

Article 10
Provisional Measures
[Preliminary Decision Required]

International Antidumping Code:

10 (a) Provisional measures may be taken only when a preliminary decision has been taken that there is dumping and when there is sufficient evidence of injury.

Antidumping Act, 1921, As Amended:

Antidumping Act, 1921, requires withholding of appraisement in section 201 (b) whenever the Secretary has reason to believe or suspect that the purchase price or exporter's sales price is less or likely to be less, than the foreign market value (or in the absence of such value, then the constructed value).

U.S. Treasury Regulations:

Section 14.6 (e) requires a determination that reasonable grounds to believe or suspect a dumping margin exists to be made by the Commissioner before he publishes a "Withholding of Appraisement Notice."

Comment:

Clearly, there is no injury test involved in the U.S. provision for withholding of appraisement.

10 (b) [Forms of Provisional Measures]

International Antidumping Code:

10 (b) Provisional measures may take the form of a provisional duty or, preferably, a security--by deposit or bond--equal to the amount of the antidumping duty provisionally estimated, being not greater than the provisionally estimated margin of dumping. Withholding of appraisement is an appropriate provisional measure provided that the normal duty and the estimated amount of the antidumping duty be indicated and as long as the withholding of appraisement is subject to the same conditions as other provisional measures.

Antidumping Act, 1921, As Amended:

The only provisional measure is withholding of appraisement as provided in Section 201 (b).

U.S. Treasury Regulations:

Section 14.10 (a) allows for a release on bond for all merchandise subject to a Notice of Withholding of Appraisement or a finding of dumping plus injury.