

Backgrounder

U.S. ADMINISTRATIVE REVIEW PROCESS

An administrative review may be conducted by the U.S. Department of Commerce (DOC) at least once during each 12-month period beginning on the anniversary date when a countervailing duty (CVD) order was issued. The review process is not automatic and must be requested in writing by an interested party during the anniversary month of the publication of the order. Such reviews are designed to determine the actual amount of subsidization during a particular period, and adjust the CVD accordingly.

An administrative review is essentially a replay of the original investigation, and therefore is an extensive procedure. It involves issuance of questionnaires, presentation of arguments by interested parties and publication of initial and final results of the review.

It also provides a new opportunity for scrutiny into governmental policies affecting the subject merchandise besides those initially investigated. As a result, the DOC may determine that "new" programs are countervailable and amend the order to include a duty that offsets the benefits of these additional programs.

If the deposits collected during the review period are greater than the actual margin found, the DOC will refund the overpayments with interest. If the reverse occurs, the DOC will collect the underpayment with interest.

If, after the completion of a review, the DOC determines that the subsidy margin is below 0.5 percent, then the margin is considered *de minimis* (i.e. too low to act upon) and the DOC waives the duty deposit requirement.

Because the 1985 U.S. countervailing duty on live swine predates the Canada-U.S. Free Trade Agreement, Canada has been able to take only the findings from each review period to a Chapter 19 panel, and not the initial decision. Thus, only final determinations in administrative reviews by the U.S. DOC issued after January 1, 1989, may be reviewed by binational North American Free Trade Agreement panels.