

(g) *Acceptance of suspension agreement.*

(1) The Secretary may accept an agreement to suspend an investigation within:

(i) In an antidumping investigation, 60 days after the date of issuance of the preliminary determination,

(ii) In a countervailing duty investigation, 45 days after the date of issuance of the preliminary determination, or

(iii) In a regional industry case described in paragraph (f)(1)(iii) of this section, 45 days after the date of issuance of an order.

(2) If the Secretary accepts an agreement to suspend an investigation, the Secretary will take the actions described in section 704(f), section 704(m)(3), section 734(f), or section 734(l)(3) of the Act (whichever is applicable), and will publish in the FEDERAL REGISTER notice of "Suspension of Antidumping (Countervailing Duty) Investigation," including the text of the agreement. If the Secretary has not already published notice of an affirmative preliminary determination, the Secretary will include that notice. In accepting an agreement, the Secretary may rely on factual or legal conclusions the Secretary reached in or after the affirmative preliminary determination.

(h) *Continuation of investigation.* (1) A request to the Secretary under section 704(g) or section 734(g) of the Act for the continuation of the investigation must be made in writing. In addition, the request must be simultaneously filed with the Commission, and the requester must so certify in submitting the request to the Secretary.

(2) If the Secretary and the Commission make affirmative final determinations in an investigation that has been continued, the suspension agreement will remain in effect in accordance with the factual and legal conclusions in the Secretary's final determination. If either the Secretary or the Commission makes a negative final determination, the agreement will have no force or effect.

(i) *Merchandise imported in excess of allowed quantity.* (1) The Secretary may instruct the Customs Service not to accept entries, or withdrawals from warehouse, for consumption of subject mer-

chandise in excess of any quantity allowed by a suspension agreement under section 704 or section 734 of the Act, including any quantity allowed during the interim period (*see* paragraph (e) of this section).

(2) Imports in excess of the quantity allowed by a suspension agreement, including any quantity allowed during the interim period (*see* paragraph (e) of this section), may be exported or destroyed under Customs Service supervision, except that if the agreement is under section 704(c)(3) or section 734(l) of the Act (restrictions on the volume of imports), the excess merchandise, with the approval of the Secretary, may be held for future opening under the agreement by placing it in a foreign trade zone or by entering it for warehouse.

§ 351.209 Violation of suspension agreement.

(a) *Introduction.* A suspension agreement remains in effect until the underlying investigation is terminated (*see* §§ 351.207 and 351.222). However, if the Secretary finds that a suspension agreement has been violated or no longer meets the requirements of the Act, the Secretary may either cancel or revise the agreement. This section contains rules regarding cancellation and revision of suspension agreements.

(b) *Immediate determination.* If the Secretary determines that a signatory has violated a suspension agreement, the Secretary, without providing interested parties an opportunity to comment, will:

(1) Order the suspension of liquidation in accordance with section 704(i)(1)(A) or section 734(i)(1)(A) of the Act (whichever is applicable) of all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of:

(i) 90 days before the date of publication of the notice of cancellation of the agreement; or

(ii) The date of first entry, or withdrawal from warehouse, for consumption of the merchandise the sale or export of which was in violation of the agreement;

(2) If the investigation was not completed under section 704(g) or section

734(g) of the Act, resume the investigation as if the Secretary had made an affirmative preliminary determination on the date of publication of the notice of cancellation and impose provisional measures by instructing the Customs Service to require for each entry of the subject merchandise suspended under paragraph (b)(1) of this section a cash deposit or bond at the rates determined in the affirmative preliminary determination;

(3) If the investigation was completed under section 704(g) or section 734(g) of the Act, issue an antidumping order or countervailing duty order (whichever is applicable) and, for all entries subject to suspension of liquidation under paragraph (b)(1) of this section, instruct the Customs Service to require for each entry of the merchandise suspended under this paragraph a cash deposit at the rates determined in the affirmative final determination;

(4) Notify all persons who are or were parties to the proceeding, the Commission, and, if the Secretary determines that the violation was intentional, the Commissioner of Customs; and

(5) Publish in the FEDERAL REGISTER notice of "Antidumping (Countervailing Duty) Order (Resumption of Antidumping (Countervailing Duty) Investigation); Cancellation of Suspension Agreement."

(c) *Determination after notice and comment.* (1) If the Secretary has reason to believe that a signatory has violated a suspension agreement, or that an agreement no longer meets the requirements of section 704(d)(1) or section 734(d) of the Act, but the Secretary does not have sufficient information to determine that a signatory has violated the agreement (see paragraph (b) of this section), the Secretary will publish in the FEDERAL REGISTER notice of "Invitation for Comment on Antidumping (Countervailing Duty) Suspension Agreement."

(2) After publication of the notice inviting comment and after consideration of comments received the Secretary will:

(i) Determine whether any signatory has violated the suspension agreement; or

(ii) Determine whether the suspension agreement no longer meets the re-

quirements of section 704(d)(1) or section 734(d) of the Act.

(3) If the Secretary determines that a signatory has violated the suspension agreement, the Secretary will take appropriate action as described in paragraphs (b)(1) through (b)(5) of this section.

(4) If the Secretary determines that a suspension agreement no longer meets the requirements of section 704(d)(1) or section 734(d) of the Act, the Secretary will:

(i) Take appropriate action as described in paragraphs (b)(1) through (b)(5) of this section; except that, under paragraph (b)(1)(ii) of this section, the Secretary will order the suspension of liquidation of all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of:

(A) 90 days before the date of publication of the notice of suspension of liquidation; or

(B) The date of first entry, or withdrawal from warehouse, for consumption of the merchandise the sale or export of which does not meet the requirements of section 704(d)(1) of the Act;

(ii) Continue the suspension of investigation by accepting a revised suspension agreement under section 704(b) or section 734(b) of the Act (whether or not the Secretary accepted the original agreement under such section) that, at the time the Secretary accepts the revised agreement, meets the applicable requirements of section 704(d)(1) or section 734(d) of the Act, and publish in the FEDERAL REGISTER notice of "Revision of Agreement Suspending Antidumping (Countervailing Duty) Investigation"; or

(iii) Continue the suspension of investigation by accepting a revised suspension agreement under section 704(c), section 734(c), or section 734(l) of the Act (whether or not the Secretary accepted the original agreement under such section) that, at the time the Secretary accepts the revised agreement, meets the applicable requirements of section 704(d)(1) or section 734(d) of the Act, and publish in the FEDERAL REGISTER notice of "Revision of Agreement Suspending Antidumping (Countervailing Duty) Investigation." If the

Secretary continues to suspend an investigation based on a revised agreement accepted under section 704(c), section 734(c), or section 734(l) of the Act, the Secretary will order suspension of liquidation to begin. The suspension will not end until the Commission completes any requested review of the revised agreement under section 704(h) or section 734(h) of the Act. If the Commission receives no request for review within 20 days after the date of publication of the notice of the revision, the Secretary will order the suspension of liquidation ended on the 21st day after the date of publication, and will instruct the Customs Service to release any cash deposit or bond. If the Commission undertakes a review under section 704(h) or section 734(h) of the Act, the provisions of sections 704(h)(2) and (3) and sections 734(h)(2) and (3) of the Act will apply.

(5) If the Secretary decides neither to consider the suspension agreement violated nor to revise the agreement, the Secretary will publish in the FEDERAL REGISTER notice of the Secretary's decision under paragraph (c)(2) of this section, including a statement of the factual and legal conclusions on which the decision is based.

(d) *Additional signatories.* If the Secretary decides that a suspension agreement no longer will completely eliminate the injurious effect of exports to the United States of subject merchandise under section 704(c)(1) or section 734(c)(1) of the Act, or that the signatory exporters no longer account for substantially all of the subject merchandise, the Secretary may revise the agreement to include additional signatory exporters.

(e) *Definition of "violation."* Under this section, "violation" means noncompliance with the terms of a suspension agreement caused by an act or omission of a signatory, except, at the discretion of the Secretary, an act or omission which is inadvertent or inconsequential.

§ 351.210 Final determination.

(a) *Introduction.* A "final determination" in an antidumping or countervailing duty investigation constitutes a final decision by the Secretary as to whether dumping or countervailable

subsidization is occurring. If the Secretary's final determination is affirmative, in most instances the Commission will issue a final injury determination (except in certain countervailing duty investigations). Also, if the Secretary's preliminary determination was negative but the final determination is affirmative, the Secretary will impose provisional measures. If the Secretary's final determination is negative, the proceeding, including the injury investigation conducted by the Commission, terminates. This section contains rules regarding deadlines for, and postponement of, final determinations, contents of final determinations, and the effects of final determinations.

(b) *Deadline for final determination.* The deadline for a final determination under section 705(a)(1) or section 735(a)(1) of the Act will be:

(1) Normally, not later than 75 days after the date of the Secretary's preliminary determination (see section 705(a)(1) or section 735(a)(1) of the Act);

(2) In an antidumping investigation, not later than 135 days after the date of publication of the preliminary determination if the Secretary postpones the final determination at the request of:

(i) The petitioner, if the preliminary determination was negative (see section 735(a)(2)(B) of the Act); or

(ii) Exporters or producers who account for a significant proportion of exports of the subject merchandise, if the preliminary determination was affirmative (see section 735(a)(2)(A) of the Act);

(3) In a countervailing duty investigation, not later than 165 days after the preliminary determination, if, after the preliminary determination, the Secretary decides to investigate an upstream subsidy allegation and concludes that additional time is needed to investigate the allegation (see section 703(g)(2) of the Act); or

(4) In a countervailing duty investigation, the same date as the date of the final antidumping determination, if:

(i) In a situation where the Secretary simultaneously initiated antidumping and countervailing duty investigations on the subject merchandise (from the