

U.S. Treasury Regulations:

Paragraph 14.7 follows priorities set out in U.S. law with exception that section 14.7 (a)(2) of the Treasury Regulations focuses exclusively on inadequacy of quantities without mentioning other factors such as absence of sales or offers for sales in the principal markets .. in the usual wholesale quantities .. in the ordinary course of trade.

S. 1726 (90th Congress):Third Country Sales

The Bill would specify that the exporter's home market will be the basis for determining foreign market value so long as at least one vendor's sales of like merchandise in the home market account for 15% or more of his total sales, excluding sales to the U.S. This provision would greatly reduce the number of instances in which third country markets are used as the basis for determining foreign market value. Section: 4 [205 (a) (1)].

If no such vendor can be found, resort is to sales in country which is the largest consumer of the vendor's sales. Sec. 4 [205 (a) (2)].

In absence of proof of sales at a different price, foreign market value is presumed to be sellers' list or published price. Sec. 4 [205 (a)].

Comments:

U. S. law has definite priorities for using sales in exporter's home market, third countries, and then constructed value, while Article 2 (d) of International Antidumping Code would allow resort to either third country sales or constructed value once sales in exporter's home market were found not to permit a proper comparison. Thus, for the U.S. authorities to follow the GATT, a change in U.S. law would seem to be required. However, Treasury might try to get around this by not going to constructed value before third country sales, or by claiming that third country sales were insufficient or inadequate before using constructed value.

The requirements of third country price to be the highest but representative price is permissive. (Also, U.S. has already subscribed to those portions of Article VI of GATT not in conflict with U.S. law.)

The ability to use sellers' list or published prices contained in S. 1726 was not covered in the Code.