

Initiation Standards

The GATT Codes on Anti-Dumping Practices, and Subsidies and Countervail Measures stipulate that an investigation shall normally be initiated upon a written request filed by a major portion of the domestic industry. The Codes envisage a verification by the investigating authorities that the complaining party does indeed represent either the whole industry or a major proportion of that industry. The U.S. authorities do not, however, conduct such a verification of a petitioner's standing before initiating an investigation. They reject a petition only if a major proportion of the industry comes forward to actively oppose the petition. As a consequence, a number of investigations have been initiated when a petitioner has represented a minor segment of the domestic industry.

The GATT rules also stipulate that an investigation may be initiated only where there is "sufficient evidence" of a subsidy or of dumping, of injury, and of a causal link between the subsidized or dumped imports and the alleged injury. Frequently, however, the Department of Commerce does not conduct before the initiation a substantive review or verification of the allegations of dumping or subsidization, of the presence of injury, or of a causal link between them.

Administrative Reviews

Administrative reviews of anti-dumping and countervailing duty orders, initiated on the anniversary date of an order, should normally be conducted within a 12-month period. Reviews which result in the application of higher rates of anti-dumping and countervailing duties are, however, usually completed more expeditiously than those which result in the application of lower duties. Such delays create considerable difficulties for Canadian exporters since they can continue to be assessed higher duties for several years on exports entering the U.S. market, based upon the findings of a previous administrative review period. There is no provision for review of original injury determinations in an administrative review. Finally, once reviews are completed and new margins assessed, exporters can face considerable difficulty in trying to recover duties overpaid during the review period. In the case of the 1985 countervailing duty order on live swine from Canada, for example, the annual administrative reviews represent a significant burden on the industry.

Sunset Provisions

There is effectively no sunset provision in U.S. law that would end anti-dumping or countervailing duty assessments after a certain time. As a consequence, U.S. actions can remain in effect indefinitely, even in those cases where the import no longer causes any