

DEPARTMENT OF COMMERCE

International Trade Administration

Policy Statement Regarding Issuance of *Ex-Parte* Memoranda

AGENCY: Import Administration, International Trade Administration,  
Department of Commerce.

EFFECTIVE DATE: February 13, 2001

SUMMARY: The Department of Commerce ("the Department") has revised its policy regarding issuance of *ex-parte* memoranda. We are now announcing this change in policy.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482-1275.

SUPPLEMENTARY INFORMATION:

In Nippon Steel Corp. v. United States, 118 F. Supp. 2d 1366, 1374 (CIT 2000), the Court of International Trade held that the Department's implementation, in the underlying antidumping duty investigation, of the *ex-parte* memoranda provision of its statute constituted a violation of that statute. The Department acknowledges that the *ex-parte* memoranda in that proceeding contained inadequate information and were not timely placed on the record. In order to assure better compliance with this provision, the following policy statement was issued to all Import Administration staff. In addition, the Office of the Under Secretary for International Trade and the Office of the Secretary were notified.

POLICY STATEMENT ON *EX-PARTE* MEMORANDA:

All Import Administration staff are instructed that *ex-parte* memoranda required by Section 777(a)(3) of the Act will be drafted expeditiously in all cases, reviewed by a person in attendance at the meeting, and placed in the record as soon as possible, so that parties may comment effectively on the factual matters presented. The memoranda are required whether or not the factual information received was received previously, is expected to be received later in the proceeding, or is expected to be used or relied on. This statutory provision is included below.

## **Ex parte meetings**

**The administering authority and the Commission shall maintain a record of any *ex-parte* meetings between --**

**(A) interested parties or other persons providing factual information in connection with a proceeding, and**

**(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting. The record of such an *ex-parte* meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the *ex-parte* meeting shall be included in the record of the proceeding.**

This policy statement will also be made available on the Department's website at <https://enforcement.trade.gov/policy/>. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

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Bernard T. Carreau  
Deputy Assistant Secretary  
Import Administration

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Date