

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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REVIEW OF THE UNITED STATES ANTI-DUMPING REGULATIONS

Communication from the United States

Addendum

The Minister of Economic Affairs of the United States mission has informed the secretariat that the proposal, as reproduced in L/3537, to eliminate the "25 per cent rate" for fair value determination under the anti-dumping regulations has been adopted without change.

The text of a notice published in the Federal Register on 24 July 1971, relating to the entry into force of the amendment is reproduced hereunder.

TITLE 19 - CUSTOMS DUTIES

Chapter I - Bureau of Customs,
Department of the Treasury

(T.D. 71-191)

PART 153 - ANTI-DUMPING

Fair Value Determination

On 27 April 1971, a notice of proposed rule making was published in the Federal Register (36 F.R. 7866) announcing an intent to delete paragraph (b) of paragraph 153.4 of the customs regulations, which provides that in making fair value comparisons under the Anti-Dumping Act, 1921, as amended (19 U.S.C. 160 et seq.), the quantity of merchandise sold for consumption in the country of exportation will generally be considered to be an inadequate basis for comparison if it is less than 25 per cent of the quantity sold other than for exportation to the United States.

The notice stated that the 25 per cent rule was adopted by the Treasury Department for purposes of administrative convenience and that the Department has concluded that continued rigid adherence to the rule is inappropriate because it is Treasury's experience that frequently the quantity of such or similar merchandise sold in the country of exportation, although less than 25 per cent of the quantity sold other than for exportation to the United States, is more than adequate for purposes of making fair value comparisons.

Interested persons were given until 27 May 1971 to submit written data, views, or arguments in connexion with the proposed deletion of the 25 per cent rule from the regulations. Representations submitted pursuant to the notice of proposed rule making have been carefully considered.

It has been determined to adopt the proposed amendment without change. Accordingly, paragraph 153.4 of the customs regulations is amended by deleting paragraph (b) and redesignating paragraph (c) as paragraph (b), so that paragraph 153.4, as amended, will read as follows:

Paragraph 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 quantity 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 to be 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 Anti-Dumping 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 Anti-Dumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Anti-Dumping Act, 1921, as amended (19 U.S.C. 170a(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.

(Secs. 205, 407, 42 Stat. 13, as amended, 13; 19 U.S.C. 164, 173)

This amendment shall apply to all anti-dumping proceedings with respect to which neither a decision, final or tentative, for a notice of withholding of appraisement has been published as of the date the amendment becomes effective.

Effective date. Because this amendment relates to an interpretative rule, good cause is found for dispensing with the delayed effective date requirement of 5 U.S.C. 553(d), and it shall become effective on the date of its publication in the Federal Register (24.7.71).

[Seal] Robert V. McIntyre,
Acting Commissioner of Customs

Approved: 16 July 1971

Eugene T. Rossides,
Assistant Secretary
of the Treasury