

CHAPTER III—INTERNATIONAL TRADE  
ADMINISTRATION, DEPARTMENT OF  
COMMERCE

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## PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

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AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; and 19 U.S.C. 3538.

SOURCE: 62 FR 27379, May 19, 1997, unless otherwise noted.

**Subpart A—Scope and Definitions**

**§ 351.101 Scope.**

(a) *In general.* This part contains procedures and rules applicable to anti-dumping and countervailing duty proceedings under title VII of the Act (19 U.S.C. 1671 *et seq.*), and also determinations regarding cheese subject to an in-quota rate of duty under section 702 of the Trade Agreements Act of 1979 (19 U.S.C. 1202 note). This part reflects statutory amendments made by titles I, II, and IV of the Uruguay Round Agreements Act, Pub. L. 103-465, which, in turn, implement into United States law the provisions of the following agreements annexed to the Agreement Establishing the World Trade Organization: Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994; Agreement on Subsidies and Countervailing Measures; and Agreement on Agriculture.

(b) *Countervailing duty investigations involving imports not entitled to a material injury determination.* Under section 701(c) of the Act, certain provisions of the Act do not apply to countervailing duty proceedings involving imports from a country that is not a Subsidies Agreement country and is not entitled to a material injury determination by the Commission. Accordingly, certain provisions of this part referring to the Commission may not apply to such proceedings.

(c) *Application to governmental importations.* To the extent authorized by

section 771(20) of the Act, merchandise imported by, or for the use of, a department or agency of the United States Government is subject to the imposition of countervailing duties or anti-dumping duties under this part.

### § 351.102 Definitions.

(a) *Introduction.* The Act contains many technical terms applicable to antidumping and countervailing duty proceedings. In the case of terms that are not defined in this section or other sections of this part, readers should refer to the relevant provisions of the Act. This section:

- (1) Defines terms that appear in the Act but are not defined in the Act;
- (2) Defines terms that appear in this Part but do not appear in the Act; and
- (3) Elaborates on the meaning of certain terms that are defined in the Act.

(b) *Definitions.*

*Act.* “Act” means the Tariff Act of 1930, as amended.

*Administrative review.* “Administrative review” means a review under section 751(a)(1) of the Act.

*Affiliated persons; affiliated parties.* “Affiliated persons” and “affiliated parties” have the same meaning as in section 771(33) of the Act. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Secretary will consider the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The Secretary will not find that control exists on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. The Secretary will consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

*Aggregate basis.* “Aggregate basis” means the calculation of a country-wide subsidy rate based principally on information provided by the foreign government.

*Anniversary month.* “Anniversary month” means the calendar month in which the anniversary of the date of

publication of an order or suspension of investigation occurs.

*APO.* “APO” means an administrative protective order described in section 777(c)(1) of the Act.

*Applicant.* “Applicant” means a representative of an interested party that has applied for access to business proprietary information under an administrative protective order.

*Article 4/Article 7 Review.* “Article 4/Article 7 review” means a review under section 751(g)(2) of the Act.

*Article 8 violation review.* “Article 8 violation review” means a review under section 751(g)(1) of the Act.

*Authorized applicant.* “Authorized applicant” means an applicant that the Secretary has authorized to receive business proprietary information under an APO under section 777(c)(1) of the Act.

*Changed circumstances review.* “Changed circumstances review” means a review under section 751(b) of the Act.

*Consumed in the production process.* Inputs “consumed in the production process” are inputs physically incorporated, energy, fuels and oil used in the production process and catalysts which are consumed in the course of their use to obtain the product.

*Cumulative indirect tax.* “Cumulative indirect tax” means a multi-staged tax levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production.

*Customs Service.* “Customs Service” means the United States Customs Service of the United States Department of the Treasury.

*Department.* “Department” means the United States Department of Commerce.

*Direct tax.* “Direct tax” means a tax on wages, profits, interests, rents, royalties, and all other forms of income, a tax on the ownership of real property, or a social welfare charge.

*Domestic interested party.* “Domestic interested party” means an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) of the Act.