- Importer documentation: "To ensure that only those who are authorized to receive {APO} access" obtain such access, DOC amended 19 CFR 351.305(d) to require documentary evidence confirming a party's status as an importer. This requirement can be met by submitting Customs Form 7501 (Entry Summary) showing that an import occurred during the applicable period of investigation or review.

- Application template: DOC also implemented changes to the APO application template, Form ITA-367, which is available at http://ia.ita.doc.gov/apo/new/367-208-apo-app.pdf.

3. Product Coverage

Since 2000, significant changes have been made in the identification and administration of product coverage as it applies to AD duty measures.

(a) Emergency relief supplies. In October 2006, prompted by concerns that trade remedy measures might impede access to emergency relief supplies needed to respond to humanitarian disasters such as the one resulting from Hurricane Katrina, DOC promulgated rules for emergency relief supplies free of AD and countervailing duties (CVD).[3]

(b) Imported merchandise not "sold" in the United States. In 2005, the U.S. Court of Appeals for the Federal Circuit held that uranium enriched outside the United States pursuant to separative work unit (SWU) contracts is not "sold" when it enters the United States and therefore cannot be included within the coverage of AD measures.[4] The case—U.S. utilities contracting for uranium that they already own to be processed overseas and then returned to the United States—is not a common one in industries where trade remedy investigations typically arise. However, such cases may arise in other industries. The U.S. government and the U.S. petitioner, USEC, have sought Supreme Court review of the decision pertaining to Eurodif, a European company, through certiorari petitions filed in February 2008, citing national security concerns as well as broad damage to the integrity of the AD/CVD regime. The Supreme Court has not yet decided whether to accept the case for review. The case is also thought likely to prompt changes to—or perhaps the repeal of—DOC's existing regulation on AD analysis in the context of "tolling" arrangements.[5]

4. Determination of Dumping

(a) Normal value. One significant change has occurred with respect to the data and analysis used by DOC to establish normal value. It involves the "ordinary course of trade" limitation on inclusion of comparison market sales to affiliates. Section 773(a)(1) of the Tariff Act restricts comparison market sales used in establishing normal value to those sales made in the "ordinary course of trade." DOC's long-standing practice under this provision, at least until 2002, was to treat an exporter's or producer's comparison market sales to an

3 71 Fed. Reg. 63,230 (October 30, 2006).

4 Eurodif, SA v. United States, 411 F.3d 1355 (Fed. Cir. 2005).

5 19 CFR 351.401(h).