

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## ANTI-DUMPING AND COUNTERVAILING DUTIES

### Submission of Laws and Regulations

The Government of the United States of America has submitted the following extracts from its relevant laws and administrative regulations:

- I. Countervailing Duty Law
- II. Regulations under Countervailing Duty Law
- III. Anti-Dumping Act, 1921 as Amended
- IV. Regulations under Anti-Dumping Act

together with a summary of the provisions of the Anti-Dumping Act(V).

#### I

### COUNTERVAILING DUTY LAW (Tariff Act of 1930, section 303; 19 U.S.C. 1303)

"Whenever any country, dependency, colony, province, or other political sub-division of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political sub-division of government, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net

amount so determined or estimated. The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of such additional duties."

II

REGULATIONS UNDER COUNTERVAILING DUTY LAW

"16.24 Countervailing duties

(a) Any appraiser or other principal customs officer who obtains any information that any bounty or grant is being paid or bestowed with respect to dutiable merchandise imported into the United States, so as to require action under section 303, Tariff Act of 1930<sup>1</sup>, shall communicate such information promptly to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b), if in the possession of the appraiser or other officer or readily available to him.

(b) Any person outside the Customs Service who has reason to believe that any bounty or grant is being paid or bestowed with respect to dutiable merchandise imported into the United States may communicate his belief to any appraiser or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, (3) all pertinent facts obtainable as to any bounty or grant being paid or bestowed with respect to such merchandise.

(c) If any information filed with an appraiser pursuant to paragraph (b) does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the appraiser within 10 days to the Commissioner of Customs, together with all pertinent additional information available to the appraiser.

(d) Upon receipt by the Commissioner of Customs of any communication submitted pursuant to paragraph (a), (b), or (c) and found to comply with the requirements of the pertinent paragraph, the Commissioner will cause such investigation to be made as appears to be warranted by the circumstances of the case and the Commissioner or his designated representative will consider any representations offered by foreign interests, importers, domestic producers, or other interested persons.

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<sup>1</sup> See I.

(e) If it is determined that the application of the said section 303 is required, the Commissioner of Customs, with the approval of the Secretary of the Treasury, will issue a counter-vailing duty order describing the merchandise, designating the country or area in which it is produced or from which it is exported, and declaring the ascertained or estimated amount of the bounty or grant or a rule for calculating or estimating such amount.

(f) Each order issued pursuant to paragraph (e) will be published in a weekly issue of Treasury Decisions and in the Federal Register. Orders or notices issued under section 303, Tariff Act of 1930, or a corresponding provision of a prior act, are currently in effect with respect to the merchandise listed below:

Country	Commodity	Treasury Decision	Action
Australia	Sugar content of certain articles -----	39541	Declared rate
		49157	New estimated rates
		52923	Contingent suspension of rates
	Butter -----	42937	Bounties declared - Rates
		43067	New rates
		48551	New estimated rate
	Fortified wines -----	51476	Bounties declared - Contingent rates
Canada	Cheese, 93-94 score, from whole milk, cheddar, including 'washed curd', types -----	50093	Bounties declared - Rates
	Cheese, 93-94 score, blue-vein, of Roquefort type	53182	Bounties declared - Rates
Cuba	Cordage -----	53534	Bounties declared - Rates
Denmark	Butter -----	47896	Bounties declared - Rates
		48734	Discontinued as to direct shipments
Great Britain	Spirits -----	34466	Bounties declared - Rates
		34752	Descriptions
		34982	No bounty on rum
		35089	Proof gallons
		35510	Alcoholic perfumery
		35668	Orange bitters
		47826-7	Quantity for computing duty
		52555	Bounty on plain spirits terminated

Country	Commodity	Treasury Decision	Action
Great Britain (cont'd)	Silk and silk articles ----	42895	Bounties declared - Rates
		43634	Bounties - Additional articles
		44742	New rates
		47475	New rates
		53476	New rates and additional articles
	Sugar -----	49355	Bounties declared - Rates
		50108)	New rates
		50127)	
Ireland	Spirits -----	47753	Bounties declared - Rates
		47826-7	Quantity for computing duty
Uruguay	Wool tops -----	53257	Bounties declared - Rates
		53446	New rate

(Sec. 303, 46 Stat. 687; 19 U.S.C. 1303)"

... (Signature etc.)"

III

ANTI-DUMPING ACT, 1921  
as amended by sections 301 and 302 of the  
Customs Simplification Act of 1954 (42 Stat. 11;  
68 Stat. 1138; 19 U.S.C. 160)

Dumping Investigation

"201. Investigations by Secretary of Treasury; notice to Secretary by appraisers as to sales price of imported articles; withholding appraisement.

(a) Whenever the Secretary of the Treasury (hereinafter called the 'Secretary') determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a 'finding') of his determination and the determination of the said Commission. The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

(b) Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the Secretary has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign-market value (or, in the absence of such value, than the cost of production), he shall forthwith authorize, under such regulations as he may prescribe, the withholding of appraisement reports as to such merchandise entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping has been raised by or presented to him or any person to whom authority under this section has been delegated, until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subdivision (a) in regard to such merchandise.

Special Dumping Duty

202. Amount of duty to be collected; determination of foreign market value of goods.

(a) In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping was raised by or presented to the Secretary or any person to whom authority under section 201 has been delegated, and as to which no appraisement report has been made before such findings have been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the cost of production) there shall be levied, collected, and paid, in addition to any other duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

(b) If it is established to the satisfaction of the appraising officers that the amount of such difference between the purchase price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such a similar merchandise is sold or freely offered for sale to all purchasers for exportation to the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign-market value for the purposes of this section.

(c) If it is established to the satisfaction of the appraising officers that the amount of such difference between the exporter's sales price and the foreign-market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign-market value for the purpose of this section.

Purchase Price

203. Purchase price.

For the purposes of this section and sections 201-212 of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

Exporter's Sales Price

204. Determination of exporter's sales price.

For the purpose of sections 201-212 of this title, the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United State, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of

the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

#### Foreign-Market Value

##### 205. Determination of foreign-market value.

For the purposes of sections 201-212 of this title, the foreign-market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign-market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign-market value for the purposes of said sections no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

#### Cost of Production

##### 206. Cost of production.

For the purposes of sections 201-212 of this title, the cost of production of imported merchandise shall be the sum of:

- (1) The cost of materials of, and of fabrication, manipulation or other process employed in manufacturing or producing, . identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

(2) The usual general expenses (not less than 10 per centum of such cost ) in the case of identical or substantially identical merchandise;

(3) The cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

(4) In addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration.

#### Exporter

#### 207. Exporter defined.

For the purposes of sections 201-212 of this title, the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States:

(1) If such person is the agent or principal of the exporter, manufacturer, or producer; or

(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person; or

(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

Oaths and Bonds on Entry

208. Oath and bond of person for whose account merchandise is imported before delivery thereof.

In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided in section 201 of this title, and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person has made oath before the collector, under regulations prescribed by the said Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector, in an amount equal to the estimated value of the merchandise, conditioned: (1) That he will report to the collector the exporter's sales price of the merchandise within thirty days after such merchandise has been sold or agreed to be sold in the United States; (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by sections 201-212 of this title, upon such merchandise; and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.

Duties of Appraisers

209. Appraisal and report to collector.

In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided in section 201 of this title, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, it shall be the duty of each appraiser or person acting as appraiser, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of cost of production to the contrary notwithstanding) and report to the collector the foreign-market value or the cost of production, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of sections 201-212 of this title.

### Appeals and Protests

#### 210. Appeals, etc., from determinations of appraisers.

For the purposes of sections 201-212 of this title, the determination of the appraiser or person acting as appraiser as to the foreign-market value or the cost of production, as the case may be, the purchase price, and the exporter's sales price, and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; the United States Customs Court, and the Court of Customs and Patent Appeals shall have the same jurisdiction, powers, and duties in connexion with such appeals and protests as in the case of appeals and protests relating to customs duties under existing law.

### Drawbacks

#### 211. Special duties treated as regular duties.

The special dumping duty imposed by sections 201-212 of this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

### Short Title

#### 212. Citation.

Sections 201-212 of this title may be cited as the 'Anti-dumping Act, 1921'.

### Definitions

#### 213. Definitions.

When used in sections 201-212 of this title:

The term 'person' includes individuals, partnerships, corporations, and associations; and

The term 'United States' includes all territories and possessions subject to the jurisdiction of the United States, except [the Philippine Islands], the Virgin Islands, the islands of Guam and Tutuila, and the Canal Zone.

### Rules and Regulations

#### 214. Rules and regulations.

The Secretary shall make rules and regulations necessary for the enforcement of sections 201-213 of this title."

IV

REGULATIONS UNDER ANTI-DUMPING ACT

Part 14 - APPRAISEMENT

"Sections 14.8, 14.15, 14.16, and 14.17, relating to procedures under the Anti-dumping Act, 1921, as amended, (19 U.S.C. 160-173), are deleted and the following new sections are substituted therefor:

14.6 Suspected dumping. (a) If any appraiser or other principal customs officer has knowledge of any grounds for a reasonable suspicion that any merchandise is being, or is likely to be, imported into the United States at a purchase price or exporter's sales price less than the foreign market value (or, in the absence of such value, than the cost of production), as contemplated by section 201(b), Anti-dumping Act, 1921, as amended<sup>1</sup>, or at less than its 'fair value' as that term is defined in section 14.7, he shall communicate his knowledge promptly to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b), if in the possession of the appraiser or other officer or readily available to him.

(b) Any person outside the Customs Service who has reason to believe that merchandise is being, or is likely to be, imported into the United States under such circumstances as to bring it within the purview of the Anti-dumping Act, 1921, as amended<sup>1</sup>, may communicate his belief and the reasons therefor in writing to any appraiser of merchandise or to the Commissioner of Customs. Every such communication shall contain or be accompanied by the following:

- (1) A detailed description or sample of the merchandise; the name of the country from which it is being, or is likely to be, imported; and the ports or probable ports of importation into the United States. If no sample is furnished, the appraiser concerned in appropriate cases may call upon the person who furnished the information to furnish samples of the imported and competitive domestic articles, or either.
- (2) Such detailed data as to values and prices as is reasonably available to the person furnishing the information and is relied upon by him to support his belief, including information as to any differences between the foreign-market value or cost of production and the import purchase price or exporter's sales price which may be accounted for by any difference in taxes, discounts, incidental costs such as those for packing or freight, or other items.

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<sup>1</sup> See III.

- (3) All information as to the existence of any conditions or restrictions attached to sales of the merchandise in question in the country of exportation which is reasonably available to the person furnishing the information.
- (4) Such detailed information as to the existence or likelihood of injury to an established or prospective industry in the United States as is reasonably available to the person furnishing the information.

(c) If any information filed with an appraiser pursuant to paragraph (b) does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the appraiser within ten days to the Commissioner of Customs, together with all pertinent additional information obtainable by the appraiser. Before making such transmittal, or as soon thereafter as possible, the appraiser shall make such inquiry regarding the matter among importers, domestic producers and distributors, or others as he may deem appropriate and report the results to the Commissioner together with his comments thereon.

(d) Upon receipt pursuant to paragraph (a), (b), or (c) of information in proper form, the Commissioner will proceed expeditiously to ascertain whether reasonable grounds exist to suspect that the merchandise is being, or is likely to be, sold at less than its fair value as that term is defined in section 14.7, or at less than its statutory value under the Anti-dumping Act, that is, its foreign-market value (or, in the absence of such value, the cost of production).

(e) If the Commissioner determines that there are reasonable grounds to suspect that any merchandise is being, or is likely to be, sold at less than its statutory value under the Anti-dumping Act, he will advise all appraisers of that fact, furnishing an adequate description of the merchandise and the name of each country of exportation. Upon receipt of such advice the appraisers shall proceed in accordance with the pertinent provisions of section 14.9. (Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

14.7 Fair value. (a) Definition<sup>1</sup>. For the purposes of section 201(a) of the Anti-dumping Act, 1921, as amended (19 U.S.C. 160(a)), the fair value of imported merchandise shall be determined as follows:

- (1) Fair value based on price in country of exportation - the usual test. Merchandise imported into the United States will ordinarily be considered to have been sold at less than fair value if the purchase price or exporter's sales price (as defined in sections 203 and 204, respectively, of the Anti-dumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is less than the price (after adjustment, as provided for in section 205 of the Anti-dumping Act, 1921, as amended (19 U.S.C. 164)) at which such or similar merchandise is sold by the foreign producer for consumption in the country of exportation on or about the date of purchase or agreement to purchase of the merchandise imported into the United States or, in the case of merchandise imported on consignment, the date of exportation thereof.

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<sup>1</sup> The definition of fair value does not in any way modify or affect definitions of foreign-market value given in section 205 of the Anti-dumping Act, 1921, as amended (19 U.S.C. 164) or of cost of production given in section 206 (19 U.S.C. 165) or the application of a foreign-market value (or, in the absence of such value, cost of production) as defined in the Anti-dumping Act, 1921, as amended, as a basis for determining whether or not to withhold appraisement under section 201(b) (19 U.S.C. 160(b)) or for imposition of duty under section 202 (19 U.S.C. 161).

An industry in the United States which considers that it is being injured by sales of merchandise at less than fair value will ordinarily have insufficient information on which to submit proof either of fair value as herein defined, or foreign-market value or cost of production as defined in said sections 205 and 206 (19 U.S.C. 164 and 165). The industry may, however, submit, and appraisers will consider, such material as is available to it, including information indicating the market price for similar merchandise in the country of exportation and in any third countries in which merchandise of the producer complained of is known to be sold. Information submitted by an industry and information submitted by the foreign producer and others will be of value in assisting the Treasury to establish the basis for fair value, foreign-market value, or cost of production.

Fair value is computed in the basis of sales for consumption in the country of exportation or otherwise than for exportation to the United States at or about the date of the purchase or agreement to purchase of the merchandise to be imported into the United States, or the date of exportation. However, in cases where it may be important to determine either the stability of the market or its trend, as well as to determine whether there has been a fictitious sale as described in paragraph 14.7 (b) (4) of these Regulations, it will be helpful to the Secretary to have information as to sales made for consumption in the country of exportation or otherwise than for exportation to the United States over a significant period of time immediately preceding the date of purchase or agreement to purchase, or exportation.

(The examples given in the remaining part of the footnote are not reproduced but may be consulted in the offices of the secretariat.)

- (2) Fair value based on sales in country of exportation and in other countries, not including United States. If, however, it is demonstrated that during a representative period the quantity of such or similar merchandise sold by the foreign producer for consumption in the country of exportation is so small, in relation to the quantity sold by such producer for exportation otherwise than to the United States, as to be an inadequate basis for comparison, then merchandise imported into the United States will ordinarily be deemed to have been sold at less than fair value if the purchase price or the exporter's sales price (as defined in sections 203 and 204, respectively, of the Anti-dumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is less than the price (after adjustment, as provided for in section 205 of the Anti-dumping Act, 1921, as amended (19 U.S.C. 164)) at which such or similar merchandise is sold by the foreign producer otherwise than for exportation to the United States (i.e. for consumption in the country of exportation and for exportation otherwise than to the United States) on or about the date of purchase or agreement to purchase of the merchandise imported into the United States or, in the case of merchandise imported on consignment, the date of exportation thereof. Sales 'otherwise than for exportation to the United States' shall not include consignments to the United States to be sold after arrival in the United States.
- (3) Determination based on sales by other foreign producers. If the Secretary deems the available information as to the prices of the foreign producer insufficient or inadequate, he may determine fair value under paragraph (a)(1) or (2) above on the basis of prices of other foreign producers or sellers in the same country for similar merchandise.
- (4) Fair value based on cost of production. If the information available is deemed by the Secretary insufficient or inadequate for a determination under paragraph (a)(1), (2) or (3) above, he will determine fair value on the basis of the cost of production as defined in section 206 of the Anti-dumping Act, 1921, as amended (19 U.S.C. 165).
- (b) Calculation of fair value. In calculating fair value under section 201(a) Anti-dumping Act, 1921, as amended, (19 U.S.C. 160(a)), the following criteria shall be applicable:
- (1) Quantities and circumstances of sale. In comparing the purchase price or exporter's sales price, as the case may be, with the sales on which a determination of fair value is to be based, a reasonable allowance may be made for any differences in quantities and circumstances of sale.
- (2) Offering price. The foreign producer's offering price may be considered in the absence of sales.

- (3) Sales agency. If the foreign producer sells through a sales agency or other organization related to such producer in any of the respects described in section 207 of the Anti-dumping Act, 1921, as amended (19 U.S.C. 166), the prices at which the producer's merchandise is sold by such sales agency or other organization may be used in determining whether there have been sales at less than fair value.
- (4) Fictitious sales. In the determination of fair value, no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.
- (5) Sales at varying prices. Where the prices in the sales which are being examined for a determination of fair value vary (after adjustment as provided for in section 205 of the Anti-dumping Act, 1921, as amended (19 U.S.C. 164) and after allowances contemplated by paragraph (b)(1) above), determination of fair value will take into account the prices of a preponderance of the merchandise thus sold, weighted averages of the prices of the merchandise thus sold, or any other available criteria that the Secretary may deem reasonable.
- (6) Quantities involved and differences in price. Merchandise will not be deemed to have been sold at less than fair value unless the quantity involved in the sale or sales to the United States, or the difference between the purchase price or exporter's sales price, as the case may be, and the fair value, is more than insignificant.

14.8 Determination of fact or likelihood of sales at less than fair value; determination of injury; finding of dumping. (a) When the Commissioner of Customs has given advice to appraisers pursuant to section 14.6(e), the Secretary of the Treasury will proceed as promptly as possible to determine whether the merchandise in question is in fact being, or is likely to be, sold in the United States or elsewhere at less than its fair value. If the determination is affirmative, the Secretary will advise the United States Tariff Commission accordingly.

(b) If the Tariff Commission determines that there is, or is likely to be, the injury contemplated by the statute, the Commissioner of Customs will make the finding contemplated by section 201(a) of the Anti-dumping Act, as amended, with respect to the involved merchandise. (Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

14.9 Action by appraiser; appearance of importer. (a) Upon receipt of advice from the Commissioner of Customs pursuant to section 14.6(e) or of advice of a finding made in accordance with section 14.8(b), the

appraiser shall withhold appraisement of any merchandise within the purview of the advice or finding and shall notify the collector and importer immediately of each lot of merchandise with respect to which appraisement is so withheld.

(b) When the appraiser notifies the importer of a withheld appraisement in accordance with paragraph (a), he shall concurrently request the importer or his duly authorized agent, except as specified in paragraph (f) or (g), to appear before him to furnish the following information, unless the information has already been obtained.

- (1) The name and address of the ultimate consignee of the merchandise and, if such consignee is not the person for whose account the merchandise was imported, the name and address of the last-mentioned person.
- (2) Whether or not the person for whose account the merchandise was imported is the exporter of such merchandise within the meaning of section 207 of the Anti-dumping Act.

(c) If, before a finding of dumping has been made, or before a case has been closed without a finding, the appraiser is satisfied by information furnished by the importer or otherwise that the purchase price or exporter's sales price, in respect of any shipment, is not less than foreign-market value (or, in the absence of such value, than the cost of production), he shall so advise the Commissioner and request authorization to proceed with his appraisement of that shipment in the usual manner.

(d) If the appraiser is not satisfied by information furnished by the importer or otherwise that the merchandise is not being sold at less than its foreign-market value (or, in the absence of such value, than the cost of production), or if a finding of dumping has been made, he shall require the importer or his agent to file a certificate of the importer on the appropriate one of the following forms:

Form 1. Nonexporter's Certificate  
Anti-dumping Act, 1921

Port of \_\_\_\_\_  
Date \_\_\_\_\_, 19\_\_

Re: Entry No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_.

Import carrier: \_\_\_\_\_. Arrived \_\_\_\_\_, 19\_\_

I certify that I am not the exporter as defined in section 207, Anti-dumping Act, 1921, of the merchandise covered by the aforesaid entry. I further certify that the merchandise was purchased for importation by \_\_\_\_\_ on \_\_\_\_\_, 19\_\_, and that the purchase price is \_\_\_\_\_.

(Signed) \_\_\_\_\_

Form 2. Exporter's Certificate When Sales Price is Known  
Anti-dumping Act, 1921

Port of \_\_\_\_\_  
Date \_\_\_\_\_, 19\_\_

Re: Entry No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_.  
Import carrier: \_\_\_\_\_ Arrived \_\_\_\_\_, 19\_\_

I certify that I am the exporter as defined in section 207, Anti-dumping Act, 1921, of the merchandise covered by the aforesaid entry; that the merchandise is sold or agreed to be sold at the price stated in the attached statement; and that, if any of such merchandise is actually sold at any price different from the price stated therefor in the attached statement, I will immediately notify the appraiser of all the circumstances.

The merchandise was acquired by me in the following manner:

\_\_\_\_\_ and has been sold or agreed to be sold to \_\_\_\_\_ (name and address)  
at \_\_\_\_\_ (price) \_\_\_\_\_.

(Signed) \_\_\_\_\_

Form 3. Exporter's Certificate When Sales Price Is Not Known  
Anti-dumping Act, 1921

Port of \_\_\_\_\_  
Date \_\_\_\_\_, 19\_\_

Re: Entry No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_.  
Import carrier: \_\_\_\_\_ Arrived \_\_\_\_\_, 19\_\_

I certify that I am the exporter as defined in section 207, Anti-dumping Act, 1921, of the merchandise covered by the aforesaid entry, and that I have no knowledge as to any price at which such merchandise will be sold in the United States. I hereby agree that I will keep a record of the sales and will furnish the appraiser within thirty days after the sale of any of such merchandise a statement of each selling price. I further agree that, if any of the merchandise has not been sold before the expiration of six months from the date of entry, I will so report to the appraiser upon such expiration date.

The merchandise was acquired by me in the following manner:

\_\_\_\_\_  
(Signed) \_\_\_\_\_

Form 4. Exporter's Certificate When Merchandise Is Not,  
And Will Not Be, Sold  
Anti-dumping Act, 1921

Port of \_\_\_\_\_  
Date \_\_\_\_\_, 19\_\_.

Re: Entry No. \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_.  
Import carrier: \_\_\_\_\_. Arrived \_\_\_\_\_, 19\_\_.

I certify that I am the exporter as defined in section 207, Anti-dumping Act, 1921, of the merchandise covered by the aforesaid entry, and that such merchandise has not been, and will not be, sold in the United States for the following reason: \_\_\_\_\_.

(Signed) \_\_\_\_\_

(e) If an unqualified certificate on Form 4 is filed and the appraiser is satisfied that no evidence can be obtained to contradict it, he shall notify the collector promptly that appraisement of the shipment is no longer being withheld on account of the Anti-dumping Act and proceed to appraise the merchandise in the usual manner.

(f) When an importer has filed a certificate provided for in paragraph (d), upon each subsequent importation by the same person of merchandise of the kind covered by such certificate, the importer or his agent may attach an appropriate certificate to the invoice at the time of entry, and the appraiser may thereupon waive a further appearance by the importer or his agent.

(g) An importer who imports the same kind of merchandise from the same country at two or more ports in the United States under a single arrangement with the foreign shipper may prepare in written form all the information furnished by him or his agent to one appraiser regarding such merchandise pursuant to paragraph (d) and submit it to such appraiser. If the appraiser approves the statement as correctly and fully covering all the information so furnished to him, he shall endorse the statement accordingly and transmit it to any other appraiser or appraisers specified by the importer or the importer's agent. Upon receipt of the endorsed statement and a written request and declaration of the importer or his agent that the statement be accepted in lieu of the appearance required by paragraph (b) and that the statement fully and truly applies with respect to the merchandise under consideration by the appraiser receiving the statement and request, such appraiser shall grant the request, unless he has good reason to believe that pertinent information not contained in the statement is obtainable from the importer or his agent. (Secs. 201, 202, 208, 407, 42 Stat. 11, as amended, 14, 18, Sec. 486, 46 Stat. 725, as amended, 19 U.S.C. 160, 161, 167, 173, 1486.)

14.10 Release of merchandise; bond. (a) When the collector has received a notice of withheld appraisement provided for in section 14.9(a) or when he has been advised of a finding provided for in section 14.8(b), and so long as such notice or finding is in effect, he shall withhold release of any merchandise of a class or kind covered by such notice or finding which is then in his custody or is thereafter imported, unless an appropriate bond is filed or is on file, as specified hereafter in this section, or unless he is advised by the appraiser that the merchandise covered by a specified entry will be appraised without regard to the Anti-dumping Act.

(b) If the merchandise is of a class or kind covered by a notice of withheld appraisement provided for in section 14.9(a) or by a finding provided for in section 14.8(b), a single consumption entry bond covering the shipment, in addition to any other required bond, shall be furnished by the person making the entry or withdrawal, unless the provisions of the next paragraph are applicable and in other cases unless the collector is satisfied that the bond under which the entry was filed is sufficient.

(c) If the merchandise is of a class or kind covered by a finding provided for in section 14.8(b) and the importer or his agent has filed a certificate on Form 3 (sec. 14.9(d)), the bond required by section 208 of the Anti-dumping Act shall be on customs Form 7591. In such case, a separate bond shall be required for each entry or withdrawal, and such bond shall be in addition to any other bond required by law or regulation. The record of sales required under the conditions of the bond on customs Form 7591 shall identify the entry covering the merchandise and show the name and address of each purchaser, each selling price, and the date of each sale.

(d) The penalty of any additional bond required under this section, shall be in an amount equal to the entered value of the merchandise covered by the notice or finding, except that, in the case of merchandise which appears to the satisfaction of the collector to be unconditionally free of duty and not potentially subject to any demand for redelivery on account of any import restriction or prohibition, the bond may be in such lesser amount as will assure payment of any special duty that may accrue by reason of the Anti-dumping Act, but in no case less than \$100. (Secs. 208, 407, 42 Stat. 14, 18; 19 U.S.C. 167, 173.)

14.11 Conversion of currencies. In determining the existence and amount of any difference between the purchase price or exporter's sales price and the foreign market value (or, in the absence of such value, the cost of production) for the purposes of section 201(b) or 202(a) of the Anti-dumping Act, as amended, any necessary conversion of a foreign currency into its equivalent in United States currency shall be made in accordance with the provisions of section 522, Tariff Act of 1930

(31 U.S.C. 372) (a) as of the date of purchase or agreement to purchase, if the purchase price is an element of the comparison, or (b) as of the date of exportation, if the exporter's sales price is an element of the comparison. (Secs. 201, 202, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 161, 173.)

14.12 Modification or revocation of finding. An application for the modification or revocation of any finding made as provided for in section 14.8(b) will receive due consideration if submitted in writing to the Commissioner of Customs together with detailed information concerning any change in circumstances or practice which has obtained for a substantial period of time, or other reasons, which the applicant believes will establish that the basis of the finding no longer exists with respect to all or any part of the merchandise covered thereby. (Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

14.13 Publication of findings. (a) Each finding made in accordance with section 14.8(b) will be published in a weekly issue of Treasury Decisions and in the Federal Register.

(b) The following findings of dumping are currently in effect:

<u>Merchandise</u>	<u>Country</u>	<u>T. D.</u>
Hardboard	Sweden	53567
Cast iron soil pipe other than 'American Pattern'	United Kingdom	53934

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U.S.C. 22, 19 U.S.C. 66, 1624.)

16.21 Dumping duty: notice to importer. (a) Special dumping duty shall be assessed on all importations of merchandise, whether dutiable or free, as to which the Commission of Customs has made public a finding of dumping, provided the particular importation has not been appraised prior to the publication of such finding, and the appraiser reports that the purchase price or exporter's sales price is less than the foreign-market value or cost of production, as the case may be.<sup>1</sup>

<sup>1</sup> See section 14.13 of the regulations.

For regulations regarding finding of dumping by the Secretary and procedure under the Anti-dumping Act, 1921, see secs. 14.7-14.17.

The fact that the importer has added on entry the difference between the purchase price or the exporter's sales price and the foreign-market value or cost of production and the appraiser has approved the resulting entered value shall not prevent the assessment of the special dumping duty. However, a mere difference between the purchase price or exporter's sales price and the foreign-market value or cost of production, without a finding by the Secretary of the Treasury, as above referred to, is not sufficient for the assessment of the special dumping duty.

(b) Before dumping duty is assessed the collector shall notify the importer of the appraiser's report, as in the case of an advance in value. If the importer files an appeal for reappraisal, liquidation shall be suspended until the appeal for reappraisal is finally decided.

(c) If the necessary conditions are present, special dumping duty shall be assessed on samples imported for the purpose of taking orders and making sales in this country. (Secs. 202, 209, 407, 42 Stat. 11, as amended, 15, 18; 19 U.S.C. 161, 168, 173.)

16.22 Method of computing dumping duty. If it appears that the merchandise has been purchased by a person not the exporter within the meaning of section 207, Anti-dumping Act, 1921, the special dumping duty shall equal the difference between the purchase price and the foreign-market value on the date of purchase, or, if there is no foreign-market value, between the purchase price and the cost of production, any foreign currency involved being converted into United States money as of the date of purchase or agreement to purchase. If it appears that the merchandise is imported by a person who is the exporter within the meaning of such section 207, the special dumping duty shall equal the difference between the exporter's sales price and the foreign-market value on the date of exportation, or, if there is no foreign-market value, between the exporter's sales price and the cost of production, any foreign currency involved being converted into United States money as of the date of exportation. (Secs. 202, 207, 42 Stat. 11, as amended, 14, as amended; 19 U.S.C. 161, 166.)

V

THE ANTI-DUMPING ACT, 1921 (19 UNITED STATES CODE, SECTIONS 160-173)

SUMMARY OF PROVISIONS

"The following informal paper is designed to summarize in laymen's language the principal provisions of the Anti-dumping Act, 1921, as amended<sup>1</sup>, and Treasury regulations issued thereunder. It is not to be construed as in any way modifying, amending or changing the regulations, or officially interpreting the basic law. A full understanding of the Anti-dumping Act is, of course, impossible without reference to the text of the law and regulations thereunder.

The Anti-dumping Act employs certain terms which have highly specialized meanings. These terms are referred to in the body of this summary in quotation marks, and a glossary is given at the conclusion."

FINDING OF DUMPING

The Anti-dumping Act provides that a finding of dumping shall be made when it has been established that:

- (a) foreign merchandise is, or is likely to be, sold to the United States market at a price less than 'fair value' and
- (b) an American industry is, or is likely to be, injured, or is prevented from being established, because of importation of such merchandise to the United States.

The Treasury Department determines whether there are sales at less than 'fair value'. If the Treasury's investigation shows that there have been sales at less than 'fair value' then, and not until then, the case is referred to the United States Tariff Commission which decides the question of injury. If the Tariff Commission determines that there is injury, a finding of dumping is announced and dumping duties are thereupon assessed.

CALCULATION OF SALES AT LESS THAN 'FAIR VALUE'

It has been pointed out that the first step in making a finding of dumping is determination by the Treasury of sales of foreign merchandise to the United States at less than 'fair value'.

Definition of 'fair value'. The term 'fair value' is not defined in the Act. It is defined in Customs Regulations, section 14.7. This definition ordinarily bases 'fair value' simply on sales for home consumption in the producer's country, but bases it on sales otherwise than for exportation to

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<sup>1</sup> The Anti-dumping Act was originally enacted as sections 201-212, 406, 407, law of May 27, 1921. It was most recently amended by the Customs Simplification Act of 1954. As amended, it is published in 19 United States Code, sections 160-163.

the United States, i.e., sales for home consumption and to third countries, where the quantity of home consumption sales is so small as to furnish an inadequate basis for comparison. In addition, the regulations provide for calculating any one foreign producer's 'fair value' by reference to prices charged by other foreign producers for similar merchandise when access to that foreign producer's records is not feasible, or where the information obtained from that foreign producer is insufficient or inadequate. If adequate information is not available as to home consumption or third-country prices, 'fair value' is based on cost of production.<sup>1</sup> In the discussion that follows it will ordinarily be assumed for purposes of simplification, that there is a sufficient volume of home consumption sales to use them as the basis for 'fair value'.

Comparison between 'fair value' and price to the United States market.

In considering whether there have been sales at less than 'fair value,' the price at which sales have been made to the United States market is compared with the figure thus calculated to be the 'fair value'. In making the comparison, it is necessary to reduce the two prices to comparable terms. In its simplest form the calculation can ordinarily be made by taking the f.o.b. factory price, unpacked, in each case for the sale to the United States market and for the home consumption sale. A typical price comparison could be worked out as follows, assuming the United States importer to be in Pittsburgh, Pennsylvania, USA.

<u>Home Consumption Price in Country of Export</u>		
	Price, delivered to purchaser	\$1.10
Less:	Cost of packing	\$.02
	Transportation from factory to purchaser	<u>.03</u>
	Price f.o.b. factory, unpacked	\$1.05
<u>Price to the United States Market</u>		
	Price, delivered Pittsburgh, Pa., USA	\$1.10
Less:	Cost of packing	\$.10
	Transportation from factory to export port	.05
	Ocean transportation	.15
	Transportation USA port to Pittsburgh	.05
	USA import duties	<u>.10</u>
		<u>.45</u>
		\$ .65

<sup>1</sup> Accounting methods among countries and among companies within any given country vary widely, and it is almost universally agreed that prices actually charged or offered are a far better measure of value than any attempt to calculate material costs, labor, overhead and profit for any given product. Accordingly it can be said that calculation of 'cost of production' as a method for computing the basis for dumping price is generally warranted only as a last resort.

<sup>2</sup> In the Anti-dumping Act provision is made for adding cost of packing to the price to the United States market; but since in calculating 'fair value' allowance is made for differences in circumstances of sale, an amount equal to the cost of packing for a shipment to the United States is added here also; accordingly the two items cancel each other out.

Computation:

Home consumption price	\$1.05
Price to United States	<u>.65</u>
Difference	\$ .40

Facts such as the above typically present a case for determination of sales at less than 'fair value'.

Remission of Import Duties and Internal Taxes. Further by way of reducing the price to the United States market and the home consumption price to comparable terms, provision is made that allowance shall be made, in calculating price to the United States market, for import duties or internal taxes, such as sales taxes, which are remitted by the country of export. In each case the amount remitted is added to the price to the United States market; and in calculating the home consumption price the import duty or internal tax will similarly be included. To the extent that the figures are the same - and ordinarily they will not differ materially - they will cancel out.

Export Taxes. If an export tax is levied, the amount of the tax will be included in calculating 'purchase price', but it will be deducted in calculating 'exporter's sales price', for the purpose of comparing the price to the United States market with the home consumption price. (The terms 'purchase price' and 'exporter's sales price' are explained in the following two paragraphs.)

'Purchase Price'. If the exporter and the importer are dealing at arms' length, the price to the United States market is the price paid by the importer to the exporter, adjusted as indicated above, and this 'purchase price' (as it is called in the law) is compared with home consumption price at or about the time the sale is made.

'Exporter's Sales Price'. If, however, the importer and the exporter are related - as would be the case, for example, if one was a subsidiary of the other or owned stock in the other - then the sale by exporter to importer is not considered an arms' length transaction, and the price to the United States market is calculated on the basis of what is charged when the product is sold to a third party for delivery in the United States by the exporter (or by the importer, whichever handles the sale). This 'exporter's sales price' (as it is called in the law) is adjusted as indicated above and in addition there are subtracted from it the commissions and selling expenses incurred in selling the product for delivery in the United States. The 'exporter's sales price' is then compared with home consumption price at or about the time of exportation.

Consequence of Determination as to Sales at Less Than 'Fair Value'

If the price to the United States market is the same as, or greater than, the 'fair value', there can be no finding of dumping. If, however, the Treasury decides that the price to the United States market is less than the

'fair value', the case is referred to the Tariff Commission for a determination as to injury, and if the Commission determines there is injury, a finding of dumping is made.

#### ASSESSMENT OF DUMPING DUTIES

Although the basis for findings of dumping is sales at less than 'fair value' as that term is defined by section 14.7 of the Customs Regulations, assessment of dumping duties is based upon the extent to which sales have been made at less than 'foreign market value' or, in the absence of such value, 'cost of production'. The calculation is made in accordance with section 205 of the Anti-dumping Act (19 U.S. Code 164) in the case of 'foreign market value' and in accordance with section 206 of the Anti-dumping Act (19 U.S. Code 165) in the case of 'cost of production'.

The amount of dumping duties to be assessed once a finding of dumping has been made is the difference between the price of the foreign merchandise to the United States market and the 'foreign market value' or, in the absence of such value, the difference between the price to the United States market and the 'cost of production'. Dumping duties are assessed retroactively on all unappraised entries dating back to 120 days before the question of dumping was raised by or presented to the Secretary of the Treasury or the Commissioner of Customs. Dumping duties are continued to be levied as long as the price to the United States market is less than 'foreign market value' (or, in the absence of such value, less than 'cost of production'), or until the finding of dumping is rescinded by further order of the Secretary of the Treasury.

#### WITHHOLDING OF APPRAISEMENT

It is the established practice of Customs officers to withhold appraisement of importations when a question has arisen as to how much duty is to be assessed. Accordingly when an inquiry is begun, either in the United States or overseas, into a question of sales at a dumping price, appraisement is ordinarily withheld as to the merchandise in question, and the importer is so notified.

Withholding of appraisement does not mean that the merchandise is denied entry. It simply means that the definitive calculation of any duties on the importation is postponed.

If the inquiry develops facts justifying the belief or suspicion that the merchandise is being sold at a dumping price<sup>1</sup>, action is taken under section 201 (b) of the Anti-dumping Act (19 U.S. Code 160 (b)): notice is given to

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<sup>1</sup> Although the Anti-dumping Act refers to withholding under section 201 (b) when there is belief or suspicion of sales at less than 'foreign market value' (or, in the absence of such value, less than 'cost of production') it is generally assumed that belief or suspicion of sales at less than indicated 'fair value' justifies at least a suspicion of sales at less than 'foreign market value' or 'cost of production'. See Customs Regulations section 14.6 (e).

the importer that sales at a dumping price are believed or suspected, and collectors may, if they are not satisfied that the bond under which the entry was filed is sufficient, require an additional bond to cover possible dumping duties.

GLOSSARY OF TERMS USED WITH RELATION TO THE ANTI-DUMPING ACT

'Fair value' is the measure of the price of foreign merchandise, usually the home consumption price in the country of export, which is the basis for a finding of dumping. It is defined in section 14.7, Customs Regulations, as amended May 12, 1955.

'Purchase price' is the price at which foreign merchandise is sold to the United States importer, without inclusion of duty, ocean freight or other expenses incurred in bringing the merchandise to the United States. It is not used if there is a relationship between the importer and exporter. It is defined in section 203 of the Anti-dumping Act (19 U.S. Code 163).

'Exporter's sales price' is the price at which foreign merchandise is sold by the importer to an unrelated purchaser in the United States, without inclusion of duty, ocean freight or other expenses incurred in bringing the merchandise to the United States, or United States selling expenses. It is used instead of 'purchase price', when there is a relationship between the importer and exporter. It is defined in section 204 of the Anti-dumping Act (19 U.S. Code 163).

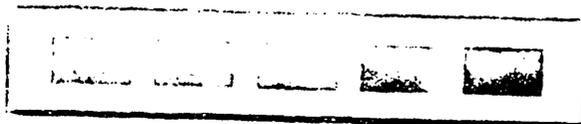
'Price to the United States market' is the term used from time to time in this memorandum to designate 'purchase price' or 'exporter's sales price' whichever may be applicable.

'Sales at less than fair value' occur when the price to the United States market - i.e. 'purchase price' or 'exporter's sales price', whichever may be applicable - is less than the 'fair value'.

'Finding of dumping' is the finding made by the Secretary of the Treasury when he has determined that there are, or are likely to be, sales of foreign merchandise at less than 'fair value' and when the United States Tariff Commission has determined that an industry in the United States is being, or is likely to be, injured, or is being prevented from being established, by reason of imports of such merchandise. Provision for such finding is made in section 201 (a) of the Anti-dumping Act (19 U.S. Code 160 (a)).

'Foreign market value' is the measure of the price of foreign merchandise which is the basis for assessment of dumping duties. It is defined in section 205 of the Anti-dumping Act (19 U.S. Code 164).

'Cost of production' is used in the absence of an ascertainable 'foreign market value'. It relates to the estimated cost of producing foreign merchandise, and can be the basis for assessment of dumping duties. It is defined in section 206 of the Anti-dumping Act (19 U.S. Code 165).



'Assessment of dumping duties' is the step taken after a finding of dumping is made. The assessment is based on the extent to which the 'purchase price' or 'exporter's sales price', whichever may be applicable, is less than the 'foreign market value' (or, in the absence of such value, less than the 'cost of production'). Provision for assessment of dumping duties is made in section 202 of the Anti-dumping Act (19 U.S. Code 161).

'Withholding of appraisement' is the interim step taken, while a dumping case is under consideration, postponing the definitive calculation of any duties until decision has been reached whether special dumping duties should be imposed.

