

Chapter 22
DIFFERENCES BETWEEN CONDUCTING INVESTIGATIONS AND
ADMINISTRATIVE REVIEWS OF AD ORDERS

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There are a number of differences in the procedures and analysis for investigations and administrative reviews (AR). This chapter covers the most significant ones.

I. PERIODS OF INVESTIGATION AND REVIEW

A. Investigations

We normally examine merchandise sold during the four most recently completed fiscal quarters as of a month before the petition was filed. For example, if the petition was filed in February 2005, we would examine calendar year 2004. For non-market economy investigations, we typically use the two most recently completed fiscal quarters. See 19 CFR 351.204(a) and (b).

B. Administrative Reviews

The first AR period is normally 16 to 18 months, because it usually covers the time period between the preliminary determination and the month of the first anniversary of the antidumping duty order. The second and all subsequent ARs normally cover the twelve months immediately preceding the most recent anniversary month, which is also the month the order was published. For example, if an order were published in February 2003, the period of the second review would be February 1, 2004 through January 31, 2005. See 19 CFR 351.213(e).

II. COMPANIES EXAMINED

A. Investigations

Where practicable, we will attempt to determine a weighted-average dumping margin for each known exporter or producer. However, when it is not practicable to examine all known exporters/producers for a particular less-than-fair-value investigation, we limit our examination to a reasonable number, based on either:

- A sample of exporters, producers, or types of products that are statistically valid based on the information available to the administering authority at the time of selection; or
- Exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined. See Section 777A(c)(2) of the Act.

See Section 777A (a) and (b) of the Act. We may also decline to examine a particular exporter or producer if that exporter or producer and petitioner agree. See 19 CFR 351.204(c).

B. Administrative Reviews

Each month the Department publishes the “Opportunity to Request Administrative Review” for ARs. The “Opportunity” notices list all antidumping cases whose anniversary month is the current month, and notify interested parties that an AR may be requested in writing (as described above) only during the anniversary month of the publication of an antidumping duty order.

A domestic interested party or foreign government may request that we conduct an AR of specified exporters or producers. See 19 CFR 351.213(b)(1). An exporter or producer covered by an order may request that we conduct an administrative review of only that “person.” See 19 CFR 351.213(b)(2). An importer may request in writing that we conduct an administrative review of only an exporter or producer of the subject merchandise imported by that importer. See 19 CFR 351.213(b)(3).

If it is not practicable to examine all parties for which we received a review request, we may limit our examination as outlined in the Investigations section, above.

During an AR, the Department generally reviews each and every U.S. transaction, although the Department may decide to sample a company’s transactions. We may also sample comparison market sales. For examples of such sampling, research any recent administrative review for antifriction bearings (other than tapered roller bearings) from France, Germany, Italy, Japan, Singapore, Sweden, or the United Kingdom.

During an AR, the Department has the discretion to review entries, sales, or exports made during the period of review (POR) as appropriate. See 19 CFR 351.213(e). This flexibility is necessary because the respondents may know entry dates for CEP sales, but particular sales are not traced to entries. While the Department maintains the discretion to review sales or exports to calculate the antidumping margin, it has developed a practice of conducting administrative reviews only when there are entries against which to assess antidumping duties at the end of the review. See [Granular Polytetrafluoroethylene Resin from Japan: Notice of Rescission of Antidumping Duty Administrative Review](#), 70 FR 44088 (August 1, 2005) and [Stainless Steel Plate in Coils from Taiwan. Final Rescission of Antidumping Duty Administrative Review](#), 69 FR 20859 (April 19, 2004).

III. COMPARING NORMAL VALUE TO EXPORT PRICE/CONSTRUCTED EXPORT PRICE

A. Investigations

The preferred type of comparison in an investigation is average-to-average. In an average-to-average comparison, the weighted-average normal value for the POI is compared to the weighted-average U.S. price (either export price or constructed export price). (Note: on 3/6 we requested public comment on our comparison methodology.) In certain circumstances, for

instance, when there are very few sales of subject merchandise sold and the merchandise sold in each market is custom-made, we may use the transaction-to-transaction method. In the transaction-to-transaction comparison method, the export price/constructed export price for individual transactions are compared to the normal values of individual transactions of comparable merchandise. See 19 CFR 351.414(c)(1).

B. Administrative Reviews

The preferred type of comparison in an AR is average to individual transactions. In an average to individual transactions comparison, the weighted-average normal value for the contemporaneous month is compared to the U.S. price (either export price or constructed export price) for each individual transaction. The contemporaneous month is determined based on the following hierarchy (i) the month during which the particular U.S. sale under consideration was made; (ii) the most recent of three months prior to the month when the U.S. sale was made; (iii) the earlier of the two months following the month when the U.S. sale was made. See 19 CFR 351.414(e)(1) and (e)(2). As a result of potentially reaching back three months and forward two months, the amount of pricing data in an administrative review can expand to 17 months.

See also Chapter 6 regarding fair value comparisons.

IV. CONVERSION OF CURRENCY

A. Investigations

Although in general we ignore fluctuations in exchange rates (see 19 CFR 351.415(c)), when there are sustained movements in foreign currency, and the value of the foreign currency is increasing relative to the U.S. dollar, we allow exporters 60 days to adjust prices to reflect this “sustained movement.” See 19 CFR 351.415(d).

B. Administrative Reviews

In ARs, we do not adjust for “sustained movements” in foreign currency, as we do in investigations. However, as with investigations we ignore fluctuations in exchange rates.

V. DEADLINE FOR PRELIMINARY DETERMINATIONS/RESULTS

A. Investigations

The preliminary determination deadline is not later than 140 days from publication of the initiation of the investigation, or 190 days if we postpone the preliminary determination. We may postpone the preliminary determination at the petitioner’s request or if we determine that the investigation is “extraordinarily complicated.” See 19 CFR 351.205(b)(1) and (2).

If the petitioner seeks a postponement of the preliminary determination, it must make such a request at least 25 days prior to the original deadline, and state the reasons for the request. See 19 CFR 351.205(e). The Department must notify the parties to the proceeding of any postponement of the preliminary determination at least 20 days prior to the original deadline, regardless of the reason for the postponement. See 19 CFR 351.205(f).

B. Administrative Reviews

The deadline for the preliminary results is within 245 days after the last day of the anniversary month in which the administrative review was requested. See 19 CFR 351.213(h). The deadline can be extended by 120 days (to 365 days after the last day of the anniversary month) if we determine that it is not practicable to complete the review within the time specified. See 19 CFR 351.213(h)(2).

In an expedited administrative review, we do not issue preliminary results. See 19 CFR 351.221(c)(2)(iii).

VI. SUBMISSION OF INFORMATION

A. Investigations

In general, the deadline for submission of factual information is seven days prior to the beginning of verification. However, any factual information requested by verifying officials will be due no later than seven days after the date on which verification was completed. See 19 CFR 351.301(b)(1). Time limits for certain submissions, *e.g.* questionnaire responses, will normally be prior to this date. Initial questionnaire responses are generally due 30 days from the date of receipt. See 19 CFR 351.301(c)(1) and (2).

An allegation of sales below the cost of production (COP) made by the petitioner or other domestic interested party is due (i) on a country-wide basis, 20 days after the date on which the questionnaire was transmitted to any person and (ii) on a company-specific basis, 20 days after a respondent interested party files the response to the relevant section of the questionnaire, unless we determine the response is incomplete, in which case we will determine the time limit. See 19 CFR 351.301(d).

In an NME investigation, interested parties may submit publicly available information to value factors under 19 CFR 351.408(c) within 40 days after publication of the preliminary determination. See 19 CFR 351.301(c)(3)(i).

B. Administrative Reviews

The deadline for submission of factual information is 140 days after the last day of the anniversary month. However, any factual information requested by verifying officials will be due no later

than seven days after the date on which verification was completed. See 19 CFR 351.301(b)(2).

In an AR, an allegation of sales below the cost of production is due 20 days after a respondent interested party files the response to the relevant section of the questionnaire, unless we deem the relevant questionnaire response incomplete. In that case, we will determine when the deadline is. See 19 CFR 351.301(d).

For the final results of an administrative review in an NME case, the time limit for submission of publicly available factors information is 20 days after the publication of the preliminary results or, for an expedited review, a date we specify. See 19 CFR 351.301(c)(3)(ii).

VII. VERIFICATION

A. Investigations

We will conduct a verification in countervailing duty and antidumping duty investigations. See Section 782(i) of the Act, and 19 CFR 351.307(b)(1)(i). In practice, we generally verify investigations after the preliminary determinations have been issued.

B. Administrative Reviews

We will conduct a verification under the following circumstances: (1) revocations; (2) expedited reviews; (3) in an administrative review, new shipper review, or changed circumstances review where we determine that good cause to verify the information exists; or (4) petitioner(s) requests a verification, and no verification of the company had been conducted in either of the two immediately preceding ARs. See Section 782(i) of the Act and 19 CFR 351.307(b)(1)(ii), (iii), (iv), and (v)(A) & (B). In practice, we generally verify reviews before the preliminary results. See 19 CFR 351.307(c) and (d) and Chapter 15 of this manual for a description of verification reports and procedures.

VIII. DEADLINE FOR FINAL DETERMINATIONS AND RESULTS

A. Investigations

The deadline for a final determination is not later than 75 days after the affirmative determination. See 19 CFR 351.210(b)(1).

However, the deadline may be postponed to 135 days after the publication of the preliminary determination at the request of (i) the petitioner, if the preliminary determination is negative; or (ii) exporters or producers who account for a significant proportion of exports of subject merchandise if the preliminary determination was affirmative. We will not grant this request unless those exporters also include a request to extend the provisional period.¹ See Section 733(d) of the Act.

¹The provisional period refers to the period of the bond or cash deposit requirement, issued after the

This request must be submitted in writing. See 19 CFR 351.210(b)(2) and 351.210(e).

When we postpone a final, we will notify all parties to the proceeding and we will publish a notice of postponement in the Federal Register. In this notice, we will list the reasons for the postponement. See 19 CFR 351.210 (g).

An order is issued if both the Department and the ITC have made final affirmative determinations. This ends the investigative phase of the proceeding. See 19 CFR 351.211.

B. Administrative Reviews

The deadline for the final results of review is within 120 days after the date on which the preliminary results were published. See 19 CFR 351.213(h)(1).

However, the final deadline may be postponed from 120 days after the date on which the preliminary results were published to 180 days if the preliminary results were extended to 365 days after the administrative review. See 19 CFR 351.213(h)(2).

If we do not postpone the preliminary results, we may extend the time for issuing the final results from 120 days to 300 days after the preliminary results were published. See 19 CFR 351.213(h)(2).

IX. CUSTOMS INSTRUCTIONS

A. Investigations

When we initiate an investigation, we generally send an email to Customs and Border Protection (CBP) notifying CBP of the initiation. When we issue an affirmative preliminary determination we send instructions to CBP to suspend liquidation of entries of the subject merchandise, and begin collecting cash deposits or bonds equal to the preliminary margins. See Section 733(d)(1)(B) of the Act. These instructions are effective beginning from the date of publication of the preliminary determination, and constitute the so-called “provisional measures.”² We issue new customs instructions directing CBP to collect cash deposits or bonds equal to the final margins from the date of publication of the final determination. See Section 735(c)(1)(B)(ii) of the Act.

preliminary determination, and is not to exceed 4 months; however, it can be extended up to 6 months. See Chapter 19.

²See Chapter 19 regarding “provisional measures” and the “gap period.”

Within seven days of receipt of an affirmative injury determination by the International Trade Commission (ITC) under Section 735(b) of the Act, we publish an “Antidumping Duty Order” in the Federal Register. In this notice, we instruct CBP to collect a cash deposit **only** of estimated antidumping duties at the rates included in the final determination. See Section 736(a)(3) of the Act. In some cases the ITC finds threat of material injury rather than actual material injury. In those cases, we also instruct CBP to end the suspension of liquidation and to release the cash deposit or bond on entries of subject merchandise prior to the date of publication of the ITC’s final determination (determination of material injury), unless the ITC also found that, absent the suspension of liquidation, it would have found material injury. See 19 CFR 351.211(b)(2) and 19 CFR 351.211(b)(3).

B. Administrative Reviews

We are required to send liquidation instructions for ARs at the conclusion of each AR or expedited review for reviewed companies, and automatically for all companies where no such review is requested. See 19 CFR 351.211(b)(1) and 19 CFR 351.212(b) and (c). Unlike in an investigation, no action with respect to the collection of cash deposits is required at the preliminary results of a review. We issue cash deposit instructions for each respondent, effective as of the publication date of the final results in the Federal Register. The rates indicated in these cash deposit instructions are equal to the rates calculated in the final results, and constitute an estimate of the potential dumping antidumping duties due in the following POR. On the 15th day after the date of publication of the final results we will endeavor to issue importer specific liquidation instructions at the rate calculated for each importer based on the entered value unless there is a pending ministerial error allegation or the Department has received a draft or final injunction. See Policy Bulletin of August 14, 2002.

X. TERMINATIONS/REVOICATIONS

A. Investigations

“Termination” is the term used for the end of the proceeding when an investigation is suspended due to the acceptance of a suspension agreement. See 19 CFR 351.222(a).

We may terminate a suspended investigation based on an absence of dumping if the exporters and producers have sold the subject merchandise at or above normal value (NV) for at least 3 consecutive years and it is unlikely that they will sell at less than NV in the future. See 19 CFR 351.222(b).

We may also terminate or suspend an investigation based on changed circumstances.

B. Administrative Reviews

Revocation is the term for the end of an antidumping proceeding when an order has already been issued. See 19 CFR 351.222(a).

We may revoke an order, in whole or in part, based on an absence of dumping if the exporters and producers have sold the subject merchandise at more than normal value (NV) for at least 3 consecutive years and it is unlikely that they will sell at less than NV in the future. See 19 CFR 351.222(b).

We may also revoke based on changed circumstances which warrant revocation (see 19 CFR 351.222(g)), an injury reconsideration by the ITC (see 19 CFR 351.222(h)), or a sunset review (see 351.222(i) and Chapter XXV, “Five-Year (Sunset) Reviews”)

XI. CORRECTING MINISTERIAL ERRORS

A. Investigations

We must disclose the calculation of the antidumping duty margin to parties to the proceeding within five days after the date of a public announcement, or if there is no public announcement, within five days of publication for both preliminary and final determinations of investigations. See 19 CFR 351.224(b).

Parties to the proceeding have five days from the earlier of (i) the date on which we released disclosure documents to that party or (ii) the date on which we held a disclosure meeting with that party to submit ministerial error comments. Replies to comments must then be filed within five days of when the ministerial error comments were due. Extensions may be obtained as outlined in the regulations. See 19 CFR 351.224(c). The requirement for the contents of the comments and replies are outlined in 19 CFR 351.224(d).

We only correct the preliminary determination if we have made a “significant ministerial error.” A “significant ministerial error” (i) would result in a change of at least 5 absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin or (ii) would result in a difference between the weighted-average dumping margin of zero (or *de minimis*) and a weighted-average dumping margin of greater than *de minimis*, or vice versa. See 19 CFR 351.224(g)(1) and (g)(2). We correct any ministerial error in final determinations.

Where practicable, we must publicly announce the issuance of a correction notice within 30 days after the date of public announcement or within 30 days after the date of publication. In addition, we must publish the notice of corrections in the Federal Register. Once the notice of corrections has been published, we must transmit updated instructions to CBP.

B. Administrative Reviews

We must disclose to parties to the proceeding within five days after the date of a public announcement, or if there is no public announcement, within five days of publication of the final results of an AR. See 19 CFR 351.224(b).

Parties to the proceeding have five days from the earlier of (i) the date on which we released disclosure documents to that party or (ii) the date on which we held a disclosure meeting with that party to submit comments. Replies to comments must then be filed within five days of when the ministerial comments were due. Extensions may be obtained as outlined in the regulations. See 19 CFR 351.224(c).

Where practicable, we must publicly announce the issuance of a correction notice within 30 days after the date of public announcement or within 30 days after the date of publication. In addition, we must publish the notice of corrections in the Federal Register. Once the notice has been published, we must transmit updated instructions to CBP.

In ARs, it is only the final results which are used as the basis for cash deposit instructions. Given this fact, we correct ministerial errors only for final results.

XII. ANALYTIC AND PROCEDURAL COMPARISON CHART

Action	Investigations	ARs
1. Opportunity Notice	Not applicable	Monthly notice of opportunity to request administrative review of AD order, finding, or agreement
2. Initiation Notice	Initiation of initial investigation	Initiation of administrative reviews
3. AD Questionnaires	Sent only to DOC-selected firms	Sent only to firms requested for review
4. Period Investigated/Reviewed	Usually 12 months, six months for NME investigations	16-18 months for 1st review, 12 months for succeeding reviews

5. Supplemental Questionnaires	Sent soon after receipt of questionnaire responses, as needed	Same
6. Questionnaire Analysis		
- U.S. Sales	Generally, weighted-average POI	Individual
- NV	Generally, weighted-average POI	Generally a monthly average
Adjustments (movement, cir. of sale, level. of trade, price, difmer, etc.)	Yes	Yes
-Allegation required for initiation of below COP test	Yes	Yes, although DOC will automatically initiate a COP inquiry if that firm's below- COP sales were disregarded in the most recently completed segment.
7. Preliminary Determinations/Results		
-Suspension of Liquidation	Yes, if affirmative	not applicable (already in effect)
8. Verification	Required in all cases	Required only: - if requested, with good cause - if requested, and not conducted for two prior reviews - before revoking order in whole or in part
9. Critical Circumstances Determinations	Yes	No
10. Written Comments, Briefs, Rebuttals	Yes	Yes
11. Hearing	If requested	If requested

12. Final Determination/ Review Results	Yes	Yes
- Cash/Bond Requirement	Yes, if affirmative	Cash only, at new rate
13. Refer case to ITC for injury determination	Yes, if affirmative	Consultation with ITC, for Anti-circumvention inquiries only
14. Publish Order	Yes, if DOC finds sales at less than fair value and ITC finds injury	No, already in effect
15. Litigation	If challenged in Court, assists CCIA	Same
16. Duty-Assessment Instructions to Customs	No	Yes
17. Anti-circumvention Inquiries	No	Yes
18. Changed-Circumstances Reviews	No	Yes
19. Scope Rulings	Only in context of investigation; may decline to consider until an order is issued.	When requested - usually conducted separately from reviews
20. Revocation	No	Yes
21. Suspension Agreements	Establish	Review
22. Advise Customs on Protests of Assessed Duties	No	Yes
23. Five-Year Revocations	No	Yes