

Report on Compliance With the Ex Parte Memoranda Provision

July 30, 2003

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 fourth such review.

Methodology:

This review covered the period of September, 2002 through December, 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 39 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 such meetings. This report also completes a year and a half-long review of the Department's compliance with the ex parte memoranda provision, covering meetings held from September, 2001 through December, 2002. The review process determined that ex parte memoranda were submitted for all covered meetings during that period.

In addition, the review process identified two issues concerning the effectiveness of the Department's

compliance with the ex parte memoranda provision of the statute: (1) the timeliness of the submission of ex parte memoranda to the official record of a case; and (2) the impact of the Department holding meetings covered by the ex parte provision within a few days before a preliminary or final decision is made in a proceeding. As previously reported, steps have been taken to resolve both issues.

Continuation of Monitoring:

The past results of the reporting process demonstrates that Department officials recognize the requirements and the importance of the ex parte memoranda provision, and that appropriate procedures have been put into place to ensure the Department's compliance with the provision. The Department's compliance with the ex parte memoranda provision will continue to be monitored internally. Conducting periodic reviews not only ensures compliance with the ex parte memoranda provision, but also increases awareness of the provision and the provision's requirements. Now that effective ex parte procedures have been implemented to ensure that ex parte memoranda are prepared and placed on the respective administrative record in a timely manner, the Acting Assistant Secretary has charged a team of nine office directors with the task of designing an effective, albeit less burdensome, monitoring system through the use of spot-checks conducted on an ongoing basis to facilitate the Department's continued compliance with the requirements of the provision. The task force has been charged with adopting a plan for implementation by September 30, 2003.