

## **Report on Compliance With the Ex Parte Memoranda Provision**

April 17, 2002

### Introduction:

Various steps have been taken to ensure that the Department of Commerce fully complies with the ex parte memoranda provision of the Tariff Act of 1930, as amended (19 U.S.C. §1677f(a)(3)) when conducting antidumping and countervailing duty proceedings. This provision states that the administrative record of each proceeding should contain a summary of

any ex parte meeting between interested parties or other persons providing factual information in connection with a proceeding, and the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if that information relating to that proceeding was presented or discussed at such meeting.

One method adopted for ensuring compliance is to conduct periodic reviews of whether ex parte memoranda were prepared and placed on the record for all covered meetings. This report provides the results of the second such review.

### Methodology:

This review covered the period of December, 2001 through February, 2002. The personnel responsible for monitoring the preparation of ex parte memoranda were requested to review the meeting calendars for the officials covered by the ex parte memoranda provision and then to review the administrative records of the relevant proceedings to determine whether memoranda were submitted for the required meetings. This review examined the meetings held during the review period by the Secretary of Commerce, the Deputy Secretary of Commerce, the Under Secretary for International Trade, the Assistant Secretary for Import Administration, the Deputy Assistant Secretaries for Import Administration and various other Import Administration officials that had acted in the capacity of one of the preceding officials.

### Results:

A total of 41 meetings covered by the ex parte memoranda provision of the statute were held during the review period. The review found that ex parte memoranda were filed for all meetings.

However, the review identified two issues concerning the effectiveness of the Department's compliance with the ex parte memoranda provision of the statute. First, the timeliness of the submission of ex parte memoranda varied in some cases. Second, some parties asserted that their ability to fully participate is limited when a covered meeting with another party is conducted within a few days before a preliminary or final decision in a proceeding, thereby leaving insufficient time for other parties to then meet with the Department. Both of these issues arose in the context of a covered meeting that was held the day before the statutory deadline for making a final determination in the underlying

investigation and for which the ex parte memoranda was not submitted to the official file until after that statutory deadline. To avoid this situation, we will remind staff to where possible avoid holding meetings covered by the ex parte memoranda provision within one week of a preliminary or final decision and to make sure that ex parte memoranda are submitted to the official record as expeditiously as possible.

A similar review will be conducted for the March, 2002 through May, 2002 period, the results of which will also be reported.