[Dismissal of Insubstantial Complaints]

International Antidumping Code:

5 (c) An application shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There should be immediate termination in cases where the margin of dumping or the volume of dumped imports, actual or potential, or the injury is negligible.

Antidumping Act, 1921, As Amended:

No comparable provision.

U.S. Treasury Regulations:

Under Section 14.6 (d) (1) the Commissioner of Customs can close a case after conducting a summary investigation to determine if the merchandise is not being and is not likely to be imported in more than insignificant quantities.

S. 1726 (90th Congress):

Where no evidence to support a dumping complaint is found from a particular source, the Secretary can dismiss the complaint within 15 days. Section: 6 [212(b)].

Furthermore, where complaints have been consolidated in a single antidumping proceeding, the Secretary may prepare and publish a proposed negative dumping determination as to a country or countries whose exports to the U.S. are found not to be dumped, rather than wait until the preparation and publication of any proposed affirmative dumping determination Section: 6 [212(c)].

Failure to dismiss complaint would not cause automatic withholding of appraisement.

Comment:

Section 14.6 (d) (1) of the Treasury Regulations has no specific basis in the present Antidumping Act, 1921, as amended. Because the Tariff Commission only gets into the antidumping picture after the Treasury has found dumping--the Commission never sees "the ones that got away". It might be claimed that any residual administrative power regarding injury rests with the Secretary of Treasury, particularly insofar as before 1954 the Treasury could dismiss a case on the basis of either no dumping or no injury.