



INTERNATIONAL
TRADE
ADMINISTRATION

United States

International Conference on Trade Remedies

Approaches for Addressing Circumvention

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Only

Circumvention Inquiries – Commerce Procedures

- Circumvention inquiries are governed under Section 781 of the Tariff Act.
- A circumvention proceeding is a clarification or interpretation of an order to include products that may not fall within the order's literal scope.
- Below are four types of circumventions:

Circumvention Inquiries – Commerce Procedures

- Commerce may find circumvention of an AD or CVD order in cases of:
 - Completion or assembly in the United States;
 - Completion or assembly in other foreign countries;
 - The minor alteration of merchandise subject to an order; or
 - Development of certain merchandise after an investigation resulting in an order.

Circumvention Inquiries – Commerce Procedures

Merchandise Completed or Assembled in the United States

Criteria Commerce Analyzes:

- Whether the completed/assembled merchandise was produced with parts or components from the country subject to the order;
- Whether the assembly process was minor or insignificant;
- Whether the parts or components are a significant portion of the value of the final product.

Circumvention Inquiries – Commerce Procedures

Merchandise Completed or Assembled in Other Foreign Countries

In determining whether the process is minor or insignificant, Commerce takes into account:

- The level of investment in the United States or third country;
- The level of research and development in the United States or third country;
- Nature of the completion/assembly process;
- Extent of production facilities in the United States or third country;
- Whether the value of further processing is a small portion of the value of the finished product sold in/to the United States.

Circumvention Inquiries – Commerce Procedures

Minor Alterations of Merchandise

- Whether the respondent producing or exporting the subject merchandise alters or modifies its product so it no longer meets the physical description of the order.
- Commerce may determine that products are so insignificantly changed from the covered product that they should be considered within the scope of the order.

Circumvention Inquiries – Commerce Procedures

Later-Developed Merchandise

- Merchandise developed subsequent to an investigation can be included within the scope of an order, if its physical characteristics are the same as those described in the order, such as:
 - the later-developed merchandise has the same general physical characteristics as the merchandise with respect to the order;
 - the expectations of the ultimate purchaser of the later-developed merchandise are the same;