reduce the differential in the population totals from Census 2000 and on ways that the decennial census data can be disseminated to maximize usefulness to their communities and other users.

The Committee will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of its members to provide advice and recommendations for the implementation and evaluation phases of Census 2000.

DATES: The meeting will convene on November 4, 1998. The meeting will begin at 12 noon and end at 5:15 p.m. Last-minute changes to the schedule are possible, which could prevent us from giving advance notice.

ADDRESSES: The meeting will take place in the Francis Amasa Walker Conference Center at the Bureau of the Census, Federal Building 3, 4700 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 1647, Federal Building 3, Washington, DC 20233, telephone 301–457–2308, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The agenda for the November 4 meeting, which will begin at 12 noon and adjourn at 5:15 p.m., will focus on updates and plans related to the enumeration of the American Indian and Alaska Native Populations, particularly in American Indian and Alaska Native areas.

The meeting is open to the public, and a brief period is set aside, during the closing session, for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer named above at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer.

Dated: October 8, 1998.

James F. Holmes,

Acting Director, Bureau of the Census.

[FR Doc. 98–27594 Filed 10–14–98; 8:45 am]

BILLING CODE 3510–07–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on October 27 and 28, 1998, 9:00 a.m., Room 1617M-2, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW, Washington, DC. This Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

October 27

General Session 9:00 am–11:00 am

1. Opening remarks by the Chairman.
2. Discussion on General Accounting Office reports on High Performance Computing.
3. Discussion of Composite Theoretical Performance recommendations for electronic subassemblies (chips) and High Performance Computing.
4. Comments or presentations by the public.

October 27 and 28:

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statments at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee sugguests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, Advisory Committees MS: 3886C, U.S. Department of Commerce, 15th St. & Pennsylvania Ave. NW., Washinton, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formaly determined on October 3, 1997, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Lee Ann Carpenter, 202-482-2583.

Dated: October 8, 1998.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 98–27730 Filed 10–14–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice and request for comment on policy concerning assessment of antidumping duties and request for comment.

SUMMARY: The Department of Commerce (the Department) has observed that there is confusion among parties importing merchandise into the United States subject to an antidumping duty order about the application of the Department's regulation on automatic liquidation where a reseller has been involved in the chain of commerce for merchandise. This notice clarifies the Department's interpretation of its automatic-liquidation regulation and requests public comment before it adopts a final interpretation.

FOR FURTHER INFORMATION CONTACT: Joan L. MacKenzie, Senior Attorney, Office of the Chief Counsel for Import Administration, (202) 482–1310, or Laurie Parkhill, Director, Office 3, Import Administration, (202) 482–4733.

SUPPLEMENTARY INFORMATION: This notice proposes to clarify the Department's regulation on automatic liquidation at 19 CFR 351.212(c). At issue is whether a producer's company-specific cash deposit rate can serve as

the basis for automatic liquidation under section 351.212(c) where an intermediary (*e.g.*, a reseller, a trading company, an exporter) exports the merchandise and where the entries are suspended at the producer's cash-deposit rate. This notice uses the term ''reseller'' to apply to any intermediary that could be an interested party as defined in section 771(9)(A) of the Tariff Act of 1930, as amended (the Act).

Summary of Proposed Clarification

As discussed in detail below, the Department's position is that automatic liquidation at the cash deposit rate required at the time of entry can only apply to a reseller if no administrative review has been requested, either of the reseller or of any producer of the merchandise the reseller exported to the United States, and the reseller does not have its own cash deposit rate. If the Department conducts a review of a producer of the reseller's merchandise where entries of the merchandise were suspended at the producer's rate, automatic liquidation will not apply to the reseller's sales. If, in the course of an administrative review, the Department determines that the producer knew that the merchandise it sold to the reseller was destined for the United States, the reseller's merchandise will be liquidated at the producer's assessment rate which the Department calculates for the producer in the review. If, on the other hand, the Department determines in the administrative review that the producer did not know that the merchandise it sold to the reseller was destined for the United States, the reseller's merchandise will not be liquidated at the assessment rate the Department determines for the producer or automatically at the rate required as a deposit at the time of entry. In that situation, the entries of merchandise from the reseller during the period of review will be liquidated at the all-others rate if there was no company-specific review of the reseller for that review period.

Effective Date

The Department proposes that this clarification apply to all entries for which the anniversary date for requesting an administrative review is on or after the date of publication of a final notice on this issue.

Discussion

The longstanding principle behind the Department's assessment policy is that company-specific assessment rates must be based on the sales information of the first company in the commercial chain that knew, at the time the merchandise was sold, that the merchandise was destined for the United States. See, *e.g.*, Stainless Steel Sheet and Strip Products from the Federal Republic of Germany, 48 FR 20459, 20460 (1983); Small Business Telephone Systems and Subassemblies from Korea, 54 FR 53141, 53147–48 (1989); Oil County Tubular Goods from Canada, 55 FR 50739, 50740 (1990); Chrome-Plated Lug Nuts from Taiwan, 56 FR 36130 (1991); Antifriction Bearings (Except Tapered Roller Bearings) and Parts Thereof from Japan, 56 FR 31754, 31756 (1991); Television Receivers from Japan, 58 FR 11211, 11216 (1993). If dumping is occurring, the company that sets the price of the merchandise sold in the United States is responsible for the dumping, and any company-specific assessment rate must reflect that company's sales prices to the United States.

The existence of dumping is initially determined in a less-than-fair-value investigation. The Department investigates all producers, where practicable (19 CFR 351.204(c)). It also investigates other foreign interested parties, if there are resources to do so, although it is seldom possible to investigate resellers in an antidumping investigation (19 CFR 351.204(d)). If the Department makes a preliminary affirmative determination that dumping is occurring, it calculates company-specific weighted-average dumping margins for investigated companies (19 CFR 351.204(c)). These dumping margins are estimates of dumping activity. The Department also calculates an ''all-others'' dumping margin, which is the simple average of the calculated company-specific margins. This rate applies to entries of merchandise from producers and exporters for which the Department has not established a company-specific rate.

The Department publishes a notice in the **Federal Register** of its preliminary determination and orders the U.S. Customs Service to collect a bond or cash deposit at the time the merchandise subject to the investigation enters the United States (19 CFR 351.205(d)). The bond/cash deposits serve as security for the final amount of dumping liability. The estimated dumping margins the Department determines in the investigation set the bond/cash deposit rate; in other words, the producer's company-specific dumping margin which the Department determines is the bond/cash deposit rate for merchandise produced by that producer and imported into the United States.

After notice and opportunity for comment, the Department calculates final dumping margins. If the International Trade Commission makes a final affirmative determination that the dumping is causing injury to the U.S. industry, the Department publishes an antidumping duty order and instructs the Customs Service to continue to collect a cash deposit at the time the merchandise subject to the order enters the United States; bonds are no longer an option for importers to post as security (19 CFR 351.211).

The Department instructs Customs to apply any reseller's company-specific cash deposit rate to entries of merchandise sold by that reseller. If there is no company-specific reseller cash deposit rate and the importer identifies the producer, the Department instructs Customs to apply the producer's cash deposit rate to the entry. This logic stems from the fact that, when subject merchandise enters the United States through a reseller, the Department does not know who set the price of the subject merchandise to the United States. The Department instructs Customs to apply the producer's cash deposit rate where the producer of the merchandise is identified on the assumption that the producer knew that the merchandise was destined for the United States. This assumption is more often true than not. Subject merchandise sold through a reseller and imported where there is no company-specific reseller rate or where the importer did not identify the producer of the merchandise is subject to the all-others cash deposit rate.

After the passage of a year from the month the antidumping duty order was published (called the anniversary month) and annually thereafter, interested parties must decide whether to ask the Department to conduct an administrative review of sales for the past year under section 751(a)(1) of the Act. Reasons for such requests will vary; generally, a party will request a review of a producer or of an exporter with its own rate because the party believes the actual dumping liability is higher or lower than the cash deposit. Parties may decide to request a review of a reseller which does not have its own rate because they believe the actual dumping liability is higher or lower than the cash deposit or, if the producer which supplied the reseller is reviewed, the all-others rate.

During the anniversary month, a domestic interested party or an interested party described in section 771(9)(B) of the Act may request in writing that the Secretary conduct an administrative review of specified

individual exporters or producers covered by an order if the requesting person states why the person desires the Secretary to review those particular exporters or producers (19 CFR 351.213). During the same month, an exporter or producer covered by an order may request that the Secretary conduct an administrative review of only that person. Also during the anniversary month, an importer of the merchandise may request that the Secretary conduct an administrative review of only an exporter or producer of the subject merchandise which that importer imported into the United States.

If no interested party requests a review of a producer's sales, automatic liquidation applies to entries of merchandise exported by that producer (19 CFR 351.212(b)). Because no review has been requested, there is no reason to continue to suspend liquidation of the entries. The producer's cash deposit rate at the time of entry serves as the assessment rate for the entries during that period. Likewise, entries of a producer's merchandise sold to the United States by a reseller will be liquidated at the producer's cash deposit rate (if there is no company-specific rate for the reseller at the time of entry and no review of the reseller or the producer has been requested). Because no review has been requested for either the producer or the reseller, no one is challenging the assumption, which the Department made when it assigned the producer's cash deposit rate to the entries from the reseller, that the producer set the price of the merchandise which the reseller sold to the United States.

If, however, an interested party requests the Department to conduct a review of the producer's sales, the review applies to all sales of the producer, including any sales to resellers of the producer's merchandise, unless the reseller had its own company-specific rate at the time of entry and the producer did not know that the sales to the reseller were destined for the United States. In conducting the review the Department will determine whether the producer or the reseller set the price of the merchandise to the United States, based on evidence submitted on the record of the review.

During the course of any administrative review, the Department sends questionnaires to the foreign companies for which reviews have been initiated, seeking extensive information on the companies' sales to the United States and foreign market sales. A company reports sales that it knew at the time of the sale were destined for the United States as its U.S. sales. At the conclusion of the review the Department instructs Customs to assess antidumping duties at the producer's company-specific (or, as applicable, customer-specific) assessment rate which the Department determined in conducting the review.

The producer will report sales of the subject merchandise for which it did not know the destination of the merchandise as foreign market sales. These may include sales to resellers of merchandise that ultimately came to the United States without the producer's knowledge where the entries of the merchandise were suspended at the producer's cash deposit rate. Because the producer did not set the price to the United States for these sales, these entries of this merchandise will not be assessed final antidumping duties at the producer's rate at the conclusion of the review. The rate instead will be based on the interested party in the chain of commerce that actually set the price to the United States. If the Department did not conduct a review of that party, however, there is no company-specific rate applicable to these entries. In the absence of a company-specific rate, the Department will base the assessment rate on the ''all-others'' rate.

Confusion has arisen because of the Department's practice of assigning the producer's cash deposit rate to resellers' merchandise that identifies the producer at the time of entry. Resellers have asserted that, if the Department determined during the review that the producer did not set the price of the reseller's merchandise to the United States, entries of such merchandise are subject to automatic liquidation at the rate required at the time of entry because no one requested a review of the reseller. This is inconsistent with the Department's assessment policy, however, that company-specific assessment rates must be based on the sales information of the first company in the commercial chain that knew, at the time the merchandise was sold, that the merchandise was destined for the United States. Since the evidence in the record of the administrative review shows that the producer did not set the price of those sales, the assessment of duties on merchandise exported by the resellers cannot be based on the producer's rate. As no review of the reseller's sales was conducted, there is no company-specific data on which to base a company-specific reseller rate. Therefore, the only appropriate assessment rate is the all-others rate.

This practice has been upheld by the Court of International Trade (CIT). A similar issue arose in litigation involving televisions from Japan (*ABC International* v. *United States*, 19 C.I.T. 787 (1995)). In this case ABC imported televisions from Japan, identifying the producers as Sharp, Toshiba, and JVC. The cash deposit rates for merchandise produced by these producers were zero at the time of entry. Because the importer identified the producer at the time of entry, the Department required the importer to deposit estimated antidumping duties at the producer's cash deposit rate. The Department then conducted an administrative review of the producers. Liquidation of ABC's entries was suspended during the conduct of the review, since the producers identified at the time of entry were subject to review. The review resulted in margins for the producers that ranged from 20 to 40 percent, and the Department ordered liquidation of all entries of merchandise produced by these firms (including ABC's entries) at the producers' rates determined in the administrative review. ABC did not participate in the review.

After the entries were liquidated, ABC sued the Department, alleging that its entries should have been liquidated automatically at the zero cash deposit rate because its entries were not reviewed. The Department took the position that, because the review was closed and because ABC did not either participate in the review of the producers or request a review of the exporter/reseller, it was foreclosed from raising the issue in a protest. The CIT upheld the Department, noting that automatic liquidation applies only where there was no review of the reseller or the producer of the reseller's merchandise.

The Department recognizes that this policy will increase the need of resellers to participate in the Department's proceedings. If a reseller believes that the producer is not setting the price to the United States, it should participate in the administrative review on this issue. The only way that reseller or exporter can have its own company-specific rate is to have an administrative review of its own.

The Department invites comments on this clarification. Written comments are due October 30, 1998. Address written comments to Robert S. LaRussa, Assistant Secretary for Import Administration, Dockets Center, Room 1870, Pennsylvania Avenue and 14th Street , N.W., Washington, D.C. 20230. Attention: Laurie Parkhill, Comment on Automatic Liquidation.

Dated: October 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–27729 Filed 10–14–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has revised its policy regarding the timing of issuance of critical circumstances determinations. We are now announcing this change in policy.

DATES: This policy is effective October 7, 1998 with respect to all ongoing and future investigations.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–1780.

SUPPLEMENTARY INFORMATION:

Policy Bulletin 98/4: Timing of Issuance of Critical Circumstances Determinations

Statement of Issue

Whether Commerce should make a determination of critical circumstances before issuing a preliminary determination in an antidumping investigation.

Analysis

Where critical circumstances exist, U.S. law and the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Antidumping Agreement) provide for the imposition of antidumping measures retroactively for a period of 90 days prior to the preliminary determination of dumping. The purpose of this provision is to ensure that the statutory remedy is not undermined by massive imports following initiation of an investigation. Section 733(e) of the Tariff Act of 1930, as amended (the Act), permits the Department to make a preliminary critical circumstances determination at any time after initiation of an investigation. Changes in the Antidumping Agreement also provide for critical circumstances decisions prior to a preliminary determination of dumping. Consequently, Commerce is revising its critical circumstances practice to more fully utilize the flexibility provided by the statute and the Antidumping Agreement so that dumping is remedied to the fullest extent provided under the law. Under this new practice, a preliminary determination regarding critical circumstances may be made prior to the preliminary determination of dumping, assuming adequate evidence of critical circumstances is available.

Section 733(e) of the Act directs Commerce to issue critical circumstances determinations ''promptly (at any time after the initiation of the investigation under this subtitle)'' as long as an allegation is made in the petition or at any time more than 20 days before the final determination. While there is no further guidance in the statute, the regulations provide that preliminary critical circumstances findings shall be made ''not later than the preliminary determination,'' if the allegation is submitted at least 20 days before the preliminary determination, and ''within 30 days after the petitioner submits the allegation,'' if the allegation is submitted later than 20 days before the preliminary determination. 19 CFR 351.206(c).

In order to make a preliminary finding of critical circumstances, section 733(e) of the Act requires that there be a reasonable basis to believe or suspect that:

1. There is a history of dumping causing material injury, or, that the importer knew or should have known of dumping and likely injury; and

2. There have been massive imports of the subject merchandise over a relatively short period.

The regulations define ''massive imports'' as an increase of 15 percent during the relatively short period. 19 CFR 351.206(h) The regulations define ''relatively short period'' as normally the three-month period after initiation of an investigation. 19 CFR § 351.206(i) Thus, Commerce has traditionally compared the three-month period immediately after initiation with the three-month period immediately preceding initiation to determine whether there has been at least a 15 percent increase in imports of the subject merchandise. Because of constraints on the availability of data, as a practical matter, it is virtually impossible to make a critical circumstances finding much before the preliminary determination, as long as these two base periods are used. However, section 351.206(i) further provides that:

> * * * if the Secretary finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a period of not less than three months from that earlier time.

Therefore, if the facts of a particular case show that importers, exporters or producers had reason to believe that a case was likely to be filed, the regulations make clear that earlier base periods can be used to measure massive imports. If earlier base periods are chosen, in accordance with this regulatory provision, and a comparison of these periods shows massive imports, the Secretary would still need to find that there has been a history of dumping and injury, or importer knowledge of dumping and likely injury, in order to make a critical circumstances finding. As with current practice, the Department would look at such factors as past U.S. dumping cases, cases in other countries, the International Trade Commission's (ITC) preliminary determination, information supplied in the petition, and other relevant information available at the time of the Department's critical circumstances determination. Because the ITC's preliminary determination of injury is normally important for this analysis, we anticipate that the earliest point at which a critical circumstances determination would be made is shortly after the ITC's preliminary injury determination, which normally occurs 45 days after the filing of the petition.

Statement of Policy

If the facts of a case show that importers, exporters, or producers had knowledge that a case was likely to be filed, and the other statutory and regulatory criteria for finding critical circumstances are met, Commerce should issue its preliminary finding on critical circumstances before the preliminary determination, and as soon as possible after initiation.

Implementation

This practice will be implemented in all ongoing and future cases where an allegation of critical circumstances is made and the facts of the case support an early critical circumstances finding, in accordance with the statutory and regulatory criteria.