

GENERAL AGREEMENT ON
TARIFFS AND TRADE

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UNITED STATES ANTI-DUMPING REGULATIONS

Revised Text

Annexed hereto are the revised United States Anti-Dumping Regulations published in the Federal Register on 9 December 1972. Differences between the amendments incorporated in this revision and the changes proposed in April 1972 are explained in the introductory statement by the Acting Commissioner of Customs.

TITLE 19 - CUSTOMS DUTIES

Chapter 1 - Bureau of Customs,
Department of the Treasury

(T.D. 72 - 336)

PART 153 - ANTI-DUMPING

On 13 April 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 7012) inviting interested persons to submit suggestions for improving those provisions of the Customs regulations relating to anti-dumping procedures (19 CFR Part 153). Subsequently, proposed amendments were published in the FEDERAL REGISTER on 19 April 1972 (37 F.R. 7698) (hereinafter referred to as "the notice"). After consideration of all data, views, or arguments submitted in response to the notice, the following additional changes are made in Part 153:

1. In sub-section 153.8, the proposal to delete the word "reasonably" wherever it appears before the words "direct relationship" is adopted. However, the statement in the commentary to the notice that under the change such items as bad debts and general advertising will no longer be allowed as differences in circumstances of sale is modified to the extent that expenses for general advertising of the particular product under investigation will continue to be considered appropriate for allowance as a circumstance of sale.
2. Paragraph (b) of sub-section 153.15 is changed to specify a circumstance under which manufacturers, producers, or exporters involved will be named in the "Notice of Tentative Discontinuance of Antidumping Investigation".
3. Paragraph (c) of sub-section 153.15 is changed to include in the statement of price assurances an additional assurance to the effect that the manufacturer, producer, or exporter concerned will permit verification of information submitted in periodic reports.
4. Paragraph (e) of sub-section 153.15 has been changed to clarify existing procedures for publication of a "Discontinuance of Antidumping Investigation" notice following publication of a "Withholding of Appraisal Notice" or a "Notice of Tentative Negative Determination".
5. A new sub-section 153.15(h) is added, setting forth procedures for the termination of discontinued anti-dumping investigations.
6. Section 153.17 is changed to state that merchandise specified in this section must be resold to an unrelated United States purchaser before an exporter's sales price can be determined.

7. Paragraph (c) of sub-section 153.33 is changed to make clear existing procedures for publication of a negative determination following publication of a "Notice of Tentative Discontinuance of Antidumping Investigation".

8. In sub-section 153.37, the provisions for opportunity to present views following publication of notice of a tentative decision or a notice of withholding of appraisement have been consolidated. Appropriate changes reflecting this are made in sub-sections 153.15, 153.33, and 153.41.

Accordingly, Part 153, together with all amendments thereto, of the Customs Regulations, Chapter I, Title 19 of the Code of Federal Regulations, is hereby adopted, and republished as set forth below.

Effective Date. Paragraphs (f), (g) and (h) of sub-section 153.15 shall be effective with respect to all discontinued investigations, whether or not discontinued before the date of publication of these amendments. The balance of the amendments shall be effective with respect to all anti-dumping proceedings in which neither a decision, final or tentative, nor a notice of withholding of appraisement has been published before the thirtieth day after the date of publication of these amendments in the FEDERAL REGISTER.

EDWIN F. RAINS
Acting Commissioner of Customs.

Approved: 4 December 1972

EUGENE T. ROSSIDES
Assistant Secretary of
the Treasury.

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AUTHORITY: The provisions of this Part 153 issued under sections 201-212, 407, 42 Stat. 11 et seq., as amended, section 5, 72 Stat. 585, sections 406, 407, 42 Stat. 18; 5 U.S.C. 301, 19 U.S.C. 160-173. Other authorities are cited to text in parentheses.

Sub-section 153.1 - Scope

This part sets forth procedure and rules applicable to proceedings under the Antidumping Act, 1921, as amended, the assessment of the special dumping duty, and protests relating to matters under the Antidumping Act, 1921, as amended.

SUB-PART A - FAIR VALUE

Sub-section 153.2 - Fair value; definition

For the purposes of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), the fair value of the imported merchandise shall be determined in accordance with sub-sections 153.3 to 153.5.

Sub-section 153.3 - Fair value based on price in country of exportation: the usual test

(a) General. Merchandise imported into the United States will ordinarily be considered to have been sold, or to be likely to be 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 Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170a(3))) is sold 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 if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(b) Restricted sales. When home market sales form the appropriate basis of comparison, they will be used for this purpose, whether or not they are restricted. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the home market price will be made.

Sub-section 153.4 - Fair value based on sales for exportation to countries other than the United States

(a) General. If it is demonstrated that during a representative period the quantity of such or similar merchandise sold for consumption in the country of exportation is so small, in relation to the quantities sold for exportation to countries other than 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, or likely to be 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 Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)) at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170(a)(3)), is sold for exportation to countries other than the United States on or about the date of purchase or of agreement to purchase the merchandise imported into the United States if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(b) Restricted sales. When third country sales form the appropriate basis of comparison, they will be used for this purpose whether or not they are restricted. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the third country price will be made.

Sub-section 153.5 - Fair value based on constructed value

(a) General. If the information available is deemed by the Secretary insufficient or inadequate for a determination under sub-section 153.3 or sub-section 153.4 he will determine fair value on the basis of the constructed value as defined in section 206 of the Antidumping Act, 1921, as amended (19 U.S.C. 165).

(b) Merchandise from controlled economy country. Ordinarily, if the information available indicates that the economy of the country from which the merchandise is exported is controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of fair value under sub-section 153.3 or sub-section 153.4, the Secretary will determine fair value on the basis of the constructed value of the merchandise determined on the normal costs, expenses, and profits as reflected by the prices at which such or similar merchandise is sold by a non-State-controlled-economy country either (1) for consumption in its own market, or (2) to other countries, including the United States.

Sub-section 153.6 - Calculation of fair value

In calculating fair value under section 201(a), Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), the criteria in sub-sections 153.7 through 153.16 shall apply.

Sub-section 153.7 - Fair value; differences in quantities

(a) General. In comparing the purchase price or exporter's sales price, as the case may be, with such applicable criteria as sales or offers, on which a determination of fair value is to be based, reasonable allowances will be made for differences in quantities if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. In determining the question of allowances for differences in quantity, consideration will be given, among other things, to the practice of the industry in the country of exportation with respect to affording in the home market (or third country markets, where sales to third countries are the basis for comparison) discounts for quantity sales which are freely available to those who purchase in the ordinary course of trade.

(b) Criteria for allowances. Allowances for price discounts based on sales in large quantities ordinarily will not be made unless:

(1) Six-month rule. The exporter during the six months prior to the date when the question of dumping was raised or presented (or during such other period as investigation shows is more representative) had been granting quantity discounts of at least the same magnitude with respect to 20 per cent or more of such or similar merchandise which he sold in the home market (or in third country markets when sales to third countries are the basis for comparison) and that such discounts had been freely available to all purchasers, or

(2) Cost justification. The exporter can demonstrate that the discounts are warranted on the basis of savings specifically attributable to the quantities involved.

(c) Price lists. In determining whether a discount has been given, the presence or absence of a published price list reflecting such a discount is not controlling. In certain lines of trade, price lists are not commonly published and in others although commonly published they are not commonly adhered to.

Sub-section 153.8 - Fair value; circumstances of sale.

(a) General. In comparing the purchase price or exporter's sales price, as the case may be, with the sales, or other criteria applicable, on which a determination of fair value is to be based, reasonable allowances will be made for bona fide differences in circumstances of sale if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. Differences in circumstances of sale for which such allowances will be made are limited, in general, to those circumstances which bear a direct relationship to the sales which are under consideration.

(b) Examples Examples of differences in circumstances of sale for which reasonable allowances generally will be made are those involving differences in credit terms, guarantees, warranties, technical assistance, servicing, and assumption by a seller of a purchaser's advertising or other selling costs. Reasonable allowances will also generally be made for differences in commissions. Except in those instances where it is clearly established that the differences in circumstances of sale bear a direct relationship to the sales which are under consideration, allowances generally will not be made for differences in research and development costs, production costs, and advertising and other selling costs of a seller unless such costs are attributable to a later sale of merchandise by a purchaser; provided that reasonable allowances for selling expenses generally will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual selling expense incurred in the one market or the total amount of the commission allowed in such other market, whichever is less.

(c) Relation to market value In determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, where appropriate, may also consider the cost of such differences to the seller, as contributing to an estimate of market value.

Sub-section 153.9 - Fair value; similar merchandise

In comparing the purchase price or exporter's sales price, as the case may be, with the selling price in the home market, or for exportation to countries other than the United States, in the case of similar merchandise described in sub-divisions (C), (D), (E) or (F) of section 212(3), Antidumping Act, 1921, as amended (19 U.S.C. 170a(3)), due allowance shall be made for differences in the merchandise. In this regard the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, when appropriate, he may also consider differences in cost of manufacture if it is established to his satisfaction that the amount of any price differential is wholly or partly due to such differences.

Sub-section 153.10 - Fair value; offering price

In the determination of fair value, offers will be considered in the absence of sales, but an offer made in circumstances in which acceptance is not reasonably to be expected will not be deemed to be an offer.

Sub-section 153.11 - Fair value; sales agency

If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207 of the Antidumping Act, 1921 (19 U.S.C. 166) the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in the determination of fair value.

Sub-section 153.12 - Fair value; 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.

Sub-section 153.13 - Fair value; sales at varying prices

Where the prices in the sales which are being examined for a determination of fair value vary (after allowances provided for in sub-sections 153.7, 153.8 and 153.9), determination of fair value will take into account either the prices of a preponderance of the merchandise, or the weighted averages of the prices of the merchandise thus sold. Unless there is a clear preponderance of merchandise sold at the same price, weighted averages of the prices of the merchandise sold will normally be used. If there is not a clear preponderance of the merchandise sold at the same price and weighted averages of the prices of the merchandise sold are determined by the Secretary to be inappropriate, the Secretary may use any method for determining fair value which he deems appropriate.

Sub-section 153.14 - Fair value; 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.

Sub-section 153.15 - Discontinuance of anti-dumping investigation

(a) Price assurances, termination of sales or other circumstances. Whenever the Secretary of the Treasury is satisfied during the course of an anti-dumping investigation that either:

(1) Price revisions have been made which eliminate the likelihood of sales at less than fair value and that there is no likelihood of resumption of the prices which prevailed before such revision, and assurances have been received to this effect; or

(2) Sales to the United States of the merchandise have terminated and will not be resumed and assurances have been received to this effect;

or whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an anti-dumping investigation, the Secretary may publish a "Notice of Tentative Discontinuance of Antidumping Investigation" in the FEDERAL REGISTER.

(b) Notice of tentative discontinuance of anti-dumping investigation. The notice will set forth a description of the merchandise involved and state the facts relied upon by the Secretary in publishing the notice and that those facts are considered to be evidence warranting the discontinuance of the investigation. In the case of investigations tentatively discontinued pursuant to paragraph (a)(2) of this section, the notice will identify the manufacturers, producers, or exporters who have furnished appropriate assurances. The notice will also state that

(d) Final discontinuance. As soon as possible after the publication of a "Notice of Tentative Discontinuance of Antidumping Investigation" the Secretary will determine whether final discontinuance is warranted and, if he so determines, publish a "Discontinuance of Antidumping Investigation" notice in the FEDERAL REGISTER.

(e) Final discontinuance after issuance of a "Withholding of Appraisalment Notice" or a "Notice of Tentative Negative Determination". The procedures specified in paragraphs (b) and (d) of this section will not apply if the decision to issue a "Discontinuance of Antidumping Investigation" notice is made by the Secretary after a "Withholding of Appraisalment Notice" or "Notice of Tentative Negative Determination" has been issued and thereafter he has afforded interested parties an opportunity to be heard pursuant to the provisions of sub-section 153.37. In lieu thereof a "Discontinuance of Antidumping Investigation" notice will be published in the FEDERAL REGISTER setting forth the statement of reasons therefor.

(f) Periodic reports by foreign exporters. Whenever an investigation has been discontinued by the Secretary on the basis of price assurances, the foreign manufacturer, producer, or exporter of the merchandise which was the subject of the discontinued investigation shall thereafter make a report to the Commissioner of Customs for such period of time and at such intervals as the Secretary may deem appropriate. The periodic reports to the Commissioner of Customs generally shall, as determined by the Secretary, contain or be accompanied by the following:

(1) Prices at, and the terms and conditions on which, the merchandise is being sold for export to the United States and the applicable foreign market (or information regarding constructed value as set forth in section 206 of the Antidumping Act, 1921, as amended (19 U.S.C. 165));

(2) Published price lists, if any;

(3) Information regarding discounts, quantities involved on a per sale basis, shipping charges, packing costs, and other circumstances of sales in the two markets under consideration;

(4) Information regarding differences in cost of manufacture where similar merchandise is compared pursuant to sub-section 153.9; and

(5) Such other information which the Secretary deems appropriate

(g) Reopening of discontinued investigation. In the event that the Secretary determines, subsequent to the discontinuance of an investigation pursuant to paragraph (d) of this section, that there are reasonable grounds to believe or suspect that there are or are likely to be sales to the United States at less than fair value, he will reopen the investigation by publishing forthwith in the FEDERAL REGISTER a "Withholding of Appraisalment Notice" with respect to the merchandise. If, prior to the discontinuance of the investigation, importers and exporters concerned had requested a six-month withholding of appraisalment pursuant to sub-section 153.34(b), when the investigation is reopened the Secretary may withhold appraisalment for six months. If no such requests have been received, the Secretary may withhold appraisalment pursuant to sub-section 153.34(a). The withholding of appraisalment may be made effective with respect to

merchandise entered, or withdrawn from warehouse, for consumption not more than ninety days before the date of publication. Whenever an investigation is reopened, interested persons will be given the opportunity to present their views pursuant to sub-section 153.37.

(h) Termination of discontinued investigations. (1) Whenever the Secretary is satisfied that termination of a discontinued investigation is appropriate, he will publish a "Notice of Tentative Termination of Antidumping Investigation" in the FEDERAL REGISTER. The notice will set forth a description of the merchandise involved and state the facts relied upon by the Secretary in publishing the notice and that those facts are considered to be evidence warranting the termination of the investigation. The notice will also state that interested persons shall be given the opportunity to present their views under the procedure set forth in sub-section 153.37, and unless persuasive evidence or argument to the contrary is presented within the period specified in the notice the Secretary will publish a final notice terminating the investigation.

(2) As soon as possible thereafter the Secretary will determine whether final termination is warranted and, if he so determines, publish a "Notice of Termination of Antidumping Investigation" in the FEDERAL REGISTER.

Sub-section 153.16 - Fair value; shipments from intermediate country

If the merchandise is not imported directly from the country of origin, but is shipped to the United States from another country, the price at which such or similar merchandise is sold in the country of origin will be used in the determination of fair value if the merchandise was merely transhipped through the country of shipment.

Sub-section 153.17 - Fair value; merchandise resold in a changed condition

If exporter's sales price (as defined in section 204 of the Antidumping Act, 1921 (19 U.S.C. 163)), is applicable and the imported merchandise is resold to an unrelated United States purchaser in a condition different from that in which it was imported, the Secretary may use such reasonable basis as he deems appropriate to determine exporter's sales price.

Sub-section 153.18 - Fair value; level of trade

The comparison of the purchase price or exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, with the applicable price in the home market of the country of exportation (or, as the case may be, price to third country markets) will generally be made at the same level of trade. However, if the Secretary finds that the sales of the merchandise to the United States or in the applicable foreign market are insufficient in number to permit an adequate comparison, the comparison will be made at the nearest comparable level of trade and appropriate adjustments shall be made for differences affecting price comparability.

SUB-PART B - AVAILABILITY OF INFORMATION

NOTE: For Bureau of Customs general provisions relating to availability of information see Part 103 of this chapter.

Sub-section 153.23 - Availability of information in anti-dumping proceedings

(a) Information generally available. In general, all information but not necessarily all documents obtained by the Treasury Department, including the Bureau of Customs, in connexion with any anti-dumping proceeding will be available for inspection or copying by any person. With respect to documents prepared by an officer or employee of the United States, factual materials, as distinguished from recommendations and evaluations, contained in any such document will be made available by summary or otherwise on the same basis as information contained in other documents. Attention is directed to sub-section 24.12 of this chapter relating to fees charged for providing copies of documents.

(b) Requests for confidential treatment of information. Any person who submits information in connexion with an anti-dumping proceeding may request that such information, or any specified part thereof, be held confidential. Information covered by such a request shall be set forth on separate pages from other information; and all such pages shall be clearly marked "Confidential Treatment Requested". The Commissioner of Customs or the Secretary of the Treasury or the delegate of either will determine, pursuant to paragraph (c) of this section, whether such information, or any part thereof, shall be treated as confidential. If it is so determined, the information covered by the determination will not be made available for inspection or copying by any person other than an officer or employee of the United States Government or a person who has been specifically authorized to receive it by the person requesting confidential treatment. If it is determined that information submitted with such a request or any part thereof, should not be treated as confidential, or that summarized or approximated presentations thereof should be made available for disclosure, the person who has requested confidential treatment thereof shall be promptly so advised and, unless he thereafter agrees that the information, or any specified part or summary or approximated presentations thereof, may be disclosed to all interested parties, the information will not be made available for disclosure, but to the extent that it is self-serving it will be disregarded for the purpose of the determination as to sales at less than fair value and no reliance shall be placed thereon in this connexion, unless it can be demonstrated from other sources that the information is correct.

(c) Standards for determining whether information will be regarded as confidential

(1) General. Information will ordinarily be considered to be confidential only if its disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information. Further, if disclosure of information in specific terms or with identifying details would be inappropriate under this standard, the information will ordinarily be considered appropriate for disclosure in generalized, summary or approximated form, without

identifying details, unless the Commissioner of Customs or the Secretary of the Treasury or the delegate of either determines that even in such generalized, summary or approximated form, such disclosure would still be of significant competitive advantage to a competitor or would still have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information. As indicated in paragraph (b) of this section, however, the decision that information is not entitled to protection from disclosure in its original or in another form will not lead to its disclosure unless the person supplying it consents to such disclosure.

(2) Information ordinarily regarded as appropriate for disclosure. Except as provided in sub-section 153.23(c)(3), information will ordinarily be regarded as appropriate for disclosure if it:

- (i) Relates to price information;
- (ii) Relates to claimed freely available price allowances for quantity purchases; or
- (iii) Relates to claimed differences in circumstances of sale.

(3) Information ordinarily regarded as confidential. Information will ordinarily be regarded as confidential if its disclosure would:

- (i) Disclose business or trade secrets;
- (ii) Disclose production costs;
- (iii) Disclose distribution costs, except to the extent that such costs are accepted as justifying allowances for quantity or differences in circumstances of sale;
- (iv) Disclose the names of particular customers or the price or prices at which particular sales were made; or
- (v) Disclose the names of particular persons from whom confidential information was obtained, if non-disclosure of the names has been requested (5 U.S.C. 552).

SUB-PART C - PROCEDURE UNDER ANTIDUMPING ACT, 1921

Sub-section 153.25 - Suspected dumping; information from Customs officers.

If any district director of Customs has knowledge of any grounds for a reason to believe or suspect 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, then the constructed value), as contemplated by section 201(b) Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), or at less than its "fair value" as that term is defined in sub-section 153.2, he shall communicate his belief or suspicion 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 sub-section 153.27, if the district director has such information or if it is readily available to him.

Sub-section 153.26 - Suspected dumping; information from persons outside Customs Service

Any person outside the Customs Service who has information 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 Antidumping Act, 1921, as amended, may, on behalf of an industry in the United States, communicate such information in writing to the Commissioner of Customs.

Sub-section 153.27 - Suspected dumping; nature of information to be made available

Communications to the Commissioner pursuant to sub-section 153.26, regarding suspected dumping should, to the extent feasible, contain or be accompanied by the following:

- (a) A detailed description or sample of the merchandise; if no sample is furnished, the Bureau of Customs may call upon the person who furnished the information to furnish samples of the imported and competitive domestic articles, or either
- (b) The name of the country from which it is being, or is likely to be, imported;
- (c) The name of the exporter or exporters and producer or producers, if known;
- (d) The ports or probable ports of importation into the United States;
- (e) Information indicating that an industry in the United States is being injured, or is likely to be injured, or prevented from being established;
- (f) Such detailed data as are available with respect to values and prices indicating that such merchandise is being, or is likely to be, sold in the United States at less than its fair value, within the meaning of the Antidumping Act, 1921, as amended, including information as to any differences between the foreign market value or constructed value and the 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.
- (g) Such material as is available 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.
- (h) Such information as is available as to sales made for consumption in the country of exportation or for exportation otherwise than to the United States over a significant period of time prior to the date upon which the information is furnished.
- (i) Such suggestions as the person furnishing the information may have as to specific avenues of investigation to be pursued or questions to be asked in seeking pertinent information.

Sub-section 153.28 - Adequacy of information

If any information filed pursuant to sub-section 153.26 in the opinion of the Commissioner does not conform substantially with the requirements of sub-section 153.27, the Commissioner shall return the communication to the person who submitted it with detailed written advice as to the respects in which it does not conform.

Sub-section 153.29 - Initiation of anti-dumping proceeding; summary investigation

Upon receipt of information pursuant to sub-section 153.25 or sub-section 153.26 in a form acceptable to the Commissioner, the Commissioner shall conduct a summary investigation. If he determines that the information is patently in error, or that merchandise of the class or kind is not being and is not likely to be imported in more than insignificant quantities, or for other reasons determines that further investigation is not warranted, he shall so advise the person who submitted the information and the case shall be closed.

Sub-section 153.30 - Anti-dumping Proceeding Notice

(a) Publication of Anti-dumping Proceeding Notice. If the case has not been closed under sub-section 153.29, the Secretary will publish a notice in the FEDERAL REGISTER that information in an acceptable form has been received pursuant to sub-section 153.25 or sub-section 153.26. This notice, to be referred to as the "Antidumping Proceeding Notice" will specify:

- (1) A description of the merchandise involved;
- (2) Whether the proceeding relates to all shipments of the merchandise in question from an exporting country, or only to shipments by certain persons or firms; in the latter case, the names of such persons and firms will be specified;
- (3) The date on which information in an acceptable form was received and that date shall be the date on which the question of dumping was raised or presented for purposes of sections 201(b) and 202(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b) and 161(a));
- (4) The fact that there is some evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States; and
- (5) A summary of the information received. If a person outside the Customs Service raised or presented the question of dumping, his name may be included in the notice unless a determination under sub-section 153.23 requires that his name not be disclosed.

(b) Time limit on publication. Generally, anti-dumping proceeding notices issued pursuant to sub-section 153.30 shall be published in the FEDERAL REGISTER within thirty days after the date that information was received pursuant to sub-section 153.25 or sub-section 153.26 in a form acceptable to the Commissioner.

Sub-section 153.31 - Full-scale investigation

(a) Initiation of investigation. Upon publication of an Antidumping Proceeding Notice, the Commissioner shall proceed, by a full-scale investigation, or otherwise to obtain such additional information, if any, as may be necessary to enable the Secretary to reach a determination as provided by sub-section 153.32. In order to verify the information presented, or to obtain further details, investigations will, where appropriate, be conducted by Customs representatives in foreign countries, unless the country concerned objects to the investigation. If an adequate investigation is not permitted, or if any necessary information is withheld, the Secretary will reach a determination on the basis of such facts as are available to him.

(b) Pricing information. Ordinarily the Commissioner will require the foreign manufacturer, producer, or exporter to submit pricing information covering a period of at least 120 days prior to the date that information in a form acceptable to the Commissioner was received pursuant to sub-section 153.25 or sub-section 153.26. The Commissioner may, however, require the submission of pricing information for such longer period as he deems necessary; and he may also require the submission of pricing information on a current basis during the course of the investigation.

Sub-section 153.32 - Determination as to fact or likelihood of sales at less than fair value

(a) Fair value determination. Upon receipt from the Commissioner of Customs of the information referred to in sub-section 153.31, the Secretary of the Treasury will proceed as promptly as possible to determine whether or not 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.

(b) Submission of views. During the course of an anti-dumping proceeding interested persons may make such written submissions as they desire. Appropriate consideration will be given to any new or additional information submitted. The Secretary or his delegate also may at any time invite any person or persons to supply him orally with information or argument.

(c) Time-limit on investigations. Generally, within six months, or in more complicated investigations, within nine months, after the date of the publication of an "Antidumping Proceeding Notice", the Secretary will publish in the FEDERAL REGISTER a "Withholding of Appraisement Notice" (sub-section 153.34), a "Notice of Tentative Negative Determination" (sub-section 153.33), or a "Notice of Tentative Discontinuance of Antidumping Investigation" (sub-section 153.15), as appropriate. However, if the Secretary decides that the appropriate tentative decision cannot satisfactorily be made within the nine-month period, he will publish a notice of that fact in the FEDERAL REGISTER, together with the reasons therefor. The notice also will announce the length of additional time, usually not more than three months, within which the appropriate action will be taken.

Sub-section 153.33 - Negative determination.

(a) Notice of tentative negative determination. If it appears to the Secretary that on the basis of information before him a determination of sales at not less than fair value may be required, he will publish in the FEDERAL REGISTER a "Notice of Tentative Negative Determination", which will include a description of the merchandise involved and a statement of the reasons upon which the tentative determination is based. Opportunity to present views will be provided pursuant to sub-section 153.37.

(b) Final determination. As soon as possible thereafter, the Secretary will make a final determination and publish his determination in the FEDERAL REGISTER.

(c) Negative determination after issuance of a "Withholding of Appraisalment Notice" or a "Notice of Tentative Discontinuance of Antidumping Investigation". The procedure specified in paragraphs (a) and (b) of this section will not apply if the decision to issue a negative determination is made by the Secretary after a "Withholding of Appraisalment Notice" or a "Notice of Tentative Discontinuance of Antidumping Investigation" has been issued and thereafter he has afforded interested parties an opportunity to be heard pursuant to the provisions of sub-section 153.37. In lieu thereof, a final negative determination will be published setting forth the statement of reasons.

Sub-section 153.34 - Withholding of appraisalment.

(a) Three-month period. If the Secretary determines during the course of his investigations that there are reasonable grounds to believe or suspect that any merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, then its constructed value) under the Antidumping Act, and if there is evidence on record concerning injury or likelihood of injury to or prevention of establishment of an industry of the United States, he shall publish notice of these facts in the FEDERAL REGISTER in a "Withholding of Appraisalment Notice" indicating:

- (1) A description of the merchandise involved;
- (2) That the belief or suspicion relates only to certain shippers or producers, if this is the case and that the withholding of appraisalment is limited to the transactions of such shippers or producers; and
- (3) The expiration date of the notice (which shall be no more than three months from the date of publication of the notice in the FEDERAL REGISTER, unless a longer period of withholding of appraisalment has been requested pursuant to paragraph (b) of this section and has been approved by the Secretary). This withholding of appraisalment notice will be issued concurrently with the Secretary's determination pursuant to sub-section 153.35, unless appraisalment is being withheld pursuant to paragraph (b) of this section.

(b) Six-month period. At any time prior to the issuance of the "Withholding of Appraisalment Notice" referred to in paragraph (a) of this section, importers and exporters concerned may request that the period of withholding of appraisalment extend for a period longer than three months, but in no case longer than six months. Upon receipt of such a request, the Secretary will decide whether appraisalment should be withheld for a period longer than three months. If the Secretary decides that a period of withholding of appraisalment longer than three months is justified, he will publish a "Withholding of Appraisalment Notice" upon the same basis and containing information of the same type as is required by paragraph (a) of this section, except that the expiration date of the notice may be six months from the date of publication of the notice in the FEDERAL REGISTER.

(c) Advice to district directors of Customs. The Commissioner shall advise all district directors of Customs of the Secretary's action. Upon receipt of such advice each district director of Customs shall proceed to withhold appraisalment in accordance with the pertinent provisions of sub-section 153.48.

Sub-section 153.35 - Affirmative determination; general

If it appears to the Secretary on the basis of the information before him that a determination of sales at less than fair value is required, unless the "Withholding of Appraisalment Notice" was issued pursuant to sub-section 153.34(b) he will publish in the FEDERAL REGISTER his "Determination of Sales at Less than Fair Value". This determination will include:

- (a) A description of the merchandise involved;
- (b) The name of each country of exportation;
- (c) The name of the exporter or exporters or producer or producers, if the determination covers shipments by less than all of the exporters or producers;
- (d) The date of the receipt of the information in an acceptable form;
- (e) Whether the appropriate basis of comparison is purchase price or exporter's sales price; and
- (f) A statement of reasons upon which the determination is based.

Sub-section 153.36 - Affirmative determination; appraisalment withheld pursuant to sub-section 153.34(b)

If it appears to the Secretary on the basis of the information before him that a determination of sales at less than fair value is required, and if a "Withholding of Appraisalment Notice" has been issued pursuant to sub-section 153.34(b), he will publish in the FEDERAL REGISTER, his determination of sales at less than fair value within three months from the date of publication of such "Withholding of Appraisalment Notice". This determination will contain information of the same type as required in sub-sections 153.35(a) through (f).

Sub-section 153.37 - Opportunity to present views

Pursuant to publication in the FEDERAL REGISTER of: A "Withholding of Appraisement Notice"; any other notice of tentative disposition of an anti-dumping investigation; or a notice of tentative modification or revocation of a dumping finding, an opportunity will be provided for the presentation of views by interested persons as set forth below.

(a) Written. Interested persons may make such written submissions as they desire, within a period which will be specified in the notice, with respect to the contemplated action. Appropriate consideration will be given to any additional information or argument submitted.

(b) Oral. If any interested person believes that any information obtained by the Bureau of Customs in the course of the anti-dumping proceeding is inaccurate or that for any other reason the tentative decision or the withholding of appraisement is in error, he may request in writing, within a period which will be specified in the notice, that the Secretary of the Treasury afford him an opportunity to present his views in this regard. All such requests shall be accompanied by a statement outlining the issues which the person wishes to discuss. Upon receipt of such a request, the Secretary will notify the person who supplied any information, the accuracy of which is questioned and such other person or persons, if any, as he in his discretion may deem to be appropriate. If the Secretary is satisfied that the circumstances so warrant, an opportunity will be afforded by the Secretary or his delegate for all such persons to appear, through their counsel or in person, accompanied by counsel if they so desire, to make known their respective points of view in regard to those issues which the Secretary or his delegate has determined to be appropriate for discussion. With respect to a "Withholding of Appraisement Notice" issued pursuant to sub-section 153.34(a), such meeting will be held within three weeks of the date of the publication of the notice unless for unusual reasons it is clearly impracticable to do so. In all other cases, it normally will be held within five weeks of such publication. Reasonable notice of the meeting will be given. The Secretary or his delegate may at any time invite any person or persons to supply him orally with information or argument.

Sub-section 153.38 - Referral to United States Tariff Commission

Whenever the Secretary makes a determination of sales at less than fair value he shall so advise the United States Tariff Commission.

Sub-section 153.39 - Revocation of determination of sales at less than fair value; determination of sales at not less than fair value

If the Secretary is persuaded from information submitted or arguments received that his determination of sales at less than fair value was in error, and if the Tariff Commission has not yet issued a determination relating to injury, he will publish a notice of "Revocation of Determination of Sales at Less than Fair Value; Determination of Sales at not Less than Fair Value", or, if appropriate, a notice of "Modification of Determination of Sales at Less than Fair Value", which notice

will set forth a description of the merchandise involved and state the reasons upon which it was based. He will notify the Tariff Commission of his action.

Sub-section 153.40 - Dumping finding

If the Tariff Commission determines that there is, or is likely to be, the injury contemplated by the statute, the Secretary of the Treasury will make the finding contemplated by section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), with respect to the involved merchandise.

Sub-section 153.41 - Modification or revocation of finding

(a) Application to modify or revoke. An application for the modification or revocation of any finding made as provided for in sub-section 153.40 may be 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 for the finding no longer exists with respect to all or any part of the merchandise covered thereby.

(b) Modification or revocation by Secretary. The Secretary of the Treasury may, on his own initiative, modify or revoke a finding of dumping.

(c) Notice of modification or revocation of finding. If it appears to the Secretary that a modification or revocation of an existing dumping finding may be appropriate, he will publish in the FEDERAL REGISTER a "Notice of Tentative Determination to Modify or Revoke Dumping Finding", which will include a description of the merchandise involved and a statement of the reasons upon which the tentative determination is based. Opportunity for interested persons to present views will be provided pursuant to sub-section 153.37.

(d) Final determination. As soon as possible after publication of a "Notice of Tentative Determination to Modify or Revoke Dumping Finding", the Secretary will make a final determination and will publish his determination in the FEDERAL REGISTER.

Sub-section 153.42 - Publication of determinations and findings

Each determination made in accordance with sub-sections 153.33, 153.34, 153.35 and 153.36 whether such determination is in the affirmative or in the negative, and each finding made in accordance with sub-section 153.40, will be published in the FEDERAL REGISTER, together with a statement of the reasons therefor.

Sub-section 153.43 - List of current findings

The following findings of dumping are currently in effect:

FINDINGS OF DUMPING

Merchandise	Country	T.D.	Modified by
Portland cement, other than white, non-staining portland cement	(Sweden (Belgium	55369 55428	
Portland gray cement	Portugal	55501	
Portland cement, other than white, non-staining portland cement	Dominican Republic	55883	
Chromic acid	Australia	56130	
Steel reinforcing bars	Canada	56150	
Carbon steel bars and structural shapes	Canada	56264	
Steel jacks	Canada	66-191	
Cast iron soil pipe	Poland	67-252	
Titanium sponge	USSR	68-212	
Pig iron	USSR	68-261	
Pig iron	Czechoslovakia	68-262	
Pig iron	East Germany	68-263	
Pig iron	Romania	68-264	
Potassium chloride, otherwise known as muriate of potash	France	69-263	
Potassium chloride, otherwise known as muriate of potash	West Germany	69-264	
Potassium chloride, otherwise known as muriate of potash, except shipments by United States Borax & Chemical Company, Kalium, Saskatchewan, Canada	Canada	69-265	
Aminoacetic acid (glycine)	France	70-71	
Steel bars, reinforcing bars, and shapes manufac- tured by The Broken Hill Proprietary Co. Ltd., Melbourne, Australia.	Australia	70-81	
Whole dried eggs	Holland	70-198	
Tuners (of the type used in consumer electronic products)	Japan	70-257	

Merchandise	Country	T.D.	Modified by
Television receiving sets, monochrome and colour	Japan	71-76	
Ferrite cores (of the type used in consumer electronic products)	Japan	71-84	
Ceramic wall tile	United Kingdom	71-129	
Clear plate and float glass	Japan	71-130	
Clear sheet glass	Japan	71-131	
Pig iron	West Germany	71-192	
Pig iron	Canada	71-193	
Pig iron	Finland	71-194	
Clear sheet glass	Taiwan	71-226	
Tempered sheet glass	Japan	71-247	
Clear sheet glass weighing over 28 ozs. per sq. ft.	France	71-293	
Clear sheet glass weighing over 16 ozs. per sq. ft.	Italy	71-294	
Clear sheet glass weighing over 28 ozs. per sq. ft.	West Germany	71-295	
Ice cream sandwich wafers	Canada	72-77	
Diamond tips for phonograph needles	United Kingdom	72-91	
Fish netting of man-made fibres	Japan	72-158	
Large power transformers	France	72-160	
Large power transformers	Italy	72-161	
Large power transformers	Japan	72-162	
Large power transformers	Switzerland	72-163	
Large power transformers	United Kingdom	72-164	
Asbestos cement pipe	Japan	72-178	
Elemental sulphur	Mexico	72-179	
Cadmium	Japan	72-206	
Instant potato granules	Canada	72-263	
Dry cleaning machinery	West Germany	72-311	
Bicycle speedometers	Japan	72-322	

SUB-PART D - ACTION BY DISTRICT DIRECTOR OF CUSTOMS

Sub-section 153.48 - Action by the District Director of Customs

(a) Appraisement withheld; notice to importer. Upon receipt of advice from the Commissioner of Customs pursuant to sub-section 153.34, the District Director of Customs shall withhold appraisement as to such merchandise entered, or withdrawn from warehouse, for consumption, after the date of publication of the "Withholding of Appraisement Notice", unless the Secretary's "Withholding of Appraisement Notice" specifies a different effective date. Each District Director of Customs shall notify the importer, consignee, or agent immediately of each lot of merchandise with respect to which appraisement is so withheld. Such notice shall indicate: (1) The rate of duty of the merchandise under the applicable item of the Tariff Schedules of the United States if known; and (2) the estimated margin of the special dumping duty that could be assessed. Upon advice of a finding made in accordance with sub-section 153.40, the District Director of Customs shall give immediate notice thereof to the importer when any shipment subject thereto is imported after the date of the finding and information is not on hand for completion of appraisement of such shipment.

(b) Request to proceed with appraisement. If, before a finding of dumping has been made, or before a case has been closed without a finding of dumping, the District Director of Customs 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 constructed value), he shall so advise the Commissioner and request authorization to proceed with his appraisement of that shipment in the usual manner.

Sub-section 153.49 - Reimbursements of dumping duties

(a) General. In calculating purchase price or exporter's sales price as the case may be, there shall be deducted the amount of any special dumping duties which are, or will be paid by the manufacturer, producer, seller or exporter, or which are, or will be, refunded to the importer by the manufacturer, producer, seller, or exporter, either directly or indirectly, but a warranty of non-applicability of dumping duties entered into before the initiation of the investigation, will not be regarded as affecting purchase price or exporter's sales price if it was granted to an importer with respect to merchandise which was:

- (1) Purchased, or agreed to be purchased, before publication of a "Withholding of Appraisement Notice" with respect to such merchandise, and
- (2) Exported before a determination of sales at less than fair value is made.

(b) Statement concerning reimbursement. Before proceeding with appraisement of any merchandise with respect to which dumping duties are found to be due the District Director of Customs shall require the importer to file a written statement in the following form:

I hereby certify that I (have) (have not) entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller, or exporter of all or any part of the special dumping duties assessed upon the following importations of _____ from _____;
(List entry numbers) which have been purchased on or after _____ (date of publication) or purchased before _____ (same date) but exported on or after _____ of withholding in _____ (same date) but exported on or after _____ FEDERAL REGISTER)
(date of determination of sales of less than fair value)

A certificate will be required for all merchandise that is unappraised on the date that the finding of dumping is issued. Thereafter, a separate certificate will be required for each additional shipment.

Sub-section 153.50 - Release of merchandise: bond

When the District Director of Customs in accordance with sub-section 153.34(c) has received a notice of withheld appraisement or when he has been advised of a finding provided for in sub-section 153.40, 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 sub-section 153.51, or unless the merchandise covered by a specified entry will be appraised without regard to the Antidumping Act, 1921, as amended.

Sub-section 153.51 - Type of bond required

(a) General. If the merchandise is of a class or kind covered by a notice of withheld appraisement provided for in sub-section 153.48(a) or by a finding provided for in sub-section 153.40, 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:

- (1) A bond is required under paragraph (b) of this notice, or
- (2) In cases in which there is no such requirement, the District Director of Customs is satisfied that the bond under which the entry was filed is sufficient.

The face amount of any additional bond required under this paragraph shall be sufficient to assure payment of any special duty that may accrue by reason of the Antidumping Act, but in no case shall be for less than \$100.

(b) Bond on Customs Form 7591. If the merchandise is of a class or kind covered by a finding provided for in sub-section 153.40 and the resale price in the United States is unknown, the bond required by section 208 of the Antidumping Act, 1921 (19 U.S.C. 167), 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 of 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. The face amount of such bond shall be equal to the estimated value of the merchandise covered by the finding.

Sub-section 153.52 - 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 constructed value) for the purposes of sub-section 153.2 through 153.5 of these regulations or of section 201(b) or 202 (a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b) 161(a)), 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 1930, as amended (31 U.S.C. 372) and sub-section 16.4 of this chapter: (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.

Sub-section 153.53 - Dumping duty

(a) Rule for assessment. A special dumping duty shall be assessed on all importations of merchandise, whether dutiable or free, as to which the Secretary of the Treasury has made public a finding of dumping, entered or withdrawn from warehouse, for consumption, nor more than 120 days before the question of dumping was raised by or presented to the Secretary or his delegate, provided the particular importation has not been appraised prior to the publication of such finding, and the District Director of Customs has determined that the purchase price or exporter's sales price is less than the foreign market value or constructed value, as the case may be.

(b) Entered value not controlling. 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 constructed value and the District Director of Customs has approved the resulting entered value shall not prevent the assessment of the special dumping duty.

Sub-section 153.54 - Notice to importer

Before the special dumping duty is assessed, the District Director of Customs shall notify the importer, his consignee, or agent of the appraisement of the merchandise, as in the case of an advance in value.

Sub-section 153.55 - Dumping duty: samples

If the necessary conditions are present, the special dumping duty shall be assessed on samples imported for the purpose of taking orders and making sales in this country.

Sub-section 153.56 - 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, Antidumping Act, 1921 (19 U.S.C. 166), where purchase price is less than foreign market value, the special dumping duty shall equal the difference between the purchase price and the foreign market value on the date of purchase, or agreement to purchase, or, if there is no foreign market value, between the purchase price and the constructed value, 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, where the exporter's sales price is less than foreign market value, 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 constructed value, any foreign currency involved being converted into United States money as of the date of exportation.

SUB-PART E - ANTI-DUMPING PROTESTS

Sub-section 153.64 - Anti-dumping protests procedures

Protests relating to the Antidumping Act, 1921, shall be made in the same manner as protests relating to ordinary Customs duties.