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## ITC Questionnaires Issued in Antidumping Investigation of Large Power Transformers From Korea

The U.S. International Trade Commission (ITC or the Commission) recently issued questionnaires to gather information from industry in connection with its final injury investigation of imports of large power transformers from Korea, the last phase of the antidumping investigation that began last July. This Legal Alert outlines the status of the case and its implications for parties that have been asked to respond to the ITC questionnaires.

### Status of the Investigation

Under U.S. law, domestic parties can obtain relief from unfairly priced imported products by filing a petition with the ITC and the U.S. Department of Commerce. An industry requesting such relief must prove two things: (1) that the imported product is being unfairly priced (in this case, sold at less than fair value or “dumped”) and (2) that the dumped imports have injured, or threaten to injure, the U.S. industry. On February 9, Commerce made a preliminary determination that large power transformers from Korea are being unfairly priced in the U.S. market and calculated dumping margins ranging from 21.79% to 38.07%. That finding triggered a final injury investigation by the ITC, which last August had issued a preliminary determination that the U.S. industry may have been injured by unfair import competition. The final injury investigation is a more extensive and definitive examination of whether U.S. producers have been injured, and, as part of its analysis, the ITC requires U.S. importers and purchasers of the products under investigation to compile and submit the information requested in the ITC questionnaires.

ITC questionnaires are designed to collect information on issues such as the volume and value of imports, selling prices, alternative suppliers and market conditions. Parties receiving questionnaires are required to supply the requested data, and the ITC can compel responses by court order. The data the Commission gathers are utilized by its professional staff in preparing an economic analysis for the Commissioners and the parties participating in the investigation. That analysis is structured to preserve the confidentiality of individual company data, and information provided to the ITC is subject to stringent protective orders and not publicly disclosed.

The Commission has set May 21 as the deadline for responding to the questionnaires. However, it is usually possible to obtain a limited extension of the deadline. One key factor in the length of any extension is the need for the ITC staff to complete its report before the Commission’s hearing, at which time parties and others can present testimony and evidence. In this case, the hearing is scheduled for July 10, 2012. Purchasers of large power transformers have the opportunity to testify and present evidence by filing an entry of appearance no later than 21 days prior to the hearing. Following the hearing, the Commissioners will consider the testimony and other evidence presented and will vote on whether to impose import relief. The ITC’s decision must be issued no later than August 16, 2012.

### Commercial Implications

Several aspects of the investigation and questionnaires are particularly important for purchasers of large power transformers. First, the questionnaires must be answered truthfully and accurately, in accordance with the requirements of federal law. Second, questionnaire responses could have implications for

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parties' future ability to purchase large power transformers and components from Korea. Responses that support the domestic parties' allegations of injury could increase the probability that antidumping duties will be imposed on imports of Korean transformers. Third, if the Department of Commerce does not reverse its preliminary finding of dumping and the ITC makes a determination of injury, significant antidumping duties are expected to be levied based on the dumping margins calculated by Commerce. These additional duties will be imposed on all imported Korean products covered by the scope of the investigation and, as a result, the price of large power transformers available in the U.S. market may increase.

Sutherland's international trade team has years of experience in assisting clients with antidumping investigations and regularly assists companies in responding to ITC questionnaires. We also advise companies on how to minimize the commercial impact of antidumping duties on their business operations. Please contact one of the attorneys listed below if you have questions about this Legal Alert, need assistance in responding to the ITC questionnaires, or would like to participate as a party in the ITC investigation.



*If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.*

[Dorothy Black Franzoni](#)  
[Mark D. Herlach](#)

404.853.8489  
202.383.0172

[dorothy.franzoni@sutherland.com](mailto:dorothy.franzoni@sutherland.com)  
[mark.herlach@sutherland.com](mailto:mark.herlach@sutherland.com)