NATIONAL ADMINISTRATIVE REGISTER · JUNE 21, 2000

REVISED RULES AND REGULATIONS TO GOVERN CONDUCT OF INVESTIGATION BY THE TARIFF COMMISSION UNDER SECTION 301 OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED BY REPU...

TC COMMISSION ORDER NO. 00-01, June 21, 2000

Read online (full-text search, related cases, audio case brief): https://batas.org/library/4cea8e8caebc/

Pursuant to Section 301 of the Tariff and Customs Code, as amended by RA 8752, the following revised rules and regulations are hereby promulgated for the guidance of all concerned:

> SECTION 1. Commencement of Investigation . — Upon receipt of the report of preliminary findings of dumping including the records of the case from the Secretary of Trade and Industry or Secretary of Agriculture (the "Secretary"), the Tariff Commission (the Commission") shall conduct a formal investigation to determine the following:
>
> 1. If the domestic product is identical or alike in all respects to the allegedly dumped product, or in the absence of the former, another product which, although not alike in all respects, has characteristics closely resembling those of the allegedly dumped products.
>
> 2. If the allegedly dumped product is being imported into, or sold in the Philippines at a price less than its normal value and the difference, if any, between the export price and the normal value;
>
> 3. The presence and extent of material injury or the threat thereof to the domestic industry, or the material retardation of the establishment of a domestic industry producing the like product;
>
> 4. The existence of a causal relationship between the allegedly dumped product and the material injury or threat of material injury to the affected domestic industry, or the material retardation of the establishment of a domestic industry producing the like product;
>
> 5. The anti-dumping duty to be imposed; and
>
> 6. The duration of the imposition of the anti-dumping duty.

SECTION 2. Nature of Investigation . — The investigation of the Commission is fact-finding and administrative in nature wherein the quantum of proof necessary is positive evidence, i.e., direct evidence which is verified. Except by analogy or in suppletory character and whenever practicable and convenient, the investigation precludes the adoption of the technical rules of procedure and admissibility of evidence used in regular court proceedings under the Rules of Court. The formal investigation shall be conducted in a summary manner. No dilatory tactics or unnecessary or unjustified delays shall be allowed.

SECTION 3. Notice of Formal Investigation . — Within three (3) working days from receipt of the report of the preliminary findings of dumping including records of the case from the Secretary, the Commission shall give public notice of the formal investigation and a concise summary of the anti-dumping petition through its publication in two (2) newspapers of general circulation and shall notify in writing all parties on records as identified from the report of preliminary findings of the Secretary that the case is under formal investigation and

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

require them to appear at a Preliminary Conference to be set by the Commission within seven (7) days from commencement of the formal investigation. Concerned government agencies shall also be notified and invited to attend the preliminary conference.

SECTION 4. Preliminary Conference . — At the Preliminary Conference the following issues shall be discussed: schedule(s) and procedures of the Public Consultation, amicable settlement consistent with the domestic anti-dumping law and the World Trade Organization (WTO) procedure, i.e. price undertaking; limitation of number of witnesses, availability of non-confidential information, mode of service and any other relevant matters necessary for the expeditious and/or orderly conduct of the Public Consultation.

As a rule, parties who did not submit answers to the required questionnaires at the preliminary stage before the Bureau of Import Services (BIS), has no legal personality to appear at the hearings nor participate in the formal investigation to be conducted by the Tariff Commission.

However, for valid reasons, a party may file a Motion for Inclusion as a proper/official party with the Commission, the approval of which is subject to the discretion of the Presiding Officer who may also require such party to submit relevant data and information that can be subjected to verification as an indispensable requirement for inclusion of a party in the proceeding before the Commission.

Answers to the questionnaires of the Secretary shall form part of the records of the case and parties adopting the report of the preliminary findings by the Secretary or portion thereof shall be considered by the Commission as part of the evidence of the parties adopting them. Without the required submission of the party/parties, the Commission will base its findings on the best available information. The Commission, may require at its discretion, the parties to submit additional information necessary for the thorough investigation and evaluation of the case.

Following the Preliminary Conference, the Commission shall issue an order covering matters taken up. Parties who failed to attend, without justifiable cause, are deemed to have waived their right to question the agreements of the parties who attended the Preliminary Conference.

SECTION 5. Initial Memoranda/Position Paper . — Within fifteen (15) days after Preliminary Conference the parties shall submit to the Commission their respective initial memoranda/position papers, affidavits of witnesses, all documentary evidence and records/information in support thereof and serve copies to the opposing parties subject to the provisions of Section 13 on Modes of Service.

SECTION 6. Price Undertaking . — At any stage of the formal investigation, price undertaking consistent with the domestic anti-dumping law and WTO formalities shall be entertained, provided that such price undertaking shall not be prejudicial to public interest. Whenever practicable, the Presiding Officer shall take the initiative to exhaust all available means to effect a fair and reasonable settlement of the case. The parties will be given all the opportunities to present their proposals and/or counter-proposals. The price undertaking agreed upon shall be reduced into writing duly signed by the parties and/or their counsels and shall be subject to approval of the Secretary upon recommendation of the Commission.

SECTION 7. Methods of Obtaining Information . — The Commission may, in addition to the pertinent records and/or documents forwarded by the Secretary and the information and/or submissions by the parties, request information, views, and recommendations from other sources and any government offices, such as: the Department of Finance and its Bureau of Customs, Department of Agriculture and Natural Resources, the Department of Trade and Industry and its Bureau of Import Services and Bureau of International Trade Relations, the Bangko Sentral ng Pilipinas, the Department of Foreign Affairs, the Board of Investments, National Statistics

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Office, Securities and Exchange Commission, outport price/value surveyor i.e. SGS or any other pertinent agency, or instrumentality concerned with the subject matter of the investigation.

The Commission shall require any interested party to allow the Commission access to its records, etc., or otherwise provide necessary information to enable the Commission to acquire sufficient data and information to support its findings.

The Commission may also send correspondence to other interested parties, domestic and foreign, conduct an ocular inspection, examine and/or verify books of accounts/records and financial statements, and hold conferences and consultations with the producers, traders, representatives of labor, consumers, and other sectors concerned.

SECTION 8. Verification/Ocular Inspection. — Parties who are in support for or in opposition to the application shall allow access to their books of account, records, etc., for verification and allow the Commission to conduct ocular inspection of their counterpart article and plant facilities.

The fact-finding investigation which includes verification and ocular inspection of the records, protested article and plant facilities of the parties and other matters relevant to the investigation may be conducted by the Commission without the presence of the other party. The Commission will immediately start to conduct verification/ocular inspection upon its receipt of the preliminary findings of dumping from the Secretary.

SECTION 9. Staff Report. — Within fifty (50) days from the receipt of the preliminary findings of dumping including records of the case from the Secretary, the Commission shall prepare and issue a non-confidential version of the staff report. The staff report shall cover amongst other findings on product comparability, normal value, export price, volume of dumped imports, alleged injury to the domestic industry, and any other relevant data and information duly verified, documentary submissions made by the parties before the public consultations plus the evaluation of the results of the verification/ocular inspection conducted by the Commission.

SECTION 10. Comments on the Staff Report. — Within five (5) days from receipt, parties are given one opportunity to comment on the staff report particularly on the aspects of product comparability and price difference as these matters are excluded as matters for discussion in the Public Consultation.

SECTION 11. Public Consultation/Consultation in Camera or Executive Sessions . — The Commission, after due notification, shall conduct continuous Public Consultation to give all interested parties who submitted themselves to the jurisdiction of the Commission the opportunity to be heard, and to present evidence. Public Consultation once commenced shall continue daily with morning and afternoon sessions if necessary, for five (5) days or unless earlier terminated by the agreement of the parties. Five (5) days before the Consultation, the parties are required to submit to the Commission a list of issues they wanted explored in the Public Consultation other than the issues on product and price difference which will be excluded in the coverage of the matters for discussion in the Public Consultation. A party who does not submit a list of issues maybe deemed to have no controversial/contestable matter to raise and hence, will be given less priority in the order of parties to ask clarificatory questions during the Consultation. Where, in any proceeding, the Commission directs a consultation/session or a portion thereof to be held in camera, it shall be attended only by:

a. party who is to present confidential information or his duly authorized representative;

b. officers and employees of the Commission who have been directed to attend;

c. counsel of the other party, subject to an undertaking under oath not to disclose confidential information; and

d. any other persons that the Commission has authorized to attend.

SECTION 12. Confidentiality of Information . — All information filed and submitted to the Commission shall be

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

treated as non-confidential unless the person providing the information clearly marks at the top right portion of the document that is confidential.

Where a party who provides information to the Commission requests that such information or portion thereof be kept confidential, he shall file with the Commission, in addition to the documents marked as "confidential," a non-confidential summary or version of the confidential information. The non-confidential summary or version of the submission may be made available, upon request, to parties on record and/or their counsels. A document containing confidential information shall be served only to the Commission.

Not all requests for confidentiality of documents and/or information shall be granted; except, however, those documents and/or information, which in the judgment of the Commission, are by itself confidential in nature. In case of disagreement between the opposing parties on whether the documents and/or information is confidential or not, the Commission's ruling thereon, after due consideration, shall be final.

SECTION 13. Disclosure of Confidential Information. — Prior to or at the commencement of the Public Consultation, the Commission may, upon request, make available for examination and reproduction, to each party or the party's counsel all relevant information in its custody that were not considered confidential. Where the Commission, however, decides not to allow access to these information, the opposing counsel or party shall not be given copy or examine any of these information or portion thereof except the non-confidential summary or version provided in the preceding paragraph.

SECTION 14. Public Notices . — Written notice of the assumption of formal investigation and schedule of Public Consultation by the Commission shall be posted on the Bulletin Board of the Commission and shall be published in two (2) newspapers of general circulation in the Philippines at the expense of the protestant.

It shall contain the name of the protestant, nature of the protest, trade/commodity classification and/or description of the article involved, HS heading number and rate of duty, and the time, date and place of the hearing including a concise summary of the petition. Copies of such notice shall be furnished the protestant(s), protestee(s), trade and commercial organizations, and government agencies or entities concerned. The Commission may use personal service, fax, telegram, electronic-mail and ordinary mail in serving parties of its notices, pleadings, decisions, orders and resolutions.

A public notice shall be given of the conclusion/final determination whether affirmative or negative.

SECTION 15. Mode of Service. — Only personal or special courier service of pleadings, (i.e. memoranda, motions, manifestations, etc.) and notices between the parties and from the parties to the Commission in Metro Manila shall be allowed.

Parties, if they agree, may make service by fax or electronic mail (e-mail) in which case the date of the transmission shall be deemed to be the date of service. In case voluminous pleadings or documents and/or numerous parties, the Commission, upon proper motion, may waive the requirement of service, provided a copy together with its annexes is filed with the Commission and is made available for examination and reproduction and the notice of such filing and availability is duly served on the parties by the party filing it.

SECTION 16. Procedure of Public Consultation. — All interested parties may appear at the Public Consultation and present, under oath, further evidence relevant and material to the subject matter of the investigation. The order of the Consultation shall be:

a. Clarificatory questions to be propounded by the Protestee

b. Protestant may answer the clarificatory questions of the Protestee.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

c. Clarificatory questions to be propounded by the Protestant to the Protestee; and

d. Protestee may answer the clarificatory questions of the Protestant.

As a rule, the Presiding Officer shall propound clarificatory questions. Questions of the parties shall be referred to the Presiding Officer. However, for the interest of expediency and for the purpose of drawing out direct response to the clarificatory questions by a party, the presiding officer may allow the parties to propound their questions directly to the opposing parties.

The process of clarificatory questioning shall not be unlimited. Irrelevant, repetitious, misleading, speculative or personal questions shall not be allowed. The presiding officer may control the protracted questioning for the purpose of conserving the time of the Commission and of protecting the party from prolonged and needless examination. Unreasonably lengthy questioning on matters, e.g., testing the credibility of the witness, bias, relation, and the like, shall be discouraged.

A party while answering question shall not be interrupted but may be asked clarificatory questions by the presiding officer. After a party has given his testimony, he may be asked by the Presiding Officer and/or opposing party after being recognized by the Presiding Officer. No observer may participate in the proceedings unless recognized by the Presiding Officer and after informing the latter of his interest in the proceedings and his willingness to answer questions. Refusal to answer questions will disqualify him/her from further participation in the proceedings.

Pending investigation and evaluation of-the case, the parties are enjoined from discussing with the public the merits of the case.

At the first day of the Public Consultation, all the principal parties, counsels, affiants, deponents and other interested parties are required to appear before the Commission.

SECTION 17. Motu Proprio Termination of Investigation . — The Commission shall motu proprio terminate its investigation if the provisionally estimated margin of dumping is less than two percent (2%) of export price or the volume of dumped imports is negligible. The volume of dumped imports from a particular country is considered negligible if it accounts for less than three percent (3%) of the average monthly imports of like articles for the immediately preceding three (3) months, unless, countries which individually account for less than 3% of the average monthly imports of like articles in the Philippines collectively account for more than seven percent (7%) of the total average months imports of that articles for the immediately preceding 3 months. Public notice shall be given of the motu proprio termination of the investigation.

SECTION 18. Principal Memoranda/Comments on the Principal Memoranda . — Within ten (10) days after the termination of Public Consultation, parties shall submit their respective Principal Memoranda Comments on the Principal Memoranda shall be submitted not later than five (5) days from receipt of Principal Memoranda. Parties submitting the Principal Memoranda shall likewise serve a copy to each opposing party, the service of which shall be duly indicated on the original copy to be submitted to the Commission. Public notice shall be given of the termination of the formal investigation.

SECTION 19. Submission of Draft Report of Findings for Collegial Deliberation. — Within one hundred (100) days from the receipt of advice and records of the case from the Secretary, a copy of the draft report of findings shall be submitted for Collegial Deliberation.

SECTION 20. Disclosure Of Essential Facts/Comments on the Essential Facts. — The Commission shall, before a final determination is made, inform all the interested parties in writing of the essential facts relied upon which form the basis for the decision to apply definitive measures. Parties are given only one opportunity to comment on

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

the essential facts within five (5) days from receipt stating therein their views on what the facts should be, including among others supporting documents and computation(s) for the consideration by the Commission.

SECTION 21. Final Report . — Within 120 days from receipt of the report of preliminary findings including the records of the case, the Commission shall submit its report of findings and decision, whether favorable or not, to the Secretary. The report of the Commission shall include, among others, a concise statement of the facts of the case, including the amount of dumping duty to be levied, collected or paid, if any.

The decision to impose or not a definitive anti-dumping duty even when all the requirements for the imposition of an anti-dumping duty have been fulfilled, rests on the Commission's prerogative, which may consider, among others, the effect of imposing an anti-dumping duty on the welfare of consumers and/or the general public, and other related local industries. The Commission may suspend the imposition of the anti-dumping duty for the same justification as in the non-imposition until such time as situation warrants the imposition. The Commission shall furnish the parties concerned with copies of the public version of its report.

SECTION 22. Motion for Reconsideration . — No Motion for Reconsideration shall be filed directly against the final ruling of the Commission.

The Commission, will act within a period of ten (10) days from the receipt of the endorsement of the Secretary of the Motion for Reconsideration filed against the Department Order of the Secretary involving the ruling of the Commission for its comments/resolution. The Commission may request the comments of the other party in the event that none was required nor one was filed before the Secretary, The Commission shall transmit its report to the Secretary within one (1) day from the date of the report.

SECTION 23. Review of Anti-Dumping Duty. — The Commission may motu proprio, or upon direction of the Secretary, review the need for the continued imposition of the anti-dumping duty, taking into consideration the need to protect the existing domestic industry against dumping. The investigation on this matter shall include Public Consultation wherein all expenses for publication of notice of consultation shall be defrayed by the applicant.

SECTION 24. Counsel of Record. — Any party who signs a document filed pursuant to these Rules and Regulations on behalf of any party shall be the Counsel of Record for the party and shall continue in that capacity until a change, if any, is made. A party in proceeding may change the party's counsel of record by serving the Commission a Notice of Change of Counsel signed by the new counsel and agreed to by the previous counsel.

At the Preliminary Conference, parties of records shall notify the presiding officer of the name and addresses of their respective lead counsel and an alternate/collaborating counsel who will take over in the event that the lead counsel of record has indicated that he is not available to appear in a scheduled date and/or subsequent hearing/s.

SECTION 25. Presiding Officer . — Public Consultation on the merits shall be presided by the Chairman and Member Commissioner/s or by any one of them provided that, in case of mere postponement and/or resetting of scheduled consultation, the Executive Director or any senior official of the Commission, upon instruction, may be required to preside.

SECTION 26. Venue of Public Consultation . — Unless otherwise decided by the Commission to be held in another place, the public consultation shall be conducted at the Conference Room of the Tariff Commission, 5/F Philippine Heart Center Building, East Avenue, Diliman, Quezon City.

SECTION 27. Fees . — Pursuant to Executive Order No. 159 and the provisions of Section 511 of the Tariff and Customs Code, as amended, the Commission shall, for purposes of implementing this investigation, collect the

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

following fees and charges:

a. Cost of Investigations P10,000.00

b. Photocopy of other documents (excluding transcript of stenographic notes) per case P2.00

The cost of publication, which covers the following notices, to wit (a) Initiation of formal investigation (b) Public Consultation and (c) Termination of formal investigation shall, be at the expense of the Protestant.

Nonpayment of the cost of investigation and cost of publication within five (5) days from notice of billing is an indication that the protestant is not serious in pursuing the formal investigation and as such may cause the suspension of the formal investigation and the running of the time for the Commission to complete its formal investigation.

SECTION 28. Transcript of the Proceedings . — In all proceedings before the Commission, it shall be the duty of the Commission's stenographer to take down all notes in the proceedings; and immediately, thereafter, shall transcribe thereof and file the same with the records of the case, duly certified, initialed on each page and signed on the last page. It shall be made available to all interested parties for a fee.

SECTION 29. Repealing Clause. — This order repeals Tariff Commission Order No. 96-01 dated October 27, 1996 on investigation by the Commission under Section 301 of the Tariff and Customs Code, as amended by Republic Act No. 8752 dated August 12, 1999.

SECTION 30. Effectivity . — The foregoing Revised Rules and Regulations shall take effect fifteen (15) days from the date of filing of three (3) certified copies thereof with the University of the Philippines Law Center, Diliman, Quezon City.

Adopted: 21 June 2000

(SGD.) EMMANUEL T. VELASCO, PH.D.
Chairman

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.