The Future of Rule 11 Sanctions for Unethical Conduct Before the U.S. Court of International Trade

Daniel B. Pickard*
Laura El-Sabaawi†

I. INTRODUCTION

This Article addresses a potential imminent increase in motions to impose Rule 11 sanctions before the United States Court of International Trade (CIT). This specialized Article III court has jurisdiction to review trade remedy investigations conducted by the United States Department of Commerce (DOC) and the United States International Trade Commission (ITC). While fraud perpetrated against these government agencies is not a new development, the brazenness and sophistication of

* Daniel Pickard is a Partner in the International Trade and Election Law & Government Ethics practices at Wiley Rein LLP in Washington, DC.

† Laura El-Sabaawi is an Associate in the International Trade practice at Wiley Rein LLP. The authors wish to express their thanks to Risa Edelman and Wan-Jung Chao for their valuable assistance with this Article.

recent fraudulent actions have undeniably reached a shocking new level, and the issues created by such fraud will soon likely reach the CIT.

After providing a brief introduction to the CIT and the relevant U.S. trade remedy laws, this Article will review some of the more disturbing recent DOC findings of overt wrongful conduct in trade remedy investigations. Perhaps even more troubling than the occurrence of fraud findings in recent cases are the legitimate questions they raise concerning the extent of involvement by counsel. The authors posit that, as the number and severity of fraud and misrepresentations before the DOC and the ITC increase, it is probable that the CIT will more frequently find itself in a position to adjudicate instances of misconduct by respondents, and possibly even by counsel, in these investigations. While the CIT has not been forced to impose sanctions under Rule 11 with any frequency in the past, sadly this may soon change.

II. OVERVIEW OF THE UNITED STATES COURT OF INTERNATIONAL TRADE AND U.S. TRADE REMEDY LAWS

A. The Court of International Trade

The CIT is a specialized Article III court with exclusive jurisdiction over certain international trade issues.[1] The origins of the court date back to 1890, with the creation within the Treasury Department of a quasi-judicial administrative unit responsible for determining the amount of duties to be paid on imports.[2] In 1926, this "Board of General Appraisers" was replaced by the United States Customs Court, initially established under Article I of the United States Constitution, but declared by Congress to be an Article III court in 1956.[3] The Customs Courts Act of 1980,[4] arguably the most significant piece of legislation to affect the institution, changed the name of the court to its current form in order to reflect more accurately the court's changing judicial role.

Today, the CIT is composed of nine presidentially appointed and Senate-confirmed judges (plus four additional judges with senior status).[5] The court has nationwide geographic jurisdiction with both specific

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1. *Jurisdiction of the Court*, U.S. COURT OF INT'L TRADE, http://www.cit.uscourts.gov/informational/about.htm#jurisdiction (last visited Feb. 2, 2011).

2. *History of International Trade Litigation*, U.S. COURT OF INT'L TRADE, http://www.cit.uscourts.gov/informational/about.htm#HISTORY (last visited Feb. 2, 2011).

3. *Id.*

4. *Id.*

5. *Composition of the Court*, U.S. COURT OF INT'L TRADE, http://www.cit.uscourts.gov/informational/about.htm#COMPOSITION (last visited Feb. 2, 2011); *Judges of the United States Court of International Trade*, U.S. COURT OF INT'L TRADE, http://www.cit.uscourts.gov/Judges/judges.htm (last visited Mar. 11, 2011).

grants of exclusive subject matter jurisdiction as well as residual jurisdiction to hear any civil action against the United States that is connected to an international trade law.[6] As an Article III court, the CIT has complete powers in law and equity.[7]

The CIT predominantly hears cases involving decisions of United States Customs and Border Protection (CBP), as well as matters arising out of antidumping (AD) and countervailing duty (CVD) investigations. The latter, two types of trade remedy investigations, provide relief to U.S. manufacturers that have been injured, or are threatened with injury, as a result of unfairly priced imports.

B. U.S. Antidumping and Countervailing Duty Laws

Under the AD statute, adopted as part of the Tariff Act of 1930, members of a particular domestic industry may petition the U.S. government to investigate imports of foreign goods that are similar to the goods they produce domestically.[8] Compensating duties on imports will be imposed where two threshold requirements are met: (1) the imports are sold in the United States at less than fair value, and (2) the low-priced imports are a cause of (or threaten to cause) material injury to the domestic industry.[9] In a CVD investigation, the U.S. government must determine: (1) whether imports are subsidized by the government of the exporting country and (2) whether the subsidized imports are a cause of (or threaten to cause) material injury to the domestic injury.[10]

Generally, AD and CVD investigations are conducted together on parallel tracks before both the ITC and the DOC.[11] The ITC—an independent, quasi-judicial, federal agency—determines whether a domestic industry is materially injured or threatened with material injury by the dumped or subsidized imports.[12] The DOC is responsible for determining whether dumping or subsidization is taking place and, if so, the appropriate amount of compensating duties to be assessed.[13]

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6. *Jurisdiction of the Court*, *supra* note 1.
7. *Id.*
8. 19 U.S.C. § 1673a(b)(1) (2006).
9. *Id.* § 1673.
10. *Id.* § 1671(a).
11. *See Trade Remedy Investigations, Import Injury Investigations*, U.S. INT'L TRADE COMMISSION, http://www.usitc.gov/trade_remedy/index.htm (last visited Feb. 3, 2011).
12. *Id.*
13. *Id.*

1. Antidumping Duty Investigations

In an AD case, the DOC ascertains whether the imported products are being sold at less than fair value—or "dumped"—into the U.S. market and calculates the appropriate duty.[14] The dumping duty is based on the difference between the "normal value" of the product and the export price charged for it in the United States.[15] Following a preliminary investigation that results in positive determinations from both the ITC and the DOC, a dumping duty deposit is immediately imposed on all imports of the subject products.[16]

Once an AD investigation is initiated, the DOC will launch its investigation to determine whether dumping is occurring. To do so, the DOC first calculates the "normal value," an amount which is usually based on prices in the foreign producers' home market.[17] Alternatively, if there are insufficient sales of comparable merchandise in the foreign producers' home market, the DOC will use the price on sales by the foreign producer to third countries.[18] If all home market and third country sales are determined to have taken place at below-cost prices, normal value will be based on the fully distributed cost of production plus profit.[19]

The export price into the United States (officially called the "export price" or "constructed export price") is determined by the DOC using similar means, including a downward adjustment to reflect transportation costs (both foreign and local), importation expenses, U.S. processing, and other such costs.[20] Additional adjustments are made for differences in

14. 19 U.S.C. § 1673.
15. *Id.* § 1677(35).
16. *Id.* § 1673b(d).
17. *Id.* § 1677b(a)(1)(A), (B)(i). If the target country is a nonmarket economy (NME) (e.g., China), the DOC uses a special procedure to calculate normal value. In such cases, the DOC makes its calculation by identifying the actual "factors of production" necessary to manufacture the subject product. 19 C.F.R. § 351.408(a) (2010). For example, in a steel investigation, the DOC would obtain from the NME producer the hours of labor, quantity of raw material, and units of electricity the producer actually uses in manufacturing each ton of steel. Those input factors are assigned values using the cost of labor, raw materials, and energy in a comparable—or "surrogate"—market economy, such as India. The DOC then adds amounts for reasonable overhead and profit (also based on data from the surrogate country) to arrive at the normal value for each ton of steel. The surrogate normal value is then compared with the adjusted U.S. price in determining the dumping margin for an NME producer. *2009 Antidumping Manual*, ITA IMP. ADMIN, http://ia.ita.doc.gov/admanual/index.html (last update Oct. 13, 2009) (Fair Value Comparisons & Normal Value).
18. 19 U.S.C. § 1677b(a)(1)(B)(ii), (C)(ii).
19. *Id.* § 1677b(a)(4), (e).
20. *Id.* § 1677a(a)-(c).

quality, credit, and other circumstances of sale unique to the foreign producers.[21]

After these adjustments to normal value and export price, the DOC makes its dumping calculation. The product is considered to be "dumped" into the United States if the export price—the price of the good in the U.S. market—is lower than the normal value of that product in the foreign producer's home market.[22] The difference between the two prices is the margin of dumping, which is then divided by the U.S. price to arrive at the dumping duty percentage.[23]

2. Countervailing Duty Investigations

Similarly, the CVD statute authorizes the imposition of compensating duties to "countervail" subsidies paid by a foreign government to its country's exporters.[24] In a CVD case, the DOC is responsible for determining the nature and extent of the government subsidies provided to the foreign producers at issue.[25] Thus, the threshold issue in a CVD investigation is whether a foreign government subsidizes the production or export of merchandise that is then imported into the United States.

Subsidizing occurs when a foreign government provides financial assistance to manufacturers in its country to benefit the production, manufacture, or exportation of a good.[26] Subsidies can take many forms, including direct cash payments, credits against taxes, and loans at terms that do not reflect market conditions.[27] The CVD statute and accompanying regulations establish standards for determining when an unfair subsidy has been conferred.[28]

The amount of subsidies the foreign producer receives from its government is the basis for the subsidy rate by which the subsidy is offset through higher import duties.[29] Just as with an AD duty, a countervailing duty is immediately imposed on all imports of the subject products following positive preliminary determinations from the ITC and the DOC.[30]

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21. *Id.* § 1677a(d)(1)(B).
22. *Id.* § 1677(34).
23. *Id.* § 1677(35)(A), (C).
24. *Id.* § 1671(a).
25. *Id.*
26. *Id.* § 1677(5).
27. *Id.* § 1677(5)(B).
28. *Id.* § 1677(5)(E).
29. *Id.* § 1671(a).
30. *Id.* § 1671b(d).

3. The Investigative Process

Domestic companies and industry trade associations begin the trade remedy investigative process in both AD and CVD cases by simultaneously filing a petition with the DOC and with the ITC.[31] After the investigation is initiated, opposing and neutral companies are required (under threat of subpoena) to provide information necessary to the investigation.[32] Foreign producers who do not fully cooperate with the investigation can be subject to the application of "adverse facts available," which results, in effect, in the relevant agency drawing negative inferences against the foreign producers and in favor of the domestic producers.[33]

The investigative process is data intensive, requiring foreign producers or exporters ("respondents" in the investigation) to complete detailed questionnaires and to provide a myriad of supporting documents. In conjunction with the investigation, the DOC will frequently travel to the respondents' offices in a process called "verification," to audit their books and records in an attempt to confirm the veracity of their questionnaire responses.[34] The facts that are successfully authenticated during verification (as well as findings that other of the respondents' assertions are unverifiable) form a central part of the evidence of record, upon which the DOC ultimately makes its determination.[35]

Before the AD duties and/or CVDs can be imposed, the ITC must first determine that the imports are a cause of material injury (or threat thereof) to the U.S. industry.[36] In this regard, injury is defined simply as harm that is more than inconsequential, unimportant, or immaterial.[37] Indeed, the domestic industry can demonstrate injury in a number of ways, including through downward trends in financial data (production, shipments, profits, etc.). However, operating losses are not a necessary component of material injury, if it is otherwise clear that the industry would have been better off absent the subject imports.[38] As long as the dumped and/or subsidized imports are found to be a cause of material injury or threat thereof, the ITC will make an affirmative determination, even if there are other, more important causes of such injury or threat.[39]

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31. *Id.* §§ 1671a(b), 1673a(b).
32. *Id.* § 1677e(a).
33. *Id.* § 1677e(b).
34. *Id.* § 1677m(i); 19 C.F.R. § 351.307 (2010).
35. 19 C.F.R. § 351.307.
36. 19 U.S.C. §§ 1671(a), 1673.
37. *Id.* § 1677(7).
38. *Id.* § 1677(7)(C)(iii).
39. *Id.* § 1677(7)(F)(ii).

It is these decisions by the DOC and by the ITC, regarding dumping, subsidies, and material injury, that are frequently reviewed by the CIT on appeal. It is also these investigations, as discussed in detail below, in which evidence of massive fraud has recently and increasingly been uncovered.

III. THE PROBLEM: INCREASED UNETHICAL CONDUCT IN ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS

This Article will review some of the more extreme and blatant examples of fraud and other unethical conduct that have occurred in AD and CVD investigations. These cases involve a wide variety of subject matter—from crawfish, to magnesium, to activated carbon. The cases cited below are not meant to represent an exhaustive list, but rather to demonstrate the seriousness of the current problem. There are numerous other recent cases—including those involving oil country tubular goods and tissue paper—where compelling evidence of wrongdoing has been found.[40]

The Crawfish from China[41] case may have been the first in the most recent wave of blatant unethical conduct in trade remedy investigations. In Crawfish from China, the DOC sent personnel on a verification trip to the respondent's factory in China (as is normal practice in certain investigations). As a result of this auditing trip by U.S. government officials, the respondents ultimately withdrew from verification, in the face of evidence that their responses were fraudulent.[42]

The DOC's observations are included in its official verification report,[43] which indicates that the U.S. government officials were taken to a hotel to conduct the verification instead of the respondent's factory (where verification would normally occur), due to the respondent's claims that its factory did not have convenient facilities for reviewing

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40. *See, e.g.*, *Commerce Finds Dumping of Oil Country Tubular Goods from the People's Republic of China*, ITA, http://ia.ita.doc.gov/download/factsheets/factsheet-prc-octg-ad-final-040910.pdf (last visited Mar. 11, 2011) (stating that adverse facts available were applied because the respondent provided data that was significantly at odds with other data in the DOC's possession); *Certain Tissue Paper Produce from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Under*, ITA, June 12, 2010, *available at* http://www.strtrade.com/wti/2009/june/19/ita_china_tissue.pdf (stating that respondents were engaging in fraudulent actions to evade the AD duty order).

41. *See* Freshwater Crawfish Tail Meat from the People's Republic of China (Crawfish from China), 68 Fed. Reg. 58,064 (Dep't Commerce Oct. 8, 2003) (prelim. admin. review).

42. *Id.* at 58,068.

43. *See id.* (citing *Antidumping Duty Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China (PRC) (A-570-848): Verification of Weishan Fukang Foodstuffs Co.* (Sept. 26, 2003)).

documents.[44] The DOC officials were taken to a hotel room that contained no documents. Upon request by the DOC officials, the respondent's employees would bring documents on a piecemeal basis from an adjacent hotel room.[45] In response to a question from the DOC officials, the respondent indicated that its records were kept in only paper form, not electronic form.[46]

The DOC officials eventually insisted to be shown the room containing the records. Upon arrival in that room, they found only a computer, a copy machine, a printer, and a dresser, along with four respondent employees—no paper records.[47] For the next several hours, the respondent's employees insisted that the DOC officials leave the room, as a string of bizarre events took place:

- the power on the floor where verification was taking place—but not in any other hotel wing—was shut off (meaning that the computer containing the respondent's records could not be accessed);
- a hotel employee came to request the return of the computer, claiming that it was on loan to the respondent from the hotel;
- the DOC officials were prevented from making calls to the United States from the hotel phones; and
- the DOC's translator recognized one of the four employees in the room as an employee from a separate company involved in the investigation. When confronted, the identified employee first attempted to run away. When the DOC officials finally caught up with her, she claimed that she was not the recognized person, providing an implausible story in an attempt to explain the lack of identifying information on her person and her inability to remember her home address.

After more than an hour, the DOC officials finally were able to access the computer and copy information onto two floppy disks.[48] Perhaps most troubling is that, upon this development, the respondent's counsel appeared and indicated that the respondent wished to withdraw from verification.[49] The counsel warned the DOC officials that the

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44. Memorandum from Maureen Flannery, Program Manager, Office of AD/CVD Enforcement VII, to Scot Fullerton & Doug Campau, Case Analysts, Office of AD/CVD Enforcement VII, at 1 (Sept. 26, 2003).

45. *See id.* at 1-3.

46. *See id.* at 2.

47. *Id.* at 3.

48. *Id.* at 4.

49. *Id.* at 6-7.

situation was "growing beyond their control" and that the floppy disks had to be returned.[50]

Another case, Magnesium from China,[51] is also instructive with regard to the surprising extent of fraud which has recently occurred in the DOC's investigations.[52] Several days into the verification process in that case, DOC officials began to suspect that a set of documents provided by the respondent was not authentic.[53] The documents were suspiciously pasted into bound books, seemingly in place of the original, genuine documents.[54] The respondent's employees then locked the DOC officials out of a room that the officials believed contained the actual needed information, insisting that no one was in the room and there was no way it could be entered, despite the fact that noises were emerging from within.[55] DOC officials proceeded to an adjoining stairwell where, to their surprise, they observed books being tossed out from the window of the locked, and supposedly inaccessible, room.[56] The DOC officials went downstairs to find other respondent employees gathering the tossed books.[57]

Even after being caught red-handed by the DOC officials, the respondents still refused to open the room. It was not until the DOC officials threatened to terminate verification on the spot that the respondents finally granted the officials access to the room.[58] Inside, DOC officials discovered five of the respondent's employees, accounting books and ledgers, and a variety of cutting and pasting materials.[59] The respondent's employees then refused DOC officials the opportunity to inspect the records in the office fully, claiming that the books and boxes contained confidential legal documents.[60] This untenable position was

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50. *Id.* at 7.

51. *See* Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part (Magnesium from China), 73 Fed. Reg. 37,409 (Dep't of Commerce July 1, 2008).

52. *See* Memorandum from Eugene Degnan, Office 8 Program Manager, Antidumping & Countervailing Duty Operations, to Wendy J. Frankel, Office 8 Director, Antidumping & Countervailing Duty Operations, Re: Verification of the Sales and Factors Responses of Tianjin Magnesium International, Ltd. in the 2007-2008 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China (Nov. 4, 2009) (on file with author).

53. *Id.* at 42.

54. *Id.* at 38.

55. *Id.* at 40-41.

56. *Id.* at 41.

57. *Id.*

58. *Id.*

59. *Id.* at 41-42.

60. *Id.* at 43.

maintained even when DOC officials pointed out that the so-called "top secret legal documents" were marked as being the exact records that the DOC officials were there to verify.[61] The DOC officials were eventually forced to leave without seeing these documents.[62] Interestingly, the respondent's U.S.- and China-based counsel were present during this entire episode.[63]

One final example is the case of Certain Activated Carbon from China.[64] In that case, the respondent misrepresented its relationship with another company in order to gain certain advantages in the DOC's investigation. The respondent's answers to a DOC questionnaire inadvertently included a two-paragraph segment that exposed the falsity of other statements in the response.[65] The first paragraph described a set of employment relationships, which would have been helpful to the respondent in the investigation.[66] The second paragraph—which, presumably, was unintentionally left in the document upon its submission to the DOC—appeared to be an internal response to the first paragraph.[67] This paragraph stated that the information in the prior paragraph was false; in fact, the employment relationships described in it did not exist.[68] Rather, it was part of an ongoing fraud the respondent was perpetrating on the DOC.[69] Ironically, the second paragraph went on to express the respondent's fear that its fabrication could be discovered by the DOC due to other respondent disclosures.[70]

IV. RULE 11 SANCTIONS AND THE COURT OF INTERNATIONAL TRADE

As discussed above, the DOC has recently identified a number of occurrences of deliberate and glaring fraud in trade remedy investigations. Such instances of fraud show no signs of abating. Furthermore, the role of the attorneys involved in these matters has been the subject of some debate. Accordingly, it is probable that the CIT will

61. *Id.* at 44.
62. *Id.*
63. *Id.* at 40-44.
64. Certain Activated Carbon from the People's Republic of China, 75 Fed. Reg. 61,697 (Dep't of Commerce Oct. 6, 2010) (extension prelim. admin. review).
65. *See* Memorandum from Ronald K. Lorentzen, Acting Assistant Sec'y, Import Administration, to Edward C. Yang, Senior Exec. Coordinator, China/NME Unit 79-80 (Nov. 3, 2009), http://ia.ita.doc.gov/frn/summary/prc/E9-27083-1.pdf.
66. *Id.*
67. *Id.*
68. *Id.*
69. *Id.*
70. *Id.*

face these issues, sooner rather than later, and there is a good chance that it could lead to an increase in Rule 11 sanctions.

Rule 11 provides that before filing a pleading, motion, or other paper with the court, an attorney has an affirmative obligation to ensure that (1) all assertions made in the documents have a reasonable and nonfrivolous legal and factual basis, and (2) the papers are not being filed solely for reasons of harassment or delay, or to increase costs to other parties.[71] Specifically, the rule reads:

> By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after any inquiry reasonable under the circumstances:
> (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
> (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
> (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
> (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.[72]

When counsel violates this rule, sanctions must be imposed by the court.[73] Additionally, the CIT has the authority, by motion of another party or on its own initiative, to order a law firm, attorney, or party to show cause why certain conduct does not violate CIT Rule 11.[74]

In considering the imposition of sanctions, the court determines whether, "after reasonable inquiry, a competent attorney could not form a reasonable belief that the pleading is well grounded in fact and is warranted by existing law or a good faith argument for the extension,

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71. CT. INT'L TRADE R. 11(b).

72. *Id.* The court has noted the rule's similarity to Rule 11 of the Federal Rules of Civil Procedure, the central purpose of which is to "deter baseless filings" and "streamline the administration and procedure of the federal courts." Wire Rope Importers' Ass'n v. United States, 18 Ct. Int'l Trade 478, 481 (1994) (quoting Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 393 (1990)).

73. CT. INT'L TRADE R. 11(c)(1); Refac Int'l, Ltd. v. Hitachi, Ltd., 921 F.2d 1247, 1257 (Fed. Cir. 1990) (holding that the "[i]mposition of sanctions once a violation has been found is mandatory").

74. CT. INT'L TRADE R. 11(c)(2)-(3).

modification or reversal of existing law."[75] Where an attorney fails to conduct an objectively reasonable investigation into the legal or factual grounds for a filing, he or she may be sanctioned, even in the absence of subjective bad faith.[76]

The court has some discretion to determine exactly how it will sanction the offending attorney. Rule 11 provides:

> A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation.[77]

Given the increased frequency, brazenness, and sophistication of fraud and misrepresentations in trade remedy investigations before the DOC, it is only reasonable to assume that these unfortunate occurrences will increasingly appear before the CIT on appeal. Perhaps more troubling than the fraudulent behavior in the fact-finding sections of the investigations (which is, although on the rise, not necessarily a new phenomenon) are issues connected with subsequent decisions made by counsel. Previously, an expectation existed that once such unethical behavior was discovered, counsel would take all actions required by the relevant ethics rules including, as appropriate, termination of the representation. However, in several recent cases, counsel have not fired their clients. Rather, attorneys in some cases have continued to submit written argument and analysis attempting to defend such behavior. While the ethical obligation to represent a client's interests zealously is well-established, Rule 11 makes clear that an attorney's signature on a pleading is a certification that the factual contentions are, to "the best of the person's knowledge, information, and belief, formed after any inquiry reasonable under the circumstances," proper and have evidentiary support and that "denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information."[78] To the extent that appeals from investigations

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75. *Wire Rope*, 18 Ct. Int'l Trade at 481 (internal quotation marks omitted); *see also* United States v. Chow, 850 F. Supp. 39, 42 (Ct. Int'l Trade 1994) ("Rule 11 thus imposes an obligation on attorneys to conduct a reasonable inquiry to ensure documents filed with the court are well grounded in fact and the position taken in them is warranted by existing law, and to not file a document for any improper purpose.").

76. *Wire Rope*, 18 Ct. Int'l Trade at 481.

77. CT. INT'L TRADE R. 11(c)(4).

78. CT. INT'L TRADE R. 11(b).

which are tainted with blatant fraud appear before the CIT, counsel will have a higher duty of inquiry and responsibility regarding their factual and legal representations to the court.

The CIT is unlikely to have much patience for counsel who violate their ethical obligations in connection with the obviously fraudulent behavior of their clients, and an increase in Rule 11 sanctions may not be far behind. It is difficult to predict at this early stage exactly what form these sanctions may take. Sadly, however, we may have the answer sooner than we think.

V. CONCLUSION

The CIT is a specialized Article III court empowered to decide appeals from the DOC and ITC determinations in trade remedy cases, specifically AD and CVD investigations. These cases, which can provide relief to U.S. manufacturers and their workers who have been injured by unfairly priced imports, are two of the most important trade remedy actions under U.S. law. Recently, there has been a wave of fraudulent activity in these investigations. There appears to be an increasing audacity and frequency in regard to this wrongful conduct, and there are questions regarding the role of the attorneys involved. While the CIT has not traditionally been required to grant Rule 11 sanctions motions with any frequency, it is reasonable to expect that the increase in misrepresentations to the agencies will carry over to the CIT. Should this happen, the court may well be forced to sanction counsel who have violated their ethical obligations.