

Article 7
Price Undertakings
 [Conditions for Terminating Investigations]

International Antidumping Code:

7 (a) Antidumping proceedings may be terminated without imposition of antidumping duties or provisional measures upon receipt of a voluntary undertaking by the exporters to revise their prices so that the margin of dumping is eliminated or to cease to export to the area in question at dumped prices if the authorities concerned consider this practicable, e.g., if the number of exporters or potential exporters of the product in question is not too great and/or if the trading practices are suitable.

7 (b) If the exporters concerned undertake, during the examination of a case, to revise prices or to cease to export the product in question, and the authorities concerned accept the undertaking, the investigation of injury shall nevertheless be completed if the exporters so desire or the authorities concerned so decide. If a determination of no injury is made, the undertaking given by the exporters shall automatically lapse unless the exporters state that it shall not lapse. The fact that exporters do not offer to give such undertakings during the period of investigation, or do not accept an invitation made by the investigating authorities to do so, shall in no way be prejudicial to the consideration of the case. However, the authorities are, of course, free to determine that a threat of injury is more likely to be realized if the dumped imports continue.

U.S. Treasury Regulations:

Section 14.7 (b) (9) allows Secretary of Treasury to terminate a dumping investigation if "promptly after the commencement of the investigation" either (1) price revisions have been made which eliminate the likelihood of sales below fair value and there is no likelihood of the resumption of such prices, or (2) sales have terminated and will not be resumed, or (3) the Secretary determines there are other changed circumstances [undefined] on the basis of which it may no longer be appropriate to continue an antidumping investigation.

Opponents are given 30 days after public notice in the Federal Register to challenge the facts relied on with "persuasive evidence or argument to the contrary." Otherwise, there will be a finding that "there are not and are not likely to be sales below fair value."

S. 1726 (90th Congress):

The Bill would require that an investigation once begun be terminated only if (1) dumping ceased promptly after the start of the investigation, (2) assurances were given that such dumping would not be resumed, and (3) the quantities involved are insignificant. Section 6 [212(a)(2)].

Comment:

Denies complainant the right to have injury investigation completed merely because of voluntary price revisions or cessation of the exports (unless the authorities concerned so decide). This is contrary to U.S. law which has no provision allowing the Tariff Commission not to complete its investigation.