

CHAPTER 12

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LIST OF ACRONYMS & ABBREVIATIONS

CFR	CODE OF FEDERAL REGULATIONS
CRU	CENTRAL RECORDS UNIT
DOC	DEPARTMENT OF COMMERCE
FR	FEDERAL REGISTER
GATT	GENERAL AGREEMENT ON TARIFFS AND TRADE
IA	IMPORT ADMINISTRATION
ITC	INTERNATIONAL TRADE ADMINISTRATION
SAA	STATEMENT OF ADMINISTRATIVE ACTION
ANTIDUMPING AGREEMENT	AGREEMENT ON INTERPRETATION OF ARTICLE VI OF THE GATT
THE ACT	THE TARIFF ACT OF 1930, AS AMENDED

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References:

The Tariff Act of 1930, as amended (the Act)

Section 733(c) - extension of provisional measures period

Section 733(d) - preliminary determinations

Section 735(a) - final determinations

Sections 751(a)(2)(B)(iv) and (a)(3) - extensions of preliminary and final results of **administrative reviews**

Department of Commerce (DOC) Regulations

19 CFR 351.205(e) - preliminary determinations

19 CFR 351.210 (b), (e) and (g) - final determinations

19 CFR 351.213(h) and (i) - extensions of preliminary and final results of administrative reviews

SAA

Section C.5 - extension of provisional (preliminary) measures for investigations

Antidumping Agreement

Article 7.4 - extension of provisional (preliminary) measures for investigations

I. POSTPONEMENTS FOR PRELIMINARY DETERMINATIONS AND RESULTS

Section 733(c) of the Act and 19 CFR 351.205 (e) provide for postponement of the preliminary determination in an investigation. Section 751(a) of the Act and 19 CFR 351.213 (h) (annual reviews and suspension agreements) and 351.214 (new shipper reviews) provide for postponement of a preliminary results of an administrative review.

A. Petitioner Requests for Postponements of Preliminary Determinations for Investigations

Under Section 773(c)(1)(A) of the Act, the petitioner may request a postponement from 140 days to not later than 190 days after the initiation of an investigation. A written request, including reasons for the postponement, must be submitted to the DOC at least 25 days prior to the preliminary determination. In general, because an affirmative

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preliminary determination marks the beginning of antidumping protection for the petitioner, the DOC grants all requests for postponements of preliminary determinations by the petitioners.

B. DOC Postponements of Preliminary Determinations for Investigations and Results of Administrative reviews

Under Section 773(C)(1)(B) at the Act, the DOC may postpone the preliminary determination from 140 days to no later than 190 days after the initiation of an investigation if it determines that the parties concerned are cooperating and if it also determines that the case is “extraordinarily complicated.” An investigation may be deemed extraordinarily complicated by reason of:

1. the number and complexity of the transactions to be investigated or adjustments to be considered;
2. the novelty of the issues presented; or
3. the number of firms whose activities must be investigated.

In addition to being extraordinarily complicated, additional time must be necessary to make the preliminary determination.

The DOC cannot postpone a determination in an investigation where certain short life cycle merchandise is involved unless the petitioner gives its written consent.

For an administrative review of an antidumping duty order or suspension agreement, under section 751(a)(3) of the Act, if it is not practicable to complete the preliminary results in 245 days, the DOC may postpone the preliminary results to 365 days after the last day of the anniversary month of the order or suspension agreement. For new shipper reviews, under section 751(a)(1)(B), the preliminary results may be postponed from 180 to 300 days after the date on which the review is initiated.

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C. Notices of Postponements for Preliminary Determinations in Investigations or Administrative reviews

Section 733 (c) of the Act requires the DOC to notify all parties to the proceeding of a postponement of an investigation no later than 20 days before the originally scheduled date of the preliminary determination and publish a postponement notice in the Federal Register (FR).

There are no statutory notification requirements for the postponement of the preliminary results of administrative review. It is DOC policy, however, to notify the parties that an extension has been signed and then publish the postponement notice in the FR.

II. POSTPONEMENTS FOR FINAL DETERMINATIONS AND RESULTS

Section 735(a) of the Act and 19 CFR 351.210 (b) provide for the postponement of the final determination in an investigation. For postponements of final determinations of administrative reviews of antidumping orders and suspension agreements, see section 751(a) and (c) of the Act and 19 CFR 351.213 (annual reviews); 351.214 (new shipper reviews); 351.216 (changed circumstances reviews); 351.218 (five-year reviews).

A. Respondent Requests for Postponements of Final Determinations in Investigations

Under section 735(a) of the Act, in the event of an affirmative preliminary determination in an investigation, exporters or producers represent a significant proportion of the producers or resellers of the product under investigation may request a postponement of the final determination from 75 days after the date of the preliminary determination to up to 135 days after the date of publication of the preliminary determination in the FR. A request must be in writing, including the reasons for it. Requests can be made at any time up to the date of the final determination. The DOC generally accepts requests for postponement of final determinations absent compelling reasons to reject them. 19 CFR 351.210(e)(2) specifically states that requests for postponements of final determinations for investigations by exporters who account for a significant portion of exports of the **subject merchandise** will be rejected for compelling reasons if the exporters do not

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furnish a request to extend the period for provisional measures (suspension of liquidation) from four to six months (see section 733(d) of the Act).

B. Petitioner Requests for Postponements of Final Determinations in Investigations

Under section 735(a) of the Act, in the event of a negative preliminary determination in an investigation, a petitioner may request a postponement of the final determination. The requirements for a postponement are the same as specified in part A above except for the one that involves the pro portion of exports of the subject merchandise. Absent compelling reasons, the DOC generally accepts a petitioner's request for postponement.

C. DOC Postponements of Final Results of Administrative reviews of Antidumping Orders and Suspension Agreements

Unlike postponements of final determinations for investigations which can only be requested by the adversely affected party, postponements of final results of administrative reviews and suspension agreements are at the discretion of the DOC. Under section 751(a)(3) of the Act, for administrative reviews of antidumping duty orders or suspension agreements where the preliminary results have been extended and it is impracticable to complete the review in 120 days from the date of publication of the preliminary results, the final results may be postponed by the DOC to 180 days from the publication date of the preliminary results. For annual administrative reviews where the preliminary results have not been extended, the DOC may postpone the final results from 120 days after the date of the publication of the preliminary results to 300 days after the date of publication of the preliminary results (see section 751(a) of the Act and 19 CFR 351.213(h)).

Under section 751(a)(2)(B) of the Act, new shipper reviews may be postponed by the DOC from 90 days after the date of issuance of the preliminary results to 150 days after the date of issuance, if the case is extra ordinarily complicated. Section 751(c)(5)(B) allows for DOC postponements of final results for extraordinarily complicated, changed circumstances, or five-year reviews for an additional 90 days.

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D. Notices of Postponements of Final Determinations or results in Investigations or Administrative Reviews

In the event of postponement of the final determination in an investigation, the DOC must notify all parties to the proceeding and publish a postponement notice in the FR. See section 735 (d) of the Act. There are no statutory requirements for notification of the parties for administrative reviews. It is DOC policy, however, to notify the parties of the decision to postpone and then publish a notice of postponement in the FR.

E. Extension of the Suspension of Liquidation Period for an Investigation

Section 733 (d) of the Act specifies that suspensions of liquidation (provisional measures) of entries in an investigation may not remain in effect for longer than 4 months unless exporters representing a significant portion of exports request that the period be extended to not more than 6 months (see part A of this section).

III. INTERNAL PROCEDURES

The case analyst must ensure the following: 1) the appropriate analysis of requests for postponements by the parties for investigations; 2) the proper analysis leading to DOC initiated postponements for investigations and administrative reviews; 3) the notification of the parties; and 4) the publication and distribution of the FR notice:

A. Pre-signature Responsibilities:

1. meet with your supervisor and/or program manager to discuss the postponement to ensure that the DOC determination for an investigation or administrative review or petitioner/respondent requests for an investigation meet the criteria outlined above;
2. draft a FR notice based on the FR for the most recently postponed antidumping investigation or administrative review; and

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3. circulate the FR for concurrence in accordance with the February 6, 1996, issuance entitled "Changes to IA Concurrences" as found in Chapter 12 of this manual.

B. Post-signature Responsibilities

1. for investigations, immediately notify the International Trade Commission (ITC) analyst by phone after the FR notice is signed;
2. for investigations and administrative reviews, notify the parties;
3. send copies of the signed and dated FR notice to the petitioner(s) and respondent(s) involved in the investigation and the ITC in the case of an investigation; and
4. distribute copies of the signed and dated FR notice to the following:
 - a. the original and four copies along with a computer disk to the Central Records Unit (CRU);
 - b. a copy to each of the team members involved in the investigation or administrative review;
 - c. a copy for the working file; and
 - d. two copies for transmittal to CRU for the official and public files.
5. amend the Lotus Notes case management system to reflect the new action dates.