

Import Administration Policy Bulletin

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Statement of Issue

Conditions under which the Department may expedite an antidumping duty investigation.

Analysis

The antidumping law requires the Department to make a final determination within 235 days after the filing of a petition, except where circumstances permit the extension of certain time limits. Specifically, the law requires the Department to initiate an investigation within 20 days of the filing of a proper petition, to make a preliminary determination within 140 days after initiation, and to make a final determination within 75 days after the preliminary determination (emphasis added). (See sections 732(c), 733(b) and 735(a) of the Tariff Act of 1930, as amended (the Act).) Under the maximum permitted extensions of the time limits for the initiation and the preliminary and final determinations, a final determination may be issued up to approximately 365 days after the petition was filed. There is no minimum period for the completion of antidumping investigations. (1)

In extraordinary circumstances, the Department may determine that it is necessary to expedite an investigation and complete it sooner than the initial deadlines provided in the Act. For example, in response to the tremendous surge of steel imports in 1998, the Department expedited a number of antidumping investigations on steel products by completing the preliminary determinations weeks earlier than the time limits prescribed by the Act.

Expediting antidumping investigations is difficult and resource intensive. In the period between initiation and the preliminary determination, the Department must select respondents, compile and serve the questionnaire, analyze questionnaire responses, draft supplemental questionnaires, perform margin calculations, and draft the decision memoranda and Federal Register notice, as in any other investigation. In order to ensure that parties are not prejudiced by a decision to expedite an investigation, the Department recognizes that any compression of the investigation schedule must be based on compression of the Department's

time for performing its work. Moreover, because an expedited investigation must be completed concurrently with other case work, an investigation should be expedited only in the most extraordinary of circumstances. In order to clarify those situations in which the Department may consider expediting an investigation, we are setting forth the following criteria that must be addressed when requesting the Department to expedite a case.

The Department will consider expediting an investigation upon receiving, concurrently with the filing of the petition, a request from the petitioner addressing the factors cited in this policy bulletin. The factors are as follows:

1. Surge in Imports

This is the most critical factor to consider when deciding whether to expedite an investigation. We will consider evidence of an extraordinary import surge during a period prior to the filing of the petition. The surge must be at very high levels relative to a similar period immediately prior to the surge and/or to the same periods of the year over the preceding two years. If seasonal products are involved, we will consider surges relative to the prior seasonal periods.

The surge must be unusually high for the product and the particular country which is the subject of the petition. A petition may be filed on imports from multiple countries and the import data may indicate that a surge exists when taking into account all imports from those countries combined. However, if the data indicate that there is no surge with respect to imports from any particular country, the Department may decide not to expedite the investigation of that country and only expedite the investigation of those countries that are the source of the surge in imports.

2. Import Penetration

The Department also will take into account the level of imports of the merchandise from countries against which the petition was filed compared to total domestic consumption of the like product. In addition to an absolute surge in imports, the request must include information showing that the import surge led to an increase in import penetration, and that the level of imports represents a substantial volume relative to domestic production, if the data are available.

3. Magnitude of the Initiation Dumping Margins and Import Price Declines

Obviously, a determination of whether a dumping margin is unusually high must be made on a case-by-case basis. However, the greater the initiation dumping margins, the stronger the contention that an expedited investigation is warranted.

We will also consider available evidence as to the magnitude of recent declines in import prices. Severely declining prices may be indicative of a deteriorating situation warranting expedited action.

4. Prior Dumping

The Department will take into account whether there are prior determinations of dumping the same product or same general product category of merchandise from the subject country in the United States or other countries.

Once the Department determines that it will expedite an investigation, it will develop a schedule for the investigation and make it available to all interested parties. Attached as an example is the [expedited schedule](#) that was used in the recent antidumping investigations of hot-rolled flat-rolled carbon-quality steel products from Brazil, Japan, and Russia.

The reason for expediting an investigation is to provide relief as soon as possible to an industry in the United States that is faced with an extraordinary situation, based on the factors outlined above. A decision to expedite an investigation in no way implies that the Department has prematurely concluded that a party is guilty of dumping, a decision that can only be made based upon the facts developed during the proceeding.

The preliminary determination is the earliest point in an investigation where relief is given - in the form of suspension of liquidation and collection of duty deposits or the posting of a bond. Therefore, the portion of the investigation that will be expedited will be that period prior to the preliminary determination.

Once the Department publishes its preliminary determination, the Act provides just 75 days to make a final determination. (2) During those 75 days, the Department normally must issue verification outlines, conduct verification, write verification reports, receive case and rebuttal briefs from the interested parties, hold a public hearing, if one is requested, analyze all comments, and make its final determination. Given the amount of work that must be performed in the allotted amount of time, normally we will not make our final determinations any earlier than 75 days after the publication of the preliminary determination.

If, during the course of the investigation, it becomes apparent that, due to the complexity of the case and difficulties that may arise, the Department cannot meet the expedited deadlines, it retains the discretion to alter the deadlines as it deems necessary, consistent with the statutory and regulatory deadlines.

Statement of Policy

If the facts of the case warrant it, the Department, upon request and consideration of support provided by the petitioner, may expedite an antidumping investigation.

Implementation

This policy will be implemented in all future cases where the Department determines that extraordinary circumstances exist that warrant expediting the schedule for an investigation and the Department's resources permit such a schedule.

footnotes:

1. Section 733(d) (2) of the Act, however, provides that if a preliminary determination of dumping is made, suspension of liquidation may not cover entries made less than 60 days after the date of publication of the notice of initiation in the Federal Register, unless there is also an affirmative finding of critical circumstances.

2. Section 735(a) (2) of the Act provides that the Department may postpone the final determination until 135 days after publication of the preliminary determination upon request by either exporters who account for a significant proportion of exports of the subject merchandise when the preliminary determination is affirmative, or by the petitioner, when the preliminary determination is negative. This policy bulletin does not alter the manner in which such postponements may be requested or granted.