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Two recent reports on aspects of the Antidumping Act of 1921 revealed the following: the test of the act's effectiveness has never been measured; dumping investigations are timely, but the assessment of dumping duties is not; dumping duty liability is large, but the precise amount is hard to determine; and the adequacy of bonding requirements for potential dumping duties has not been tested. No studies were identified concerning the effect of the act on import prices, but the consensus of Government officials, trade associations, and importers was that antidumping proceedings create uncertainty in the marketplace that prompts some adjustments in prices. Since the actual assessment of duties is seldom done in a timely manner, the arrival at a reliable estimate of importers' outstanding liabilities for dumping duties is difficult. By applying the dumping margins used by the Treasury Department in making its tentative dumping findings of the value of unliquidated entries, a rough estimate of about $700 million owed as of June 1, 1978, is provided. The actual dumping margin is determined on an entry-by-entry basis by comparing the price in the country of origin with the price to the U.S. importer on a given day. Customs' officials claimed that no dumping duties were lost because of inadequate bonding from October 1976 to July 1978. (RRS)

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STATEMENT OF

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U.S. GENERAL ACCOUNTING OFFICE

BEFORE THE

SUBCOMMITTEE ON TRADE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ON THE

ADMINISTRATION OF THE ANTIDUMPING ACT OF 1921

Mr. Chairman and Members of the Subcommittee:

I appreciate your invitation to present our views on Treasury's administration of the Antidumping Act.

In the last 5 months we issued two reports, in response to congressional requests, on some aspects of this subject. Our major observations were

--the test of the act's effectiveness has never been measured,

--dumping investigations are timely but the assessment of dumping duties is not,

--dumping duty liability is large, but the precise amount is hard to determine, and

--the adequacy of bonding requirements for potential dumping duties has not been, but soon will be, tested.

Our reports, GGD-78-60, dated April 14, 1978, and GGD-78-109, dated September 5, 1978, copies of which have been made available to this Subcommittee, also contain our comments on a host of other matters and rather voluminous data. For this morning's meeting we will limit our comments to the issues I have just listed. We are, of course, happy to respond to any questions you may have on the other matters.

Antidumping Act's Effectiveness Has Never Been Measured

The question of whether the Antidumping Act is effective in countering the sale of imported merchandise at less then fair value remains largely unanswered. One test, it seems to us, is whether Treasury's determination that dumping is occurring and the eventual assessment of dumping duties affects the price of imported merchandise.

We were unable to identify any studies addressing the effect of the act on import prices. No one we talked to, including Treasury officials, and a few trade associations, importers and law firms knew of such an evaluation. However, the consensus was that antidumping proceedings create uncertainty in the market place that prompts some adjustments in prices.

This view is supported in part, by Customs' experience showing that, in some cases, the dumping margins shrink between the time of a dumping investigation and the assessment of dumping duties. For example, the dumping margin for sulphur from Mexico was 73 percent at the time of the tentative dumping determination in 1971 but is currently estimated to be only 3-1/2 percent. In some other cases, sales at less than fair value had not been made for extended periods. However, we understand that in the T.V. case, which is by far the largest dumping case, sales at less than fair value continued for a long period and the dumping margin remained high.

The mixed results coupled with the many variables at work in the market place and the lack of timely assessment of dumping duties make it difficult to reach an overall conclusion as to the act's impact on prices.

Dumping Investigations Are Timely,
Assessment of Dumping Duties Is Not

Treasury, with minor variances, has conducted dumping investigations within the statutory time frame set forth in the Antidumping Act. The actual assessment of duties, however, is not bound by any time frame and it is seldom done in a timely manner.

Under the best of circumstances, the process leading to the assessment of dumping duties takes a long time. The statutory time frames for the multistep process leading to the determination that dumping duties should be assessed add up to 13 months. An analysis of the 69 cases investigated between January 3, 1975, (the effective date of the Trade Act of 1974) and December 31, 1977, shows the prescribed time frame for any one step of the threeee step investigative process was exceeded by not more than 5-1/2 days.

Customs has fallen far behind, however, in the assessment of dumping duties. It estimates the average delay to be from 3 to 3-1/2 years.

As you know, once a finding of dumping is published, special dumping duties are assessed on an entry-by-entry basis on shipments from the date of withholding of appraisement. The assessment process involves the gathering and analyzing of information from the exporters, the issuance of special appraisement instructions to Customs field offices, and the assessment of dumping duties by the field offices. These are time-consuming tasks. Faced with mandated time requirements for other segments of the antidumping process, Customs has simply not concentrated on the assessment phase.

To combat these problems, Customs has assigned additional personnel to the work, automated some time-consuming manual functions, and required foreign exporters to adhere to deadlines for the submission of information needed to assess dumping duties. These are all steps in the right direction.

However, we understand most of this additional effort has been concentrated on the T.V. case.

DUMPING DUTIES LIABILITY LARGE BUT PRECISE AMOUNT HARD TO DETERMINE

Since the actual assessment of duties is seldom done in a timely manner, arriving at a reliable estimate of importers outstanding liability for dumping duties is difficult. However, applying the dumping margins used by Treasury in making its tentative dumping findings to the value of unliquidated entries provides a rough estimate of about $700 million owed as of June 1, 1978. However, the dumping duties actually assessed against these entries is apt to vary from the estimate considerably.

The actual dumping margin is determined on an entry-by-entry basis by comparing the price in the country of origin with the price to the U.S. importer on a given day. Customs is 3 - 3-1/2 years behind in providing its district offices with the information needed to make the comparisons. As prices vary over time, so do the dumping margins applicable to individual entries, as indicated in the sulphur from Mexico case mentioned earlier.

Thus, while the $700 million estimate may not be completely reliable, no accurate computation can be made until Customs determines the actual dumping margins.

ADEQUACY OF BONDING REQUIREMENTS FOR POTENTIAL DUMPING DUTIES HAS NOT BEEN, BUT SOON WILL, BE TESTED

All Customs regions assured us no dumping duties were lost due to inadequate bonding from October 1976 to July 1978. While nonpayment of dumping duties may not have been a problem in the past, a more conclusive test of the adequacy of Customs bonding practices will occur when Customs speeds up the assessment process and specifically as it completes liquidations of television entries from Japan where estimates of the dumping duties to be paid run as high as $450 million.

Bonding is used to protect the revenues due the Government, and Customs regulations delegate to each district director authority for determining the extent of additional bonding, if any, needed to ensure payment of potential dumping duties. In only one circumstance is additional bonding mandated by the Antidumping Act. An antidumping bond equal to the estimated value of the merchandise in question is required when the exporter's sales price is unknown.

To assess the districts' practices, we examined all 173 unliquidated entries involving five dumped commodities. Additional bonding was not required 73 percent of the time and potential dumping duties exceeded importers' bonds in a number of cases.

For example, the value of five importers' entry bonds covering the unliquidated entries was $212,000 to $76 million less than the importers' potential dumping duty liability. Additional bonding was not required of these importers. While these examples show a potential for losses, they are by no means certain.

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Mr. Chairman, that concludes my statement. We will be happy to answer any questions.