

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, sections 202 and 204 of the Trade Act of 1974, as amended, and section 337 of the Tariff Act of 1930, as amended, completed during calendar year 2002. There were no completed investigations of 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, sections 202 and 204 of the Trade Act of 1974, and section 337 of the Tariff Act of 1930, as amended, may enter into APOs that permit them, under strict conditions, to obtain access to BPI (Title VII) or confidential business information ("CBI") (sections 201-204 and section 337) of other parties. See 19 U.S.C. 1677f; 19 CFR 207.7; 19 U.S.C. 2252(i); 19 CFR 206.17; 19 U.S.C. 1337(n); 19 CFR 210.5, 210.34. 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 2002.

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 25064 (May 6,

1998); 64 FR 23355 (April 30, 1999); 65 FR 30434 (May 11, 2000); 66 FR 27685 (May 18, 2001); 67 FR 39425 (June 7, 2002). 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. L. 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 2001, 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 an 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 also 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 judicial or binational panel review of such Commission investigation;

(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 each 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 an APO 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;