

S. 1726 (90th Congress):Circumstances of Sale:

The Bill would specify that due allowance shall be made for other differences in circumstances of sale affecting the cost of doing business to the extent that such differences were actually considered and taken into account by the vendor in establishing his price. This attempts to get at the realities of the transactions and to discourage sham manipulations and theories developed after-the-fact as spurious defenses to thwart Treasury's administration of the Act. Section: 2 [202(b)(2) and (c)(2)].

Quantity Discounts:

Must reflect differences in costs resulting from different wholesale quantities actually considered and taken into account in setting price. Section: 2 [202(b)(1) and (c)(1)].

Usual Wholesale Quantities:

The level of trade in general is those quantities at which offered for sale and sold in the ordinary course of trade to wholesale purchasers, but excluding wholesale quantities offered for sale or sold at quantity discounts only available to selected or preferred purchasers, all transactions between related parties, and exclusive dealing arrangements. Section: 7(1)

Comment:

The real infighting in an antidumping case involves the allowances for differences affecting price comparability. Sizeable dumping margins may be reduced to de minimis or even explained away completely. U.S. industry has been aiming for more specific regulations which would pin down the application of factors affecting comparability. S. 1726 would add the principle that such factors must have actually been considered by the vendor and taken into account in setting his price. On the other hand, there must be a possibility for weeding out exclusive dealing arrangements, preferential quantity discounts, and transactions between related parties if price-rigging for purposes of avoiding dumping is to be dealt with effectively. Conceivably, Treasury could now say that a number of the more specific provisions in U.S. law and regulations are not covered by Art. 2 (f) and therefore invalid. Article 2 (f), for example, contains no provision such as in Sec. 212(4) of U.S. law which requires the products in the greater aggregate volume to be the basis for finding "usual wholesale quantities."