

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

COM.AD/W/62

11 January 1977

Special Distribution

Committee on Anti-Dumping Practices

ADVANCE NOTICE OF PROPOSED RULE MAKING

United States

The following communication, dated 5 January 1977, has been received from the Permanent Mission of the United States.

Attached is a copy of the Federal Register notice containing proposed amendments to United States regulations on anti-dumping procedures. We request that the proposals be circulated to members of the Anti-Dumping Committee with an indication that the parties wishing to make comments before the United States International Trade Commission in Washington should do so before 26 January 1977.

INTERNATIONAL TRADE COMMISSION

(19 CFR Part 207, 208)

DOMESTIC INDUSTRIES

Investigations of Injury

These proposed amendments to Title 19, Chapter II, Sub-Chapter B, of the Code of Federal Regulations would add a new Part 207 thereto and delete Part 208. The purpose of these amendments is to provide a procedural framework for implementing the Anti-Dumping Act 1921, as amended, Section 303 of the Tariff Act of 1930, as amended, and Section 301(c)(2) of the Trade Act of 1974.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Office of the Secretary, United States International Trade Commission, Washington, D.C. 20436. All communications received on or before 26 January 1977 will be considered before action is taken on the proposed amendment. Comments received will be available for public examination in the Office of the Secretary.

It is proposed to delete Part 208 of Title 19 of the Code of Federal Regulations and to add a new Part 207, set forth in tentative form below:

PART 207 - INVESTIGATIONS OF INJURY TO DOMESTIC
INDUSTRIES RESULTING FROM IMPORTS SOLD AT LESS THAN
FAIR VALUE, IMPORTS FREE OF DUTY WHICH HAVE RECEIVED, DIRECTLY
OR INDIRECTLY, ANY BOUNTIES OR GRANTS, OR IMPORTS PROVIDED WITH
SUBSIDIES (OR OTHER INCENTIVES HAVING THE EFFECT OF SUBSIDIES)

Section

207.1 Applicability of part.

Sub-Part A - Investigations of Injury to
Domestic Industries Resulting from Imports
Sold at Less than Fair Value

207.2 Applicability of sub-part.

207.3 Inquiries under Section 201(c)(2) of the Anti-Dumping Act 1921, as amended.

207.4 Investigations under Section 201(a) of the Anti-Dumping Act, as amended.

Section

207.5 Investigations concerning the review of injury determinations under the Anti-Dumping Act 1921.

207.6 Reserved

Sub-Part B - Investigations of Injury to Domestic Industries Resulting from Imports Free of Duty which have Received, Directly or Indirectly, Bounties or Grants

207.7 Applicability of sub-part.

207.8 Investigations under Section 303(b) of the Tariff Act of 1930, as amended.

207.9 Investigations concerning the review of injury determinations under Section 303(b) of the Tariff Act of 1930.

207.10 Reserved

Sub-Part C - Investigations of Reduced Sales of US Products in US Markets Resulting from Imports Provided with Subsidies (or Other Incentives Having the Effect of Subsidies)

207.11 Applicability of sub-part.

207.12 Investigations under Section 301(c)(2) of the Trade Act of 1974.

AUTHORITY: Section 335 of the Tariff Act of 1930 (72 Stat. 680, 19 U.S.C. 1335) and Section 603 of the Trade Act of 1974 (88 Stat. 2073; 19 U.S.C. 2482).

Sub-Section 207.1 Applicability of part.

This Part 207 applies specifically to functions and duties of the Commission under Sections 201(a), 201(c)(2) and 201(d) of the Anti-Dumping Act 1921, as amended (19 U.S.C. 160, et seq.), under Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), and Section 301(c)(2) of the Trade Act of 1974 (19 U.S.C. 2411(c)(2)). Sub-Part A of this part sets forth rules specifically applicable to investigations under the Anti-Dumping Act 1921, as amended. Sub-Parts B and C of this part set forth rules specifically applicable to investigations under Section 303 of the Tariff Act of 1930, as amended, and Section 301(c)(2) of the Trade Act of 1974, respectively.

Sub-Part A - Investigations of Injury to
Domestic Industries Resulting from Imports Sold at
Less Than Fair Value

Sub-Section 207.2 Applicability of sub-part.

This Sub-Part A of Part 207 applies specifically to investigations and inquiries under the Anti-Dumping Act 1921, as amended. For other applicable rules, see Part 201 of this chapter.

Sub-Section 207.3 Inquiries under Section 201(c)(2) of the Anti-Dumping Act 1921, as amended.

(a) Purpose of inquiry

The purpose of an inquiry under Section 201(c)(2) by the Commission, upon the receipt of a conclusion by and appropriate information from the Secretary of the Treasury, is to determine whether there is no reasonable indication that 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 into the United States of the class or kind of merchandise which is the subject of an investigation by the Treasury Department.

(b) Institution of inquiry

After the receipt of a conclusion and appropriate information from the Secretary of the Treasury under Section 201(c)(2), the Commission shall institute an inquiry for the purpose indicated in Sub-Section 207.3(a), and publish notice thereof in the Federal Register.

(c) Public hearing

If in the judgement of the Commission there is good and sufficient reason therefor, the Commission, in the course of its inquiry, will hold a public hearing and afford interested persons the opportunity to appear and be heard at such hearing.

(d) Written statements

At any time after a notice of inquiry under Sub-Section 207.3(b) is published in the Federal Register, any interested person may submit to the Commission a written statement of information pertinent to the subject matter of such inquiry. If a public hearing is held in the inquiry, such statement may be received in lieu of appearance at such hearing. Statements shall conform with the requirements for documents set forth in Sub-Sections 201.6 and 201.8 of this chapter.

(e) Notification of Commission's determination

Within thirty (30) days after the date of the receipt by the Commission of the information from the Secretary of the Treasury referred to in Sub-Section 207.3(b) the Commission will notify the Secretary of the Treasury of its determination. The Commission's determination, together with a statement of reasons therefor, will be published in the Federal Register.

Sub-Section 207.4 Investigations under Section 201(a) of the Anti-Dumping Act 1921, as amended.

(a) Purpose of investigation

The purpose of an investigation by the Commission under Section 201(a) of the Anti-Dumping Act 1921, as amended, is to determine 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 into the United States of a class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold in the United States or elsewhere at less than its fair value.

(b) Institution of investigation

After the receipt of advice from the Secretary of the Treasury that he has determined 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, the Commission shall institute an investigation for the purposes of Sub-Section 207.4(a), and publish notice thereof in the Federal Register.

(c) Public hearing

If, in the judgement of the Commission, there is good and sufficient reason therefor, the Commission, in the course of its investigation, will hold a public hearing and afford an opportunity for interested persons to appear and be heard. If no notice of public hearing issues concurrently with the notice of institution of the investigation under Sub-Section 207.4(b), the Commission shall, at the request of any foreign manufacturer or exporter or any domestic manufacturer, producer, or wholesaler of merchandise of the same class or kind, conduct a hearing at which:

- (1) Any such person shall have the right to appear by counsel or in person; and
- (2) any other person, firm, corporation, or association may make application and, upon good cause shown, may be allowed to intervene and appear at such hearing by counsel or in person.

(3) Any hearing conducted pursuant to this section shall be exempt from Sections 554, 555, 556, 557 and 702 of Title 5 of the United States Code.

(d) Written statements

At any time after a notice of investigation under Sub-Section 207.4(b) is published in the Federal Register, any interested person may submit to the Commission a written statement of information pertinent to the subject matter of such investigation. If a public hearing is held in the investigation, such statement may be received in lieu of appearance at such hearing. Statements shall conform with the requirements for documents set forth in Sub-Sections 201.6 and 201.8 of this chapter.

(e) Notification of Commission's determination

On or before the expiration of three (3) months after the date of the receipt by the Commission of the advice from the Secretary of the Treasury referred to in Sub-Section 207.4(b) the Commission will notify the Secretary of the Treasury of its determination. The determination, whether affirmative or negative, shall be published in the Federal Register together with a complete statement of findings and conclusions, and the reasons or bases therefor, on all the material issues of fact or law presented.

Sub-Section 207.5 Investigations concerning the review of injury determinations under the Anti-Dumping Act 1921.

(a) Purpose of investigation

The purpose of an investigation by the Commission to review an injury determination that has been made under Section 201(a) of the Anti-Dumping Act 1921, as amended, is to determine either (1) whether an error in fact or law existed at the time of the subject determination which justifies the reconsideration of the injury determination under Section 201(a) or (2) whether changed circumstances exist which indicate that if the finding of dumping issued by the Secretary of the Treasury were modified or revoked, an industry in the United States would not likely be injured, or prevented from being established, by reason of the importation into the United States of the relevant merchandise at less than fair value within the meaning of the Anti-Dumping Act 1921, as amended.

(b) Institution of investigation

The Commission will institute an investigation for the purposes of Sub-Section 207.5(a)(1) if within twenty (20) days from the date of issuance of an injury determination under Sub-Section 201(a) the Commission receives a proper application therefor, from an interested party, specifying error of fact or law which the Commission deems to be sufficient to warrant such investigation. The

Commission will institute an investigation for the purposes of Sub-Section 207.5(a)(2) upon its own motion or upon receipt from the Secretary of the Treasury of appropriate advice concerning an application from a party specifying the changed circumstances forming the basis for review, except that in the absence of good cause being shown, no investigation for the purpose of Sub-Section 207.5(a)(2) shall be made unless one year has elapsed since the publication of the finding of dumping by the Secretary of Treasury. The Commission shall publish notice of the institution of an investigation in the Federal Register.

(c) Public hearing

If, in the judgement of the Commission, there is good and sufficient reason therefor, the Commission will, in the course of an investigation under Sub-Section 207.5(b), hold a public hearing and afford interested persons opportunity to appear and be heard at such hearing. If no notice of public hearing issues concurrently with a notice of investigation, any interested person who believes that a public hearing should be held may, within fifteen (15) days after the date of publication in the Federal Register of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(d) Written statements

At any time after a notice of investigation under Sub-Section 207.5(b)(2) is published in the Federal Register, any interested person may submit a written statement of information pertinent to the subject matter of such investigation to the Commission. If a public hearing is held in the investigation, such statement may be received in lieu of an appearance at such hearing. Statements shall conform with the requirements for documents set forth in Sub-Sections 201.6 and 201.8 of this chapter.

(e) Notification of Commission's determination

The Commission will notify the Secretary of the Treasury of its determination. A summary of the Commission's determination, together with a statement of reasons therefor, will be published in the Federal Register.