

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Committee on Anti-Dumping Practices

INVENTORY OF REVIEW AND SUNSET CLAUSE
PROVISIONS IN THE LEGISLATION AND ADMINISTRATIVE
PROCEDURES OF PARTIES TO THE CODE

At its last meeting held on 21-24 October 1985 the Committee on Anti-Dumping Practices decided that the secretariat would circulate an inventory of review and sunset clause provisions which are contained in the legislation and administrative procedures of Parties to the Code (ADP/M/16, paragraphs 36-40)

Excerpts from the information notified by the Parties are reproduced below.

AUSTRALIA

Customs Tariff (Anti-Dumping) Act 1975
(ADP/1/Add.18, page 17)

Revocation of notices 20. (1) The Minister may, by notice published in the Gazette, revoke a notice published in pursuance of this Act and shall do so if he is satisfied that, if the notice were not in force, he would not be authorized by this Act to cause the notice to be published.

(2) A notice of revocation under sub-section (1) has effect from a date specified in the notice, which, except in the case of the revocation of a notice that directed the manner of ascertaining the amount of a special duty of Customs imposed by this Act, may be a date earlier than the date of publication of the notice of revocation in the Gazette.

(3) Upon the revocation of a notice that declared that a section of this Act applies to goods, the special duty on the goods ceases to be payable, and shall not be charged or collected on goods entered for home consumption on or after the date of effect of the notice of revocation.

Dumping and Countervailing Administrative Guidelines
(Division A5, Section 6)

- A5/6/1 Article 9 of the Anti-Dumping Code provides: "An anti-dumping duty shall remain in force only as long as, and to the extent necessary to counteract dumping which is causing injury." Investigating authorities "shall review the need for the continued imposition of duty, where warranted, on their own initiative or if any interested party so requests and submits positive information substantiating the need for review."
- A5/6/2 Article 7 of the Anti-Dumping Code provides that exporter undertakings "shall not remain in force any longer than anti-dumping duties could remain in force under this Code. The authorities of an importing country shall review the need for the continuation of any undertaking, where warranted, on their own initiative or if interested exporters or importers of the product in question so request and submit positive information substantiating the need for such review."
- A5/6/3 In accordance with its GATT obligations, the Department regularly reviews normal values and the continuing need for dumping duties or undertakings to remain in force.
- A5/6/4 Interested parties may at any time request reviews and should submit information substantiating the need for review.
- A5/6/5 Normal values and price undertaking levels are generally reviewed at six monthly intervals where there are continuing imports of the commodity from the gazetted source or where imports show an increase over the previous six months. See also A6/5/4 concerning reviews on request.
- A5/6/6
- (1) At the expiry of two years after a dumping gazettal an assessment is made as to the continued need for dumping gazettals to remain in force. If justified, enquiries are made with the Australian industry concerned to determine whether there is a foreseeable threat of the injury recurring if the measures are removed.
 - (2) Subsequent reviews, if necessary, are made at twelve monthly intervals.
 - (3) Pro forma letters to parties and associated ACN's are at Appendix A5:11.
- A5/6/7 Amended normal values or price undertaking levels resulting from reviews are promulgated in the Confidential Instructions or Dumping Commodities Register as appropriate.
- Procedures for revocation of dumping duties are outlined in Division 7 Section 3.

- A7/3/1 Customs Tariff (Anti-Dumping) Act, Section 20 provides that the Minister may revoke a notice imposing dumping or countervailing duty if he considers that anti-dumping or countervailing action is no longer warranted. Revocation must be by notice published in the Gazette - sample at Appendix A7:1.
- A7/3/2 The effective date of revocation will be specified in the notice published in the Gazette (sub-section 20(2)), and dumping or countervailing duty ceases to be payable on goods entered for home consumption on or after that date (sub-section 20(3)). Except where the Minister has directed that an amount of dumping or countervailing duty applies under section 8(5) or 10(5), the publication of the revocation notice (sub-section 20(2)).
- A7/3/3 Revocation will follow departmental review of dumping, subsidy and injury whereby it is established that the continuance of dumping or countervailing duty is not warranted. The review may be undertaken upon the request, or as part of the Department's continuing review programme. (See A7/1/1).
- A7/3/4 Prior to revocation of dumping or countervailing duty a meeting of parties may be convened to ensure that all interested parties have the opportunity to put their case and rebut opposing arguments.
- A7/3/5 In addition to a publication of the Minister's notice of revocation in the Gazette, the Department will notify revocation by Australian Customs Notice (ACN) and advise known interested parties including the government of the exporting country. State Collectors will also be advised by Dumping Commodities Register (DCR) and Confidential Instructions (CI's), to enable collection of dumping or countervailing duty to cease as directed.

AUSTRIA

Anti-Dumping Law 1985
(ADP/1/Add.10/Rev.1, page 12)

24. Decrees to clause 22, paragraph (1) enter into force the day following their publication and become ineffective at the latest one year after their publication. They shall be annulled immediately if the circumstances upon which they were based have ceased to exist, or they shall be changed immediately if the circumstances upon which they were based have substantially changed.

CANADA

Special Import Measures Act 1984

(ADP/1/Add.6/Rev.1, pages 14, 15, 16, 17, 32, 33, 34
35, 43, 44, 48, 50, 51, 52, 53, 58, 59, 66, 67, 68, 69)

Payment of Duty During Court Proceedings

Duty cases where order or finding set aside by court 9. (1) Where proceedings are commenced in the Federal Court of Appeal by an application under section 28 of the Federal Court Act to review and set aside an order or finding of the Tribunal pursuant to which duty is leviable, collectable and payable (in this section referred to as "payable") under this Act on goods imported into Canada that are of the same description as any goods to which the order or finding applies, duty continues, notwithstanding any order or decision that may be made or given in the course of the proceedings, to be so payable pursuant to the order or finding on imported goods of that description during the course of the proceedings and after they are finally disposed of, unless the final disposition of the proceedings is that the order or finding is set aside or is set aside in relation to particular goods, in which case

(a) duty ceases, on the final disposition of the proceedings, to be payable under this Act pursuant to the order or finding on imported goods of the same description as, and

(b) for greater certainty, the order or finding shall, for the purposes of this Act, be deemed never to have been made by the Tribunal in respect of

any goods to which the order or finding applied or the particular goods in relation to which the order or finding is set aside, as the case may be.

Definition of "proceedings" (2) In subsection (1), "proceedings", in relation to an application made to the Federal Court of Appeal, includes proceedings on any appeal from any decision of that court on the application.

Return of duty in certain circumstances where order or finding set aside 12. (1) Where, pursuant to an application under section 28 of the Federal Court Act, an order or finding described in any of sections 3 to 6 is set aside or is set aside in relation to particular goods and all proceedings under this Act respecting the dumping or subsidizing of all or any of the goods to which the order or finding that is set aside applies or all or any of the goods in relation to which the order or finding is set aside, as the case may be, are subsequently terminated as described in section 47, any duty paid under this Act pursuant to the order or finding by an importer on imported goods that are of the same description as goods with respect to which such proceedings are so terminated shall be returned to the importer forthwith after the proceedings are so terminated.

Return of
duty

(2) Where the Minister is satisfied that, because of a clerical or arithmetical error, an amount has been paid as duty in respect of goods that was not properly payable, the Minister shall return that amount to the importer or owner of the goods by or on whose behalf it was paid.

Idem

(3) Where, in relation to the importation of any goods and as a consequence of the operation of any provision of this Act, duty is paid or security posted by or on behalf of a person who, at the time the duty is paid or security posted, is considered by customs to be the importer in Canada of the goods and it is subsequently ruled by the Tribunal that the person was not the importer in Canada of the goods, the duty so paid or security so posted shall be returned to the person forthwith after the Tribunal's ruling is made.

Where
Tribunal
makes new
order or
finding

13. Where, pursuant to subsection 91(3), the Tribunal rescinds an order or finding with respect to goods and makes another order or finding with respect to the goods,

(a) the other order or finding shall be deemed, for the purposes of this Act, to have been made on the date that the order of finding so rescinded was made; and

(b) any duty paid by or on behalf of any person as a consequence of the order of finding so rescinded shall, except to the extent of any duty payable by the person as a consequence of the other order or finding, be returned to the person forthwith after the other order or finding is in fact made.

14. The Governor in Council may, on the recommendation of the Minister of Finance, make regulations exempting any goods or class of goods from the application of this Act.

Where
Deputy
Minister
decides
not to
initiate
investi-
gation

33. (1) Where, after receipt of a properly documented written complaint respecting the dumping or subsidizing of goods, the Deputy Minister decides, with respect to some or all of the goods specified in the complaint, not to cause an investigation to be initiated, he shall cause a written notice of his decision, setting out the reasons therefor, to be sent to the complainant and, in the case of subsidized goods, to the government of the country of export.

Reference
to
Tribunal

(2) Where, after receipt of a properly documented written complaint respecting the dumping or subsidizing of goods, the Deputy Minister decides, with respect to some or all of the goods specified in the complaint, not to cause an investigation to be initiated by reason only that in his opinion the evidence does not disclose a reasonable indication that the dumping or subsidizing of the goods in respect of which he has so decided has caused, is causing or is likely to cause material injury or has caused or is causing retardation,

(a) the Deputy Minister may, on the date of the notice referred to in subsection (1), or

(b) the complainant may, within thirty days after the date of the notice referred to in subsection (1),

refer to the Tribunal the question whether the evidence discloses a reasonable indication that the dumping or subsidizing of the goods in respect of which the Deputy Minister has so decided has caused, is causing or is likely to cause material injury or has caused or is causing retardation.

Notice of
investiga-
tion and
referral to
Tribunal

34. Where the Deputy Minister causes an investigation to be initiated respecting the dumping or subsidizing of goods,

(a) in the case of an investigation initiated pursuant to any provision of this Act other than section 7, the Deputy Minister shall cause notice of the investigation

(i) to be given to the exporter, the importer, the government of the country of export, the complainant, if any, and such other persons as may be prescribed, and

(ii) to be published in the Canada Gazette; and

(b) in the case of an investigation initiated pursuant to subsection 31(1), the Deputy Minister may, on the date of the notice given to the complainant pursuant to paragraph (a), or any person or government that was given notice pursuant to paragraph (a) may, within thirty days from the date of the notice, refer to the Tribunal the question whether the evidence discloses a reasonable indication that the dumping or subsidizing of any goods in respect of which the Deputy Minister has caused the investigation to be initiated has caused, is causing or is likely to cause material injury or has caused or is causing retardation.

Termination
of investi-
gation

35. (1) Where, at any time before making a preliminary determination in an investigation respecting the dumping or subsidizing of goods,

(a) the Deputy Minister is satisfied in respect of some or all of such goods that

(i) there is insufficient evidence of dumping or subsidizing to justify proceeding with the investigation in relation thereto, or

(ii) the margin of dumping of or the amount of the subsidy on the goods or the actual or potential volume of dumped or subsidized goods is negligible, or

(b) in the case of an investigation initiated pursuant to subsection 31(1) with respect to which a reference has not been made to the Tribunal pursuant to paragraph 34(b), the Deputy Minister comes to the conclusion in respect of some or all of such goods that the evidence does not disclose a reasonable indication that the dumping or subsidizing thereof has caused, is causing or is likely to cause material injury or has caused or is causing retardation,

the Deputy Minister shall, subject to subsections (2) and (3),

(c) cause the investigation to be terminated with respect to the goods in respect of which he is so satisfied or has come to such conclusion, and

(d) cause notice of such termination to be given and published as provided in paragraph 34(a).

Notice and reference to Tribunal prior to termination

(2) Where, in the case of an investigation described in paragraph (1)(b) respecting the dumping or subsidizing of goods, the Deputy Minister comes to the conclusion referred to in that paragraph in respect of some or all of such goods,

(a) the Deputy Minister shall cause notice of his conclusion to be given and published as provided in paragraph 34(a); and

(b) the Deputy Minister may, on the date of the notice given to the complainant pursuant to paragraph (a), or any person or government that was given notice pursuant to paragraph (a) may, within thirty days from the date of the notice, refer to the Tribunal the question whether the evidence discloses a reasonable indication that the dumping or subsidizing of the goods in respect of which the Deputy Minister has come to that conclusion has caused, is causing or is likely to cause material injury or has caused or is causing retardation.

Limitation on termination

(3) Where notice is given pursuant to paragraph (2)(a) in an investigation, the Deputy Minister may not terminate the investigation with respect to the goods to which the notice relates by reason only that he has come to the conclusion referred to in paragraph (1)(b) in respect of those goods,

(a) where no reference is made to the Tribunal pursuant to paragraph (2)(b) within the thirty days referred to in that paragraph, until the thirty days have expired; or

(b) where such a reference is made to the Tribunal, unless and until the Tribunal advises that in its opinion the evidence does not disclose a reasonable indication that the dumping or subsidizing of the goods has caused, is causing or is likely to cause material injury or has caused or is causing retardation.

Where imposition of duty not in public interest

45. (1) Where, as a result of an enquiry referred to in section 42 arising out of the dumping or subsidizing of any goods, the Tribunal makes an order or finding described in any of sections 3 to 6 with respect to those goods and the Tribunal is of the opinion that the imposition of an anti-dumping or countervailing duty, or the imposition of such a duty in the full amount provided for by any of those sections, in respect of the goods would not or might not be in the public interest, the Tribunal shall, forthwith after making the order or finding,

(a) report to the Minister of Finance that it is of such opinion and provide him with a statement of the facts and reasons that caused it to be of that opinion; and

(b) cause a copy of the report to be published in the Canada Gazette.

Persons interested may make representations

(2) Where any person interested in an enquiry referred to in subsection (1) makes a request to the Tribunal for an opportunity to make representations to the Tribunal on the question whether the Tribunal should, if it makes an order described in any of sections 3 to 6 with respect to any goods in respect of which the

enquiry is being made, make a report pursuant to paragraph (1)(a) with respect to those goods, the Tribunal shall afford such person an opportunity to make representations to the Tribunal on that question orally or in writing, or both, as the Tribunal directs in the case of that enquiry.

Review and renewal of undertaking by Deputy Minister 53. (1) The Deputy Minister shall review an undertaking before the expiration of three years from the date on which he accepted it and before the expiration of each subsequent period, if any, for which he renews it pursuant to this section and if, on any such review, he is satisfied

(a) that the undertaking continues to serve the purpose for which it was intended, and

(b) that he is not required to terminate it under section 52, he shall renew the undertaking for a further period of not more than three years.

Expiration of undertaking (2) An undertaking that is not renewed for a further period pursuant to a review under subsection (1) expires at the end of the period before the expiration of which the review was required to be made.

Expiration terminates all proceedings (3) Where an undertaking expires by reason of subsection (2), the expiration terminates all proceedings under this Act respecting the dumping or subsidizing of the goods to which the undertaking relates, unless, in any case where the Deputy Minister has accepted two or more undertakings, the Deputy Minister, for good reason, otherwise directs.

Notice of renewal or expiration (4) Where an undertaking is renewed pursuant to subsection (1) or expires by reason of subsection (2), the Deputy Minister shall cause notice of such renewal or expiration, as the case may be, to be given and published as provided in paragraph 34(a) and filed with the Secretary.

Review by Dominion customs appraiser 57. A Dominion customs appraiser may re-determine any determination referred to in subsection 56(1),

(a) in accordance with a request made pursuant to subsection 56(1), or

(b) in any case where he deems it advisable, within two years after the release of the goods to which the determination applies,

unless the Deputy Minister has previously redetermined the determination to section 59.

Review by Deputy Minister 58. A determination or redetermination by a Dominion customs appraiser pursuant to section 55, 56 or 57 with respect to any imported goods is final and conclusive unless the importer, after having paid all duties owing on the goods and within ninety days after the date of the determination or redetermination, makes a written request in the prescribed form to the Deputy Minister for a redetermination.

Redeter-
mination

59. The Deputy Minister may redetermine any determination or redetermination referred to in section 55, 56 or 57 made by a Dominion customs appraiser or other customs official in respect of any imported goods

- (a) in accordance with a request made pursuant to section 58;
- (b) at any time, if the importer or exporter has made an misrepresentation or committed a fraud in obtaining release of the goods;
- (c) at any time, if subsection 2(6) or section 26 applies or at any time becomes applicable in respect of the goods;
- (d) at any time, for the purpose of giving effect to a decision of the Tariff Board, the Federal Court of Canada or the Supreme Court of Canada with respect to the goods; and
- (e) in any case where he deems it advisable, within two years after the release of the goods to which the determination referred to in section 55 or subsection 56(1), as the case may be, applies if he has not previously made a redetermination with respect to the goods pursuant to any of paragraphs (a) to (d).

Appeal to Tariff Board

Appeal to
the Tariff
Board

61. (1) A person who deems himself aggrieved by a redetermination of the Deputy Minister made pursuant to section 59 with respect to any goods may appeal therefrom to the Tariff Board by filing a notice of appeal in writing with the Deputy Minister and the secretary of the Tariff Board within ninety days after the day on which the redetermination was made.

Publica-
tion of
notice of
appeal

(2) Notice of the hearing of an appeal under subsection (1) shall be published in the Canada Gazette at least twenty-one days prior to the day of the hearing, and any person who on or before that day enters an appearance with the Secretary of the Tariff Board may be heard on the appeal.

Order or
finding of
the Board

(3) On any appeal under subsection (1), the Tariff Board may make such order or finding as the nature of the matter may require and, without limiting the generality of the foregoing, may declare what duty is payable or that no duty is payable on the goods with respect to which the appeal was taken and an order, finding or declaration of the Tariff Board is final and conclusive subject to further appeal as provided in section 62.

Appeal to Federal Court of Canada

Appeal to
Federal
Court on
question
of law

62. (1) Any of the parties to an appeal under section 61, namely,

- (a) the person who appealed,
- (b) the Deputy Minister, or
- (c) any person who entered an appearance in accordance with subsection 61(2), if he has a substantial interest in the appeal and has obtained leave from the Court or a judge thereof,

may, within ninety days after the making of an order or finding under subsection 61(3), appeal therefrom to the Federal Court of Canada on any question of law.

Disposi-
tion of
appeal

(2) The Federal Court of Canada may dispose of an appeal by making such order or finding as the nature of the matter may require and, without limiting the generality of the foregoing, may

(a) declare what duty is payable or that no duty is payable on the goods with respect to which the appeal to the Tariff Board was taken; or

(b) refer the matter back to the Tariff Board for re-hearing.

Finality and Review of Orders and Findings

Orders and
findings
of Tribunal
final

76. (1) Subject to this section and paragraph 91(1)(g), every order or finding of the Tribunal is final and conclusive.

Review of
orders by
Tribunal
and
rehearing

(2) At any time after the making of an order or finding described in any of sections 3 to 6, the Tribunal may, on its own initiative or at the request of the Deputy Minister or any other person or of any government, review the order or finding and, in the making of such review, may rehear any matter before deciding it.

Idem

(3) The Tribunal shall not initiate any review pursuant to subsection (2) at the request of any person or government unless such person or government satisfies the Tribunal that initiation of the review is warranted.

Order or
finding
to be
rescinded
or con-
tinued

(4) Where the Tribunal reviews an order or finding pursuant to subsection (2), the Tribunal shall, on completion of the review, make an order rescinding the order or finding or continuing it with or without amendment, as the circumstances require.

Order or
finding
deemed
to be
rescinded

(5) Where the Tribunal has not initiated a review pursuant to subsection (2) with respect to an order or finding before the expiration of five years after

(a) if no order continuing the order or finding has been made pursuant to subsection (4), the day on which the order or finding was made, or

(b) if one or more orders continuing the order or finding have been made pursuant to subsection (4), the day on which the last such order was made,

the order or finding shall be deemed to have been rescinded as of the expiration of such five years.

Ruling on Who is Importer

Request for ruling on who is importer in Canada 89. (1) Where a question arises or is raised as to which of two or more persons is, for the purposes of this Act, the importer in Canada of goods imported or to be imported into Canada on which duty is payable or has been paid or will be payable if the goods are imported, the Deputy Minister may, and at the request of any person interested in the importation of the goods shall, request the Tribunal for a ruling on that question, unless, in the case only of goods that have been imported into Canada,

(a) a determination has been made pursuant to section 55 or subsection 56(1) with respect to the goods; and

(b) more than ninety days have elapsed since the determination referred to in paragraph (a) was made.

Idem (2) Where the Deputy Minister makes a request under subsection (1) for a ruling on the question referred to therein, the Deputy Minister shall

(a) state in the request which of the two or more persons he believes is the importer in Canada of the goods;

(b) if any of the goods is of the same description as the goods specified in a preliminary determination made in an investigation that was initiated pursuant to section 31 and is still continuing, so state in the request;

(c) provide the Tribunal with such information as he considers will be useful to it in considering the question and with such other information as the Tribunal may request; and

(d) give notice of his request to such persons as the rules of the Tribunal require or as the Tribunal may require.

Investigation deemed to continue (3) Where, in any investigation, the Deputy Minister makes a final determination of dumping or subsidizing under subsection 41(1) in respect of any goods, the investigation shall, for the purpose of paragraph 89(2)(b), be deemed to continue until such time as the Tribunal makes an order or finding in respect of the goods.

Rules 91. (1) Where

(a) a request is made to the Tribunal pursuant to subsection 89(1) for a ruling on the question referred to therein,

(b) a statement pursuant to paragraph 89(2)(b) is made in the request, and

(c) the Tribunal's ruling on the question is that the importer in Canada of the goods is a person other than the person specified as such by the Deputy Minister pursuant to paragraph 89(2)(a),

the following rules apply:

(d) as soon as possible after the Tribunal gives its ruling on the question, the Deputy Minister shall

(i) reconsider any final determination of dumping or subsidizing made pursuant to subsection 41(1) with respect to

the goods specified in the preliminary determination and shall confirm the final determination rescind it or make amendments to it, as is appropriate in the circumstances,

(ii) cause notice of the action taken by him pursuant to subparagraph (i) to be given to prescribed persons and governments, published in the Canada Gazette and filed with the Secretary in writing in;

(e) where Deputy Minister rescinds a final determination pursuant to paragraph (d), section 41 shall again apply in respect of the goods to which the final determination applied as if that section had not previously applied in respect of those goods, except that the action that the Deputy Minister is required by that section to take shall, notwithstanding anything therein, be taken by him within sixty days after the Tribunal gives its ruling on the question;

(f) where the Deputy Minister has caused the investigation referred to in paragraph 89(2)(b) to be terminated pursuant to subsection 41(1) with respect to the goods specified in the preliminary determination, the Tribunal shall be deemed to have directed the Deputy Minister, by notice in writing pursuant to section 46, to cause an investigation to be initiated respecting the dumping or subsidizing of those goods and the Deputy Minister shall, pursuant to subsection 31(2), forthwith cause such an investigation to be commenced; and

(g) the Tribunal may, on its own initiative or at the request of the Deputy Minister or any person interested but subject to subsection (2) reconsider, under the authority of this paragraph, any order or finding made by it in the enquiry referred to in paragraph 90(c) and, in so reconsidering, may rehear any matter before deciding it.

Limitation on reconsideration of order or finding (2) The Tribunal shall not commence reconsideration of an order or finding under the authority of paragraph (1)(g)

(a) later than ninety days after the making of the ruling on the question referred to in paragraph (1)(a); or

(b) at the request of any person unless such person satisfies the Tribunal that reconsideration of the order or finding is warranted.

Completion of reconsideration (3) Where the Tribunal reconsiders an order or finding under the authority of paragraph (1)(g)

(a) the Tribunal shall complete the reconsideration forthwith and, in any event, not later than ninety days after the day on which it decides to commence it and, on completion thereof, shall confirm the order or finding or rescind it and make such other order or finding with respect to the goods to which the order or finding under reconsideration applies as the nature of the matter may require, and, where it makes another order or finding, shall declare to what goods, including, where applicable, from what supplier and from what country of export, the order or finding applies; and

(b) the Secretary shall forward by registered mail to the Deputy Minister, the importer, the exporter and such other persons and governments as may be specified by the rules of the Tribunal

(i) forthwith after the reconsideration is completed, notice of the action taken pursuant to paragraph (a) with respect to the other or finding and, where another order or finding has been made pursuant to that paragraph, a copy of such other order or finding, and

(ii) not later than fifteen days after the completion of the reconsideration, a copy of the reasons for the action taken thereon.

EEC

Council Regulation (EEC) No. 2176/84
(ADP/1/Add.1/Suppl.3, pages 14, 15)

Article 14

Review

1. Regulations imposing anti-dumping or countervailing duties and decisions to accept undertakings shall be subject to review, in whole or in part, where warranted.

Such review may be held either at the request of a member State or on the initiative of the Commission. A review shall also be held where an interested party so requests and submits evidence of changed circumstances sufficient to justify the need for such review, provided that at least one year has elapsed since the conclusion of the investigation. Such requests shall be addressed to the Commission which shall inform the member States.

2. Where, after consultation, it becomes apparent that review is warranted, the investigation shall be re-opened in accordance with Article 7, where the circumstances so require. Such re-opening shall not per se affect the measures in operation.

3. Where warranted by the review, carried out either with or without re-opening of the investigation, the measures shall be amended, repealed or annulled by the Community institution competent for their introduction. However, where measures have been taken under the transitional provisions of an Act of Accession the Commission shall itself amend, repeal or annul them and shall report this to the Council; the latter may, acting by a qualified majority, decide that different action be taken.

Article 15

1. Subject to the provisions of paragraph 2, anti-dumping or countervailing duties and undertakings shall lapse after five years from the date on which they entered into force or were last modified or confirmed.

2. The Commission shall normally, after consultation and within six months prior to the end of the five year period, publish in the Official Journal of the European Communities a notice of the impending expiry of the measures in question and inform the Community industry known to the concerned. This notice shall state the period within which interested parties may make known their views in writing and may apply to be heard orally by the Commission in accordance with Article 7(5).

Where an interested party shows that the expiry of the measure would lead again to injury or threat of injury, the Commission shall carry out a review of the measure. The measure shall remain in force pending the outcome of this review.

Where anti-dumping or countervailing duties and undertakings lapse under this Article the Commission shall publish a notice to that effect in the Official Journal of the European Communities.

3. Existing anti-dumping or countervailing duties and undertakings shall not lapse under this Article before 1 July 1985.

Commission Decision (ECSC) No. 2177/84
(ADP/1/Add.1/Suppl.3, pages 30, 31)

Article 14

Review

1. Recommendations and Decisions imposing anti-dumping or countervailing duties and decisions to accept undertakings shall be subject to review, in whole or in part, where warranted. Such review may be held either at the request of a member State or on the initiative of the Commission. A review shall also be held where an interested party so requests and submits evidence of changed circumstances sufficient to justify the need for such review, provided that at least one year has elapsed since the conclusion of the investigation. Such requests shall be addressed to the Commission which shall inform the member States.

2. Where, after consultation, it becomes apparent that review is warranted, the investigation shall be re-opened in accordance with Article 7, where the circumstances so require. Such re-opening shall not per se affect the measures in operation.

3. Where warranted by the review, carried out either with or without re-opening of the investigation, the measures shall be amended, repealed or annulled by the Commission.

Article 15

1. Subject to the provisions of paragraph 2, anti-dumping or countervailing duties and undertakings shall lapse after five years from the date on which they entered into force or were last modified or confirmed.

2. The Commission shall normally, after consultation and within six months prior to the end of the five year period, publish in the Official Journal of the European Communities a notice of the impending expiry of the measure in question and inform the Community industry known to be concerned. This notice shall state the period within which interested parties may make known their views in writing and may apply to be heard orally by the Commission in accordance with Article 7(5). Where an interested party shows that the expiry of the measure would lead again to injury or threat of injury the Commission shall carry out a review of the measure. The measure shall remain in force pending the outcome of this review.

Where anti-dumping or countervailing duties and undertakings lapse under this Article the Commission shall publish a notice to that effect in the Official Journal of the European Communities.

3. Existing anti-dumping or countervailing duties and undertakings shall not lapse under this Article before 1 July 1985.

FINLAND

Act on the Prevention of Dumping and
Subsidized Imports
(ADP/1/Add.5, page 7)

Article 17

If it is proven that conditions for the imposition of an anti-dumping or a countervailing duty have changed or ceased to exist, the Ministry of Finance shall alter the duty accordingly or abolish it.

If, when an anti-dumping or a countervailing duty is imposed on the products of several suppliers or on products imported from several countries, the importer later can prove that the duty collected from him exceeds the difference between normal value and export price or the amount of the export subsidy, the Ministry of Finance shall upon request determine that the excess amount is repaid to the importer. Such a request must be made not later than two years after the customs clearance of the products.

UNITED STATES

Title VII of the Tariff Act of 1930
(Countervailing and Anti-Dumping Duties)
(ADP/1/Add.3/Rev.2, pages 42, 43, 44)

Subtitle C - Reviews; Other Actions
Regarding Agreements

CHAPTER 1 - REVIEW OF AMOUNT OF DUTY AND AGREEMENTS
OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

(a) Periodic Review of Amount of Duty -

(1) In general. - At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an anti-dumping duty order under this title or a finding under the Anti-Dumping Act 1921, or a notice of the suspension of an investigation, the administering authority if a request for such a review has been received and after publication of notice of such review in the Federal Register, shall -

(A) review and determine the amount of any net subsidy,

(B) review, and determine (in accordance with paragraph (2)), the amount of any anti-dumping duty, and

(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net subsidy or margin of sales at less than fair value involved in the agreement,

and shall publish the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed in the Federal Register.

(2) Determination of anti-dumping duties. - For the purpose of paragraph (1)(B), the administering authority shall determine -

(A) the foreign market value and United States price of each entry of merchandise subject to the anti-dumping duty order and included within that determination, and

(B) the amount, if any, by which the foreign market value of each such entry exceeds the United States price of the entry,

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of anti-dumping duties in the Federal Register, and that determination shall be the basis for the assessment of anti-dumping duties on entries of the merchandise included within the determination and for deposits of estimated duties.

(b) Review Upon Information or Request. -

(1) In general. - Whenever the administering authority or the Commission receives information concerning, or a request for the review of, an agreement accepted under section 704 (other than a quantitative restriction agreement described in subsection (c) (2) or (c) (3)) or 734 (other than a quantitative restriction agreement described in subsection (a) (2)), 705 (a), 705 (b), 734 (h) (2), 735 (a), 735 (b), 762 (a) (1), or 762 (a) (2), which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the Federal Register. In reviewing its determination under section 704 (h) (2) or 734 (h) (2), the Commission shall consider whether, in the light of changed circumstances, an agreement accepted under section 704 (c) or 734 (c) continues to eliminate completely the injurious effects of imports of the merchandise. During an investigation by the Commission, the party seeking revocation of an anti-dumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the anti-dumping order.

(2) Limitation on period for review. In the absence of good cause shown -

(A) the Commission may not review a determination under section 705 (b), and

(B) the administering authority may not review a determination under section 705 (a) or 735 (a), or the suspension of an investigation under section 704 or 734,

less than 24 months after the date of publication of notice of the determination or suspension.

(c) Revocation of Countervailing Duty Order or Anti-Dumping Order. - The administering authority may revoke, in whole or in part, a countervailing duty order or an anti-dumping duty order, or terminate a suspended investigation, after review under this section. The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received. Any such revocation or termination shall apply with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after a date determined by the administering authority.

(d) Hearings. - Whenever the administering authority or the Commission conducts a review under this section it shall, upon the request of any interested party, hold a hearing in accordance with section 774 (b) in connection with that review.

(e) Determination that Basis for Suspension no Longer Exists. - If the determination of the Commission under the last sentence of subsection (b) (1) is negative, the agreement shall be treated as not accepted, beginning on the date of the publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.