

Public Law 85-630

AN ACT

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

August 14, 1958
[H. R. 6006]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201 of the Antidumping Act, 1921 (19 U. S. C. 160), is amended as follows:

Antidumping Act,
1921, amendments.
68 Stat. 1138.
Dumping investi-
gation.

(1) By inserting after the second sentence of subsection (a) thereof the following sentence: "For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative."

(2) By striking out "he shall forthwith authorize" in subsection (b) and inserting in lieu thereof "he shall forthwith publish notice of that fact in the Federal Register and shall authorize".

Notice in F.R.

(3) By adding at the end of such section the following new subsection:

"(c) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the Federal Register, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative."

Decisions and
reports in F.R.

SEC. 2. Subsections (b) and (c) of section 202 of the Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)), are amended to read as follows:

Special dumping
duty.

"(b) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to—

Foreign market
value.
Determination.

"(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

"(2) other differences in circumstances of sale, or

"(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

Post, p. 586.

then due allowance shall be made therefor.

"(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

"(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for

sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

“(2) other differences in circumstances of sale, or

“(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.”

SEC. 3. The heading and text of section 205 of the Antidumping Act, 1921 (19 U. S. C. 164), are amended to read as follows:

“FOREIGN MARKET VALUE

“SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.”

SEC. 4. (a) The heading and text of section 206 of the Antidumping Act, 1921 (19 U. S. C. 165), are amended to read as follows:

“CONSTRUCTED VALUE

“SEC. 206. (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

“(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the

date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

"(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and

"(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

"(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c).

Transaction.

"(c) The persons referred to in subsection (b) are:

"(1) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

"(2) Any officer or director of an organization and such organization;

"(3) Partners;

"(4) Employer and employee;

"(5) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

"(6) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person."

(b) Sections 201 (b), 202 (a), 209, and 210 of the Antidumping Act, 1921 (19 U. S. C., secs. 160 (b), 161 (a), 168, and 169), are amended by striking out "cost of production" each place it appears and inserting in lieu thereof "constructed value".

42 Stat. 11, 15.

SEC. 5. Section 212 of the Antidumping Act, 1921 (19 U. S. C. 171), is renumbered as section 213, and such Act is amended by inserting after section 211 the following:

42 Stat. 15.

"DEFINITIONS

"SEC. 212. For the purposes of this title—

"(1) The term 'sold or, in the absence of sales, offered for sale' means sold or, in the absence of sales, offered—

"(A) to all purchasers at wholesale, or

“(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise, without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

“(2) The term ‘ordinary course of trade’ means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

“(3) The term ‘such or similar merchandise’ means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

“(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

“(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

“(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

“(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

“(E) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise under consideration.

“(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

“(4) The term ‘usual wholesale quantities’, in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.”

Applicability.

SEC. 6. The amendments made by this Act shall apply with respect to all merchandise as to which no appraisal report has been made on or before the date of the enactment of this Act; except that such amendments shall not apply with respect to any merchandise which—

(1) was exported from the country of exportation before the date of the enactment of this Act, and

(2) is subject to a finding under the Antidumping Act, 1921, which (A) is outstanding on the date of enactment of this Act, or (B) was revoked on or before the date of the enactment of this Act, but is still applicable to such merchandise.

Approved August 14, 1958.

42 Stat. 15.
19 USC 171.

Public Law 85-631

AN ACT

To authorize the Secretary of the Interior to exchange certain Federal lands for certain lands owned by the State of Utah.

August 14, 1958
[S. 3569]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to accept on behalf of the United States from the State of Utah the conveyance in fee simple of the following described lands situated in such State:

Utah.
Exchange of
lands.

Beginning at United States Government monument numbered 6 (monument numbered 6 is 876.31 feet south and 2,453.795 feet east more or less from the northwest corner of section numbered 4, township 1 south, range 1 east, Salt Lake meridian) and running thence south 480 feet to the south boundary of the United States Bureau of Mines property; thence west 60 feet; thence north 400 feet; thence west 544.5 feet; thence south 400.0 feet; thence west 60.0 feet; thence north 480 feet; thence east 664.5 feet more or less to the point of beginning and containing 2.32 acres more or less.

SEC. 2. In return for the lands described in the first section of this Act the Secretary of the Interior is authorized and directed to convey by quitclaim deed to the State of Utah all right, title, and interest of the United States in and to the following described lands situated in such State:

PARCEL NUMBERED 1

Beginning at a point 664.5 feet west of United States Government monument numbered 6 (monument numbered 6 is 876.31 feet south and 2,453.795 feet east more or less from the northwest corner of section numbered 4, township 1 south, range 1 east, Salt Lake meridian) and running thence north 160.0 feet; thence east 864.35 feet more or less to the east boundary of the United States Bureau of Mines property; thence north 0 degrees 00 minutes 50 seconds west 287.6 feet; thence south 67 degrees 11 minutes 40 seconds west 366.35 feet; thence north 88 degrees 21 minutes 10 seconds west 682.72 feet; thence south 325.41 feet; thence east 155.5 feet more or less to the point of beginning and containing 4.69 acres more or less.

PARCEL NUMBERED 2

Beginning at a point 480 feet south of United States Government monument numbered 6; thence north 89 degrees 59 minutes 10 seconds east 200.00 feet; thence north 0 degrees 00 minutes 50 seconds west 136.10 feet; thence south 55 degrees 45 minutes 00 seconds west 241.92 feet more or less to the point of beginning and containing 0.31 acre more or less.

Approved August 14, 1958.