPI obtained under the APO; and they failed to certify to the return or destruction of the BPI obtained under the APO. The associate was issued a private letter of reprimand for serving a prehearing brief containing BPI on persons not covered by the APO, failing to redact BPI from the public version of the post-hearing brief, failing to remedy flaws in the firm's procedures for protecting BPI, and failing to certify to the return or destruction of the BPI obtained under the APO. The Commission noted that it reached its decision after considering that the associate was involved in multiple breaches over a short period of time and that the associate did not discover the breaches. In deciding on a private letter

of reprimand, the Commission also considered that the breaches appear to have been inadvertent and that the associate made prompt efforts to minimize the public dissemination of BPI.

The partner who transmitted Commission BPI to Commerce was issued a private letter of reprimand. The Commission noted that breach and found him also responsible for the third breach involving the post hearing brief because he failed to remedy flaws in his firm's procedures for protecting BPI. He also failed to certify to the return or destruction of the BPI obtained under the APO.

The Commission issued a private letter of reprimand to the fifth attorney, also a partner. He was found responsible for the third breach for failing to remedy flaws in his firm's procedures for protecting BPI and by failing to certify to the return or destruction of the BPI obtained under the APO.

In the letters to the partners and lead attorney the Commission explained that it recognized the firm's inexperience with Commission practice. Although such inexperience is a mitigating factor for the first breach, that breach put the firm on notice that the Commission's APO rules require a great deal of attention. Inexperience does not excuse the firm's subsequent lack of attention to APO compliance, particularly with regard to the delegation of unsupervised authority over APO matters to a junior attorney, and the continued reliance on that attorney after the attorney had committed one breach. Therefore, the Commission did not consider inexperience after the first breach to be a mitigating factor.

Case 5: A law firm legal assistant provided the firm's clients, who were not signatories to the APO, with redacted copies of the confidential version of the pre-hearing brief, which contained BPI that had been left on two pages. The legal assistant had redacted the confidential version of the brief when the assistant was unable to locate the firm's public version of the pre-hearing brief.

The Commission Secretary sent letters of inquiry to three attorneys who were named on the brief. One attorney responded with an affidavit that indicated he had no knowledge and was not involved in the breach. The Commission determined that he was not responsible for the breach. The lead attorney responded by taking responsibility for the breach and providing the Commission with information about the changed APO procedures in the law firm. The lead attorney was the attorney responsible

for maintaining APO compliance by clerical employees, including legal assistants, since he signed the clerical acknowledgement as part of the firm's APO application. The third attorney was the attorney who had directed the legal assistant to provide the clients with copies of the public version of the pre-hearing brief and was for that purpose the immediate supervisor of the legal assistant.

The Commission found the lead attorney, the supervising attorney, and the legal assistant to be responsible for the breach and issued warning letters to all three. The clients who received the brief had not read it before the firm retrieved the brief. In determining to issue warning letters, the Commission also considered the facts that neither the attorneys nor the legal assistant had breached an APO in the previous several years, that the breach was unintentional, and that prompt action was taken to remedy the breach.

Case 6: A lead attorney served the BPI version of a pre-hearing brief on a party that was not on the APO. When filing and serving the brief, the attorney had mistakenly printed from his computer and used the public service list. The attorney realized his mistake in the evening on the same day he served the briefs. He contacted the recipient law firm that was not a signatory to the APO the next morning. The law firm immediately returned the unopened envelope containing the brief.

The Commission Secretary sent letters of inquiry to the lead attorney and another attorney whose name was also on the brief. Those attorneys and four other persons on the APO from the firm sent affidavits in response. The response also provided information on new procedures that were developed at the firm to prevent similar breaches in the future. The responses indicated that only the lead attorney participated in the serving of the brief. The Commission found that the lead attorney had breached the APO and issued a warning letter to him. The Commission informed the other attorney who had received a letter of inquiry of its decision that he did not breach the APO.

In determining to issue a warning letter to the lead attorney, the Commission considered the facts that the breach was unintentional, he had no prior breaches, he took prompt action to remedy the breach, and no non-signatory of the APO actually read the document.

Case 7: The Commission found two attorneys responsible for a breach in which they served the confidential version of their Final Comments on a firm that was not on the APO. The

Commission issued a warning letter to each of these attorneys.

The more senior of the two attorneys directed the second attorney, a junior associate, to prepare a certificate of service for the BPI version of the final comments. The associate mistakenly retrieved a prior public certificate of service from his computer and changed pertinent dates and headings, but did not verify or modify the names on the list. He presented the certificate of service as the BPI version to the senior attorney who then directed others to copy the BPI version of the final comments and serve it on the parties on the certificate of service.

The senior attorney discovered the mistake the following day when preparing to file the public version of the final comments. He immediately investigated the matter and took action to retrieve the document from the firm that had been served but was not on the APO. He was able to retrieve the document in the unopened, sealed envelope. The non-signatory who had received it declined to open the envelope because its markings showed it contained BPI. The senior attorney also immediately informed the Commission Secretary of the error.

The Secretary sent letters of inquiry to the three attorneys whose names were on the Final Comments. After receiving the initial response to these letters, the Secretary sent a letter of inquiry to the junior associate who was involved. The Commission received affidavits from the four attorneys and seven other personnel subject to the APO. The responses indicated that the one senior attorney and the associate were the only ones involved in the service of the final comments. The responses also provided a description of new procedures that were being implemented to avoid a similar breach in the future.

Based on the information provided, the Commission determined that the senior attorney and the associate were both responsible for the breach. The senior attorney admitted that the junior attorney was inexperienced and should have been supervised more closely. The Commission determined that the other two senior attorneys did not breach the APO because they were not involved in the service of the final comments. The Commission sent them letters informing them of that fact. In deciding to issue warning letters to the senior attorney and the associate, the Commission considered that neither attorney had prior breaches, the breach was unintentional, prompt action was taken to remedy the breach, and no non-signatory actually read the document.

Case 8: In a five year review investigation, a law firm filed the public version of a prehearing brief that contained BPI which had been bracketed but not redacted. The BPI was contained in two footnotes in the text of the brief and in a chart in the economic analysis portion of the brief. The public version of the brief had been prepared by an attorney. A economic consultant working with the firm prepared the public version of the economic analysis. In addition, two other attorneys reviewed the brief and another economic consultant reviewed the economic analysis portion of the brief. The Commission determined that all three attorneys and the two consultants breached the APO and issued warning letters to each of them.

One of the attorneys who had reviewed the brief discovered the breach the morning after it had been filed. He immediately contacted the economic consultants, opposing counsel, and the Commission Secretary. The opposing counsel had forwarded the document to three of his clients. However, he was able to retrieve the documents in unopened envelopes and then return the unredacted pages to the attorneys who had filed the brief. Thus, the three non-signatories to whom the brief was sent did not read the BPI.

The Secretary initially sent letters of inquiry to the two attorneys whose names were on the brief and to a third attorney who had signed the certificate of service. The Secretary also sent a letter of inquiry to all of the economic consultants working for the firm who had signed the APO. The lead attorney responded to the letters of inquiry and enclosed affidavits from the APO signatories. The response indicated that the firm will continue its procedure of having two attorneys review a public document for BPI, but will make every effort to conduct the review the day before it is scheduled for filing so a more thorough review is possible.

In deciding to issue warning letters to the three attorneys and the two consultants involved in this breach, the Commission considered the facts that this was the only breach in which they had been involved over the previous several year period, that the breach was unintentional, and that prompt action was taken to remedy the breach.

IV. Investigation in Which No Breach Was Found

During 2000, the Commission completed one investigation in which no breach was found. A law firm filed the public version of the pre-hearing brief and failed to redact bracketed information. One of the attorneys in the

firm discovered the error, notified the Commission, and retrieved the document from the parties on whom it had been served. The information on the record does not indicate that any non-signatory read the unredacted information. The Commission Secretary sent letters of inquiry to three attorneys at the firm. Two of the attorneys responded in a letter and attached affidavits from the three attorneys and four other employees at the firm who had worked on the matter. The response presented the argument that the unredacted information was not BPI and the attorneys attached pages from the staff report and the Commission's report that contained public numbers the attorneys had used to derive the unredacted information. Based on the information provided by the firm and research that included discussions with the drafters of the two reports about what the information could reveal, the Commission determined that the information was aggregated data that would not reveal information about an individual company and, therefore, it was not BPI. The Commission therefore informed the involved persons that there was no breach of the APO.

Issued: May 14, 2001.

By order of the Commission.

Donna R. Koehnke,
Secretary.

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INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-888-890 (Final)]

Stainless Steel Angle From Japan, Korea, and Spain

Determinations

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Japan, Korea, and Spain of stainless steel angle, provided for in subheading 7222.40.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).