

§ 351.220

countervailing duty order and providing the Commission with advice regarding the amount and nature of a countervailable subsidy.

(b) *Notification of domestic interested parties.* The Secretary will notify directly domestic interested parties as soon as possible after the opportunity arises for requesting an investigation by the Commission under section 753 of the Act.

(c) *Initiation and conduct of section 753 review.* Where the Secretary deems it necessary in order to provide to the Commission information on the amount or nature of a countervailable subsidy (*see* section 753(b)(2) of the Act), the Secretary may initiate a section 753 review of the countervailing duty order in question. The Secretary will conduct a section 753 review in accordance with § 351.221.

§ 351.220 Countervailing duty review at the direction of the President under section 762 of the Act.

At the direction of the President or a designee, the Secretary will conduct a review under section 762(a)(1) of the Act to determine if a countervailable subsidy is being provided with respect to merchandise subject to an understanding or other kind of quantitative restriction agreement accepted under section 704(a)(2) or section 704(c)(3) of the Act. The Secretary will conduct a review under this section in accordance with § 351.221. If the Secretary's final results of review under this section and the Commission's final results of review under section 762(a)(2) of the Act are both affirmative, the Secretary will issue a countervailing duty order and order suspension of liquidation in accordance with section 762(b) of the Act.

§ 351.221 Review procedures.

(a) *Introduction.* The procedures for reviews are similar to those followed in investigations. This section details the procedures applicable to reviews in general, as well as procedures that are unique to certain types of reviews.

(b) *In general.* After receipt of a timely request for a review, or on the Secretary's own initiative when appropriate, the Secretary will:

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(1) Promptly publish in the FEDERAL REGISTER notice of initiation of the review;

(2) Before or after publication of notice of initiation of the review, send to appropriate interested parties or other persons (or, if appropriate, a sample of interested parties or other persons) questionnaires requesting factual information for the review;

(3) Conduct, if appropriate, a verification under § 351.307;

(4) Issue preliminary results of review, based on the available information, and publish in the FEDERAL REGISTER notice of the preliminary results of review that include:

(i) The rates determined, if the review involved the determination of rates; and

(ii) An invitation for argument consistent with § 351.309;

(5) Issue final results of review and publish in the FEDERAL REGISTER notice of the final results of review that include the rates determined, if the review involved the determination of rates;

(6) If the type of review in question involves a determination as to the amount of duties to be assessed, promptly after publication of the notice of final results instruct the Customs Service to assess antidumping duties or countervailing duties (whichever is applicable) on the subject merchandise covered by the review, except as otherwise provided in § 351.106(c) with respect to *de minimis* duties; and

(7) If the review involves a revision to the cash deposit rates for estimated antidumping duties or countervailing duties, instruct the Customs Service to collect cash deposits at the revised rates on future entries.

(c) *Special rules—(1) Administrative reviews and new shipper reviews.* In an administrative review under section 751(a)(1) of the Act and § 351.213 and a new shipper review under section 751(a)(2)(B) of the Act and § 351.214 the Secretary:

(i) Will publish the notice of initiation of the review no later than the last day of the month following the anniversary month or the semiannual anniversary month (as the case may be); and

(ii) Normally will send questionnaires no later than 30 days after the date of publication of the notice of initiation.

(2) *Expedited antidumping review.* In an expedited antidumping review under section 736(c) of the Act and § 351.215, the Secretary:

(i) Will include in the notice of initiation of the review an invitation for argument consistent with § 351.309, and a statement that the Secretary is permitting the posting of a bond or other security instead of a cash deposit of estimated antidumping duties;

(ii) Will instruct the Customs Service to accept, instead of the cash deposit of estimated antidumping duties under section 736(a)(3) of the Act, a bond for each entry of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of initiation of the investigation and through the date not later than 90 days after the date of publication of the order; and

(iii) Will not issue preliminary results of review.

(3) *Changed circumstances review.* In a changed circumstances review under section 751(b) of the Act and § 351.216, the Secretary:

(i) Will include in the preliminary results of review and the final results of review a description of any action the Secretary proposed based on the preliminary or final results;

(ii) May combine the notice of initiation of the review and the preliminary results of review in a single notice if the Secretary concludes that expedited action is warranted; and

(iii) May refrain from issuing questionnaires under paragraph (b)(2) of this section.

(4) *Article 8 Violation review and Article 4/Article 7 review.* In an Article 8 Violation review or an Article 4/Article 7 review under section 751(g) of the Act and § 351.217, the Secretary:

(i) Will include in the notice of initiation of the review an invitation for argument consistent with § 351.309 and will notify all parties to the proceeding at the time the Secretary initiates the review;

(ii) Will not issue preliminary results of review; and

(iii) In the final results of review will indicate the amount, if any, by which the estimated duty to be deposited should be adjusted, and, in an Article 4/Article 7 review, any action, including revocation, that the Secretary will take based on the final results.

(5) *Sunset review.* In a sunset review under section 751(c) of the Act and § 351.218:

(i) The notice of initiation of a sunset review will contain a request for the information described in § 351.218(d); and

(ii) The Secretary, without issuing preliminary results of review, may issue final results of review under paragraphs (3) or (4) of subsection 751(c) of the Act if the conditions of those paragraphs are satisfied.

(6) *Section 753 review.* In a section 753 review under section 753 of the Act and § 351.219, the Secretary:

(i) Will include in the notice of initiation of the review an invitation for argument consistent with § 351.309, and will notify all parties to the proceeding at the time the Secretary initiates the review; and

(ii) May decline to issue preliminary results of review.

(7) *Countervailing duty review at the direction of the President.* In a countervailing duty review at the direction of the President under section 762 of the Act and § 351.220, the Secretary will:

(i) Include in the notice of initiation of the review a description of the merchandise, the period under review, and a summary of the available information which, if accurate, would support the imposition of countervailing duties;

(ii) Notify the Commission of the initiation of the review and the preliminary results of review;

(iii) Include in the preliminary results of review the countervailable subsidy, if any, during the period of review and a description of official changes in the subsidy programs made by the government of the affected country that affect the estimated countervailable subsidy; and

(iv) Include in the final results of review the countervailable subsidy, if any, during the period of review and a description of official changes in the

subsidy programs, made by the government of the affected country not later than the date of publication of the notice of preliminary results, that affect the estimated countervailable subsidy.

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§ 351.222 Revocation of orders; termination of suspended investigations.

(a) *Introduction.* “Revocation” is a term of art that refers to the end of an antidumping or countervailing proceeding in which an order has been issued. “Termination” is the companion term for the end of a proceeding in which the investigation was suspended due to the acceptance of a suspension agreement. Generally, a revocation or termination may occur only after the Department or the Commission have conducted one or more reviews under section 751 of the Act. This section contains rules regarding requirements for a revocation or termination; and procedures that the Department will follow in determining whether to revoke an order or terminate a suspended investigation.

(b) *Revocation or termination based on absence of dumping.* (1)(i) In determining whether to revoke an antidumping duty order or terminate a suspended antidumping investigation, the Secretary will consider:

(A) Whether all exporters and producers covered at the time of revocation by the order or the suspension agreement have sold the subject merchandise at not less than normal value for a period of at least three consecutive years; and

(B) Whether the continued application of the antidumping duty order is otherwise necessary to offset dumping.

(ii) If the Secretary determines, based upon the criteria in paragraphs (b)(1)(i)(A) and (B) of this section, that the antidumping duty order or suspension of the antidumping duty investigation is no longer warranted, the Secretary will revoke the order or terminate the investigation.

(2)(i) In determining whether to revoke an antidumping duty order in part, the Secretary will consider:

(A) Whether one or more exporters or producers covered by the order have sold the merchandise at not less than

normal value for a period of at least three consecutive years;

(B) Whether, for any exporter or producer that the Secretary previously has determined to have sold the subject merchandise at less than normal value, the exporter or producer agrees in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than normal value; and

(C) Whether the continued application of the antidumping duty order is otherwise necessary to offset dumping.

(ii) If the Secretary determines, based upon the criteria in paragraphs (b)(2)(i)(A) through (C) of this section, that the antidumping duty order as to those producers or exporters is no longer warranted, the Secretary will revoke the order as to those producers or exporters.

(3) Revocation of nonproducing exporter. In the case of an exporter that is not the producer of subject merchandise, the Secretary normally will revoke an order in part under paragraph (b)(2) of this section only with respect to subject merchandise produced or supplied by those companies that supplied the exporter during the time period that formed the basis for the revocation.

(c) *Revocation or termination based on absence of countervailable subsidy.* (1)(i) In determining whether to revoke a countervailing duty order or terminate a suspended countervailing duty investigation, the Secretary will consider:

(A) Whether the government of the affected country has eliminated all countervailable subsidies on the subject merchandise by abolishing for the subject merchandise, for a period of at least three consecutive years, all programs that the Secretary has found countervailable;

(B) Whether exporters and producers of the subject merchandise are continuing to receive any net countervailable subsidy from an abolished program referred to in paragraph (c)(1)(i)(A) of this section; and

(C) Whether the continued application of the countervailing duty order or suspension of countervailing duty