

[Preliminary Determinations]

International Antidumping Code:

6 (i) The provisions of this Article shall not preclude the authorities from reaching preliminary determinations, affirmative or negative, or from applying provisional measures expeditiously. In cases in which any interested party withholds the necessary information, a final finding, affirmative or negative, may be made on the basis of the facts available.

U.S. Treasury Regulations:

Section 14.6 (d) (ii) allows the Commissioner of Customs to "conduct a brief preliminary investigation" and still "promptly" decide whether reasonable grounds exist to believe or suspect a dumping margin to exist.

Section 14.6 (e) specifies that where insufficient information exists to state whether purchase price or exporter's sales price are to be used for the comparison with fair value, he may publish a supplementary notice "as soon as possible" with such information and that withholding of appraisement shall not begin until such supplemental notice is received by the appraisers.

S. 1726 (90th Congress):

If an importer or exporter fails or refuses to furnish the information requested by the Secretary of Treasury, all doubts relating only to such information will be resolved against him. Section: 6 [212(f)].

Comment:

There is no provision in U.S. law or regulations allowing a final finding on the basis of the facts available where any interested party withholds "necessary information."