

**Achievement of Market-Friendly Initiatives and Results Program
(AMIR 2.0 Program)**

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**Development of Procedures for Trade
Remedy Case Processing**

Final Report

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This report was prepared by Mr. John Kugelman, in collaboration with Chemonics International Inc., prime contractor to the U.S. Agency for International Development for the AMIR Program in Jordan.

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EXECUTIVE SUMMARY

I. OBJECTIVE:

To assist the Ministry of Industry and Trade/National Production Protection Department to develop an organizational structure and technical capacity necessary for administration of trade remedy laws (antidumping, countervailing, and safeguards) in a fair, efficient, and WTO-consistent manner.

II. BACKGROUND:

From March 10-April 10, 2002, the AMIR Program delivered a one-month workshop to staff of the National Production Protection (NPP) Department and also provided the Department with access, via the Internet and on a 3.5" floppy disk, to a Standard Operating Procedures manual for administration of antidumping cases, which gives step-by-step detailed instructions on case administration, from petition to final determination. The AMIR Consultant also provided NPP Department staff with checklists and guidelines (for example, checklists for review of petitions, preparation of questionnaires and analyses of responses). The workshop emphasized, among other critical aspects:

1. the need for every step and procedure to be documented in English, as required by the WTO;
2. the need for public versions of confidential information, and methods of creating and maintaining separate confidential and public records of each case;
3. real procedures for analyzing and investigating safeguards petitions.

The Consultant assisted NPP Department staff in conducting and analyzing the second Safeguards Petition ever submitted to the Department, for which they had recently initiated an investigation. The Consultant helped the Department to identify major substantive issues in the case, which involved blank audio cassettes, and attended a formal hearing with interested parties.

III. RECOMMENDATIONS

To become more effective and efficient in processing trade remedy cases, the NPP Department should consider the following:

- 1) Human resources. Since no analyst should be assigned more than one, or, at most, two cases at any given time, and given the current & anticipated caseload (approximately 40-50 potential petitions, although many of these are patently inadequate), the Department should hire an additional 3-5 professional staff to analyze and investigate cases. In addition, the Department should hire at least one lawyer, one cost accountant, one trade remedies expert or consultant, one IT specialist, two translators (Arabic/English), and 2 administrative assistants.
- 2) Training. This is needed in various areas, but particularly in Antidumping and Safeguards, both theory and especially in investigation procedures and practical

applications (e.g., how to perform the complex calculations). This will likely require the hiring of foreign Trade Remedies experts for a minimum of several months or longer, since there is no experience *in situ*.

3) Automation. Every analyst needs his/her own PC (Pentium). Access to the Internet is required. Printers can be shared, if necessary. One or two copiers are required. Access to various outside databases is also essential (e.g., Customs import statistics). Given the current and anticipated workload for the next few years, computer programming language familiarity is not required, particularly if an IT specialist is hired.

**ANNEX I: PROCEDURES MANUAL FOR ANALYSIS OF PETITIONS
AND
INITIATIONS OF INVESTIGATIONS**

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INTRODUCTION

This manual explains the initiation process for anti-dumping investigations. It includes detailed information on the following items: treatment of draft petitions; analysis of official filings; allegations for special situations such as less-than-cost sales and multinational corporations; the preparation of initiation packages. For information on the initiation of AD administrative reviews (many, but not all, of those procedures are identical or similar to investigation procedures), see the *Manual of Administrative Review Procedures*.

I. DRAFT PETITIONS

All contacts on the filing of draft petitions or requests for technical assistance in preparing an anti-dumping petition should be referred to your supervisor. When draft petitions are received, we usually require a minimum of five business days to review the draft and to give substantive comments to the potential petitioner or its counsel. Draft petitions should not be discussed with anyone outside the Department, other than the petitioner. Any inquiries concerning possible filings of petitions should be responded to with a statement that no petition has been filed on the product. Only when a petition has been filed officially can we indicate that the Department is considering a petition on the product. At the time of filing the draft, it is appropriate to ask the petitioner what schedule, if any, it has for filing the official version of the petition. If you receive this information, you should immediately give it to your supervisor.

The petitioner should furnish two copies of the draft including all support documentation. Potential petitioners should be encouraged to file drafts of the nonproprietary version along with the proprietary version. When distributing a draft petition, indicate that it is a draft, who is reviewing it in your office, and that the team will meet to discuss its adequacy three business days later. After meeting with the team, a summary of the petition and the problems found should be prepared and a meeting should be scheduled with the Undersecretary. All team members should be present at that meeting. Draft petitions should be reviewed as thoroughly as an officially filed petition. One of the most important parts of any draft petition is the price or cost information used to establish alleged less-than-fair value sales. Current price information (usually no more than one-year old) is always necessary to support the Jordanian sales side of the less-than-fair value allegation. A petitioner can obtain price information from sources such as price lists, actual invoices, written quotations, affidavits attesting to oral quotations or knowledge of actual prices, salespersons' "call reports," market research information supplied by a market research firm, or, in some instances, from average per-unit prices from the HTS statistics for products that are classified under very specific product categories. For the exporting-country side of the sales-at-less-than-fair-value allegation, the petitioner may supply price information. If prices are used, support documentation could be the same as for Jordanian sales prices. If prices are not available, a cost-based surrogate for prices, that uses the petitioner's own factors of production, but incorporates values from the exporting country for such things as materials, labor rates, and energy costs, can be used. Cost information may also come from a market research report on the product in the exporting country, prepared by a market research firm. Whether prices or costs are used in an allegation, various adjustments are usually necessary to net prices back to the producers' or exporters' doors or to adjust prices or costs for differences in

circumstances of sale (see *Export Price and Constructed Export Price* and *Normal Value* for detailed information on the calculation of Jordanian and exporting-country prices or costs that form the bases for a sales-at-less-than-fair-value comparison).

As you analyze the prices or costs used to support an allegation of sales at less than fair value, you should pay particular attention to the support documentation for the alleged prices or costs and any adjustments claimed, as the petition must be reasonably supported by the facts alleged. This means that the mere furnishing of documentation is not necessarily sufficient and that the Department should be able to seek additional data where support for a specific allegation is weak or the information appears aberrational. Support documentation should include the identification of sources and an explanation of how the information was obtained. For example, an affidavit from a company official describing call reports from sales representatives reporting lost sales in Jordan may be used to support Jordanian price data. Price lists used should include effective dates or be supported with a statement indicating the time period covered by the price lists. Price data should be as current as possible, usually within a year of the anticipated filing date. Prices used as the bases for normal value (NV) and export price (EP) and constructed export price (CEP) should reflect contemporaneous periods of time. Currency-conversion rates used should be included and the source of these rates should be given. See the AD initiation checklist in section VII for a complete listing of all areas that need to be analyzed. Statistical data on imports should be checked. You should develop up-to-date import statistics from the country named in the petition. The products covered should be described clearly and HTS numbers should be included. You should check these numbers to ensure that they are correct.

Industry support is another very important part of a draft petition. Accordingly, the draft should identify the industry on behalf of which the petitioner is filing. It should also contain the names and addresses of other persons in the industry, as well as information relating to the degree of industry support for the petition, including: (i) the total volume and value of Jordanian production of the domestic like product, regardless of sales destination; (ii) the volume and value of the domestic like product produced by the petitioner and each domestic producer identified, regardless of sales destination. This information should cover the last completed calendar year and, if available, the 12 months prior to the month of the filing of the draft (see section III). It is important that the scope be defined as accurately as possible to minimize future questions about product coverage. We also want to avoid unintentional product coverage. We wish to ensure that the scope of the investigation (and any measure that may result) does not include products in which the petitioner has no interest. You should give attention especially to whether the prospective petitioner has unintentionally included products that are not produced domestically.

The last very important part of a draft petition involves the product description or scope. You should carefully review the product description to ensure that it covers what the petitioner wants to cover and that it will be as easily understood as possible throughout the various segments of the proceeding (see section IV). The analyst should discuss the draft petition with the Injury Section analyst to determine whether they have any problems with it. The primary focus of this discussion should be on the scope language and the industry-support aspects of the filing (see Sections III and IV).

After the team meeting with the Undersecretary, you should inform the petitioner of all problems found as a result of our review. You should state that the listing of problem areas is advisory and that additional problems, if found after the petition is officially filed, will have to be corrected during the 20 days after the initiation is published. Remember that information supplied in a petition must be reasonably available to the petitioner. There is no exact interpretation of this term; however, the size of the petitioning firm and the type of information in question should be considered when these types of judgments are made.

II. OFFICIAL FILINGS

When a petition is filed officially, a determination whether or not to initiate an investigation should be made within 30 days after the date of filing. Note that the day after the petition is filed begins the 30-day period. During that 30-day period we will not accept oral or written communication from interested parties regarding a petition, except inquiries concerning the status of the proceeding and the issue of industry support. Notices of appearance (letters from law firms notifying us about whom they are representing in the investigation) are also acceptable. In situations involving polling of the domestic industry (see Section IV), a maximum of 40 days may be taken to make the initiation determination. The analyst is responsible for ensuring that the petition is distributed to appropriate Department personnel, and that a public version of the petition is delivered immediately to the embassy of the country in question.

In reviewing the petition the analyst should cover all areas indicated in the discussion of the review of draft petitions in Section I, even if a draft petition has been checked previously. If a draft was filed previously, you should have a copy of the list of problem areas that were pointed out to the petitioner. This will assist you in your analysis of the officially filed document. Remember that the information required for an AD petition must be reasonably available to the petitioner, and the information furnished in support of the petition must be reasonably supported by the facts alleged. Be careful to ensure that all factual information is certified by an appropriate company official. The analyst should also check whether there is a proper summary of any business proprietary information relating to the allegation of SLFV sales.

Consultants are sometimes used to perform market research in support of EP, CEP, or NV. In order to authenticate the validity of market research, the research document should be submitted for the record as part of the official petition. The petitioner should be contacted in order to receive clearance to communicate with the market research preparers by telephone. The petitioner must provide the name, telephone number, and address of the research preparers; however, this information may be omitted from the proprietary and non-proprietary versions of the petition, if we receive appropriate justification. The petitioner should contact the research preparers and request that they cooperate with the Department, when contacted. The following information should be obtained from the research preparers and placed in the file in memo form:

? General information about the research company, *e.g.*, how long it has been involved in this kind of work, whether work has been done for the petitioner or petitioner's counsel before, etc.

? Did they prepare the research submitted with the petition or contained in the petition in support of EP, CEP, or NV? If not, who did? What is their relationship with the preparer? Have they used this preparer in the past?

? What methodologies or procedures did the company employ to gather the data? How was the information verified?

When a valid request to exclude the name and address of the preparer is received, the following paragraph may be used to introduce the memorandum:

“Because of the extreme sensitivity of the name of the market research firm that gathered the petition information in this case, this memorandum constitutes confirmation of the source of the market research report.”

The analyst should coordinate with the Injury Section analyst on the product description. We should make every effort to reach agreement on this. However, the analyst should keep in mind the fact that the Department determines the scope of an investigation. It is important to document your contacts with the Injury Section on the record, as we need to have a clear description of the domestic like product for determining industry support. You should immediately bring to your supervisor’s attention any areas of internal dispute over the scope or product description.

Every effort is made to have the same analyst review the draft and subsequently filed petition. However, when a different reviewer is involved, the new analyst should always coordinate with the analyst who handled the draft in order to determine whether problem areas have been corrected. If the analyst finds additional problems with the petition, these should not be discussed with the petitioner until they have been reviewed internally and a meeting has been held with the Undersecretary. This meeting should take place no later than seven days after the petition is filed.

After meeting with the Undersecretary to discuss petition problems, you should notify the petitioner of areas in the petition that need further support or information. Once the requested revisions are received, analyze them immediately to determine if they are complete. If the revised petition still requires further support or information, see your supervisor immediately.

You should prepare a request for statistical data about potential respondents. After it is approved you should ensure it is sent to the Jordanian embassy in the country (countries) identified in the petition.

III. INDUSTRY SUPPORT

A. General Information

Petitions must be filed by an interested party who has the support of the industry views of the workers in that firm, we will treat the production of that firm as representing neither support for nor opposition to the petition. Unions, other employee organizations, or ad hoc groups of workers may submit the views of workers.

The petitioner must provide the volume and value of its own production of the domestic like product, as well as the production of that product by each member of

the industry, to the extent that such information is reasonably available to the petitioner. In addition, the petitioner must provide information on the total volume and value of Jordanian production of the domestic like product, to the extent that such information is reasonably available to the petitioner.

You must always review the information supporting the industry support submitted by the petitioner(s). We normally will determine the existence of industry support based on the volume or value of production. In most instances we will base this determination on volume. However, in some cases we may base our determination on value, possibly, for example, due to the difficulty in determining what constitutes a unit of merchandise. Where information is unclear, you should request clarification by the petitioner. Sometimes, if it is necessary to corroborate the data, we may look for independent information. We may ask the Injury Section for the production information for the industry. Sometimes we may call non-petitioning, domestic producers to determine their production. If this type of call is necessary, consult first with your supervisor.

Normally we will review production figures over a 12-month period. However, we recognize that there may be circumstances where a 12-month period may not be appropriate. In those instances we would identify the appropriate review period on a case-by-case basis. If actual production data for the relevant period are not available, production levels may be established on the basis of alternative data that we determine are indicative of production levels. For example, for some industries or firms, shipment data may correspond directly with production data, and thus be a reliable alternative.

The Department must determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry for the like product supports an AD petition. In making this determination the Department defines “domestic like product.” Furthermore, that determination is subject to limitations of time and information. We will not consider any arguments relating to industry support once an investigation has been initiated. A petition meets the minimum requirements if the domestic producers or workers who support the petition account for 1) at least 25 percent of the total production of the domestic like product, and 2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Also note that in situations where the views of management and workers negate each other, the production of the company is included as part of the total production of the domestic like product for purposes of applying the 25-percent threshold.

Note that the methodologies used to determine industry support (*e.g.*, production publications) may vary from industry to industry.

During the pre-initiation review period for a petition, interested parties other than the petitioners may only comment on the question of industry support (see B below). If we receive substantive information on any subject other than industry support, we would normally consider it to be inappropriately filed and we would return it to the submitting party.

B. Challenges to Industry Support

When a member of the domestic industry challenges the assertion of the petitioner that it has filed with support of the domestic industry, the burden is on the petitioner to establish that it meets the above requirements. If a petition does not have industry support, we would terminate the investigation.

We may ignore the opposition of related domestic producers unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected. This puts the burden of demonstrating such an effect on those producers. We consider related domestic producers to be either 1) a domestic producer related to a foreign exporter, or 2) a domestic producer related to a foreign producer. In addition, we may also disregard the views of domestic producers who are also importers of the subject merchandise and domestic producers who are related to such importers. In evaluating whether to disregard such producers, the Department may consider the import levels and percentage of ownership common to other members of the domestic industry.

The expression of a position regarding a petition may be treated as business proprietary information.

Interested parties may challenge the adequacy of the Department's industry support determination if the Department dismisses the petition or initiates an investigation and subsequently issues an AD measure.

C. Polling

If the requisite support is not established in the petition, we may poll or otherwise determine whether the industry supports the petition. In appropriate circumstances, we may sample, from information contained in the petition or placed on the record by domestic interested parties, to determine whether the required support exists.

Although we will normally initiate an investigation within 20 days of the filing of a petition, we may extend this for up to 20 additional days in exceptional circumstances where we cannot establish whether there is the requisite industry support within 20 days. We will only extend if we need to poll the industry. In conducting such a poll, we will include in the poll unions, worker groups, and trade and business associations. The Department will not go beyond 20 days in considering the industry-support element of a petition in the vast majority of cases.

D. Regional Industry

To determine industry support if the petition is filed on behalf of a regional industry, we will apply the same 50- and 25-percent domestic-industry-support requirements on the basis of production in the alleged region. Thus, a petitioner need only show that domestic producers or workers in the relevant region, as distinguished from all of Jordan, support the petition.

IV. SCOPE OF THE INVESTIGATION AND LIKE-PRODUCT DETERMINATIONS

A. Scope of the Investigation Determinations

The Department determines the scope of an investigation, which may also be referred to as the “class or kind” of merchandise under investigation or the merchandise subject to investigation. A single investigation involves a class or kind of merchandise. Where we determine that a petition covers more than one class or kind of merchandise, we conduct separate investigations for each. In such instances there must be evidence of sales at less than fair value and industry support for each class or kind of merchandise in order to support initiation of multiple investigations.

Normally we will publish a combined initiation notice covering the separate classes or kinds of merchandise. In some cases we will use a generic case name, such as certain carbon steel products, and describe each product separately in the scope section of the notice. Note that splitting a class or kind of merchandise into two or more classes or kinds usually results in having to query different sets of respondents.

We normally limit the class or kind of merchandise in an investigation to the products that the petitioner specifically names in the petition. In many instances the class or kind includes finished products as well as components or subassemblies. In cases in which the Department may be asked to find more than one class or kind of merchandise subject to investigation, we would rely on five characteristics:

1. The general characteristics of the merchandise
2. The expectations of the ultimate purchaser
3. The channels of trade in which the products are sold
4. The ultimate use of the merchandise
5. The manner in which the products are advertised and displayed

There will usually be significant overlap between characteristics 2 through 5. When examining the physical characteristics of groups of products, the Department does not rely on mere physical differences among products. There must be clear dividing lines between product groups for the Department to find different classes or kinds.

In order to ensure that the scope of an investigation is defined as accurately as possible, the Department should undertake two procedures. First, we include in our pre-filing checklist of petition information a check that the proposed scope of the petition is an accurate reflection of the product for which the domestic industry is seeking relief. Pre-filing consultations with the prospective petitioner should seek to ensure that the scope of the petition is not unintentionally over inclusive. Second, we should designate a period early in the investigation for parties to raise issues regarding product coverage. Petitioners then have an opportunity to reconsider product coverage and the Department can amend the scope of the investigation, if warranted. Including in the notice of initiation an announcement of this comment period would accomplish this.

The Injury Section makes domestic like-product determinations in determining whether or not there is material injury or threat of material injury to the domestic industry, *i.e.*, it determines which product manufactured in Jordan is most like the merchandise being imported. In some instances the definition of a domestic like product may be narrower than that of class or kind. If the Department determines that

some domestic like products are not being injured by corresponding imports within the scope of the investigation, the investigation terminates on those imported products. This is the case at both the preliminary (if applicable) and final stages of the injury investigation.

B. Like Product Determinations

The Department also makes a like-product determination as part of its analysis of a petition. A domestic like product is a product that is like or, in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. Thus, the reference point from which a like-product analysis begins is “the article subject to an investigation,” *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

V. SPECIAL ALLEGATIONS

A. Sales at Less Than Cost

By making a sales-below-cost allegation, a petitioner hopes to eliminate some or all low-priced exporting-country sales during the period of investigation as the basis for NV. For petition purposes there must be a showing that sales of a popular model or type (one that involves a substantial number of sales) of merchandise are made at prices that do not allow for the recovery of the producer’s or exporter’s costs. When a sales-below-cost allegation is contained in the petition, the standard for initiating an investigation into that allegation is the same as the standard for initiating a less-than-fair-value investigation (see Sections I and II). Usually petitioners construct a cost allegation using their own factors of production with adjustments for differences in significant inputs in the potential respondents’ country. However, in the event the petitioner files a cost allegation subsequent to the initiation of an investigation, all available data on the record must be considered and used, if appropriate. For example, once a respondent submits its questionnaire response, there may be cost data (if non-proprietary) on the record that petitioner would have access to and could use in a cost allegation. Sales-below-cost allegations can be made either on a company-specific or a country-wide basis. The allegations always consist of a comparison of the home market or third-country prices (depending on the basis for NV) with the estimated cost of production.

The time limits for an allegation of sales at prices below the COP made by the petitioner or other domestic interested party are generally 1) on a country-wide basis, 20 days after the date on which the initial questionnaire was sent to the respondents, and 2) on a company-specific basis, 20 days after a respondent files the response to the relevant section of the questionnaire (*i.e.*, section B). In some cases these dates can be extended. If you receive a request for extension, you should discuss it with your supervisor.

You are responsible for ensuring that all facets of the analysis of a less-than-cost allegation are performed in a timely and correct fashion. Accordingly, you should review the allegation in conjunction with your team’s accountant or financial analyst (if applicable). If necessary and if the allegation deadlines have not passed, you can send the petitioner a supplemental questionnaire. Once you have analyzed the cost

data and made any necessary adjustments, they will be used in performing the less than-cost analysis. As part of this analysis you will perform a cost test. The test involves comparing the home market or third-country prices to the COP data to determine what percentage of sales (based on quantity of merchandise sold) is below cost, *i.e.*, whether there are “reasonable grounds to believe or suspect” that the sales, based upon alleged prices in the petition or actual prices contained in a section B questionnaire response that are under consideration for the determination of NV, have been made at prices which represent less than the COP of the product. You should then prepare for the Undersecretary a memorandum containing an analysis of this information with a recommendation whether or not a COP investigation should be initiated. If we decide to initiate a cost investigation, you will issue a cost questionnaire. Always consult with your supervisor if you have a less-than-COP allegation in your case. You should also check the most recently completed less-than-COP allegation analysis to ensure that you are following current procedure.

B. Critical Circumstances

Critical circumstances are alleged if a petitioner thinks that an exporter or producer has started to export abnormally high volumes of merchandise as soon as it is known that an AD petition has been filed or an investigation is underway. An exporter or producer could be doing this to blunt the effects of a preliminary affirmative determination of sales at less than fair value and the potential for dumping duty liabilities on entries filed after that date. If the petition contains a critical circumstances allegation, we must make a determination relative to this allegation either before or in the preliminary determination (if one is issued). If the petition is amended to include an allegation that critical circumstances exist, our required action will depend on the timing of the amendment. If the allegation is filed more than 20 days prior to the due date for the preliminary determination, we must make a determination relative to this allegation either before or in the preliminary determination.

If the allegation is filed less than 21 days prior to the due date for the preliminary determination, or after the preliminary determination has been made but more than 30 days prior to the final determination, we must make a determination of whether critical circumstances exist within one month from the filing of the allegation.

If the allegation is filed not more than 30 days and not less than 20 days prior to the due date for the final determination, we will not issue a preliminary determination regarding the existence of critical circumstances, but we must include a final determination on this matter in the final determination in the investigation.

C. Multinational Corporations

There is a different method of calculating NV using a special rule for certain multinational corporations (MNC). The following three criteria must be met before the MNC provision is invoked:

1. Subject merchandise exported to Jordan is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation that also owns or controls, directly or indirectly, other facilities for the production of the

- foreign like product, which are located in one or more third countries;
2. The exporting country market, that is, the market in the country from which the merchandise is exported to Jordan, is not viable. That is: (a) the foreign like product is not sold for consumption in the exporting country, (b) the aggregate quantity (or value) of the foreign like product sold in the exporting country is insufficient to permit a proper comparison with the sales of the subject merchandise to Jordan, or (c) the particular market situation in the exporting country does not permit a proper comparison with the EP or CEP; and,
3. The NV of the foreign like product produced in one or more of the facilities outside the exporting country is higher than the NV of the foreign like product produced in the facilities located in the exporting country. Regarding criterion (3), if the products are not identical, the allegation must demonstrate that the products in each market are comparable, *i.e.*, that any observed differences in value between the two markets are not solely the result of physical differences between the merchandise in each market. In addition, the petitioner must provide information indicating that the price differences do not result from different production costs existing between the two countries at issue, *e.g.*, differences in labor rates, taxes, or overhead.

The same deadlines for filing a company-specific sales-at-less-than-cost allegation apply for the filing of a multinational corporation allegation, which is 20 days after a respondent files its response to the relevant sections of the questionnaire. Always consult with your supervisor if you are involved in an MNC allegation analysis.

VI. PREPARATION OF INITIATION PACKAGES

A. Pre-Initiation Requirements

The following is a list of activities that you will need to perform during the initiation/dismissal phase of your case. Before you start your analysis, always check with your team leader or supervisor to ensure that there are no other significant activities that you will have to address.

1. Ensure that all team members have a copy of the petition and advise them of the date for the team discussion of petition problems.
2. Analyze the petition using the “Anti-dumping Investigations Initiation Checklist” found in Section VII. Also do a like product analysis as described in part B of Section IV.

AD Measure:

INDUSTRY SUPPORT: Does the petitioner(s) account for more than 50% of production of the domestic like product?

- Yes (insert %) (petition page reference)
- No (insert %)

If No, do those expressing support account for the majority of those expressing an opinion and at least 25% of domestic production?

- Yes
- No – do not initiate

Describe how industry support was established – specifically, describe the nature of any polling or other step taken to determine the level of domestic industry support. Was there opposition to the petition?

___ Yes (identify each party expressing opposition)

___ No

Are any of the parties who have expressed opposition to the petition either importers or domestic producers affiliated with foreign producers?

___ Yes

___ No

(Explain how the views of these parties were treated in your determination of industry support)

VII. PREPARATION OF INITIATION PACKAGES

A. Pre-Initiation Requirements

The following is a list of activities that you will need to perform during the initiation/dismissal phase of your case. Before you start your analysis, always check with your team leader or supervisor to ensure that there are no other significant activities that you will have to address.

1. Ensure that all team members have a copy of the petition and advise them of the date for the team discussion of petition problems.
2. Analyze the petition using the "Anti-Dumping Investigations Initiation Checklist" found in Section VII. Also do a like product analysis as described in part B of Section IV.
3. Determine whether problems identified at the draft stage have been corrected.
4. Meet with your team members to discuss problem areas in the petition.
5. Arrange a meeting for the team with your supervisor to review problem areas in the petition. Determine what issues need to be brought to the attention of the Undersecretary.
6. Set up a meeting with the Undersecretary to discuss significant problem areas.
7. Prepare a memo outlining the significant problem areas for the Undersecretary's meeting. Have the memo approved by your supervisor and submit it to the Undersecretary the day before the scheduled meeting.
8. After the meeting with the Undersecretary, advise the petitioner of all deficiencies that need to be corrected. Set a due date for submission of supplemental information that will allow enough time for analysis and a concurrence meeting with the Undersecretary.
9. Begin to prepare the initiation package as described below.
10. Give the initiation package to your team members for comments and then to your supervisor once the team comments are incorporated.
11. Incorporate your supervisor's comments and set up a meeting with the Undersecretary.
12. Place the initiation package in the formal review chain.
13. If it is determined that the petition is inadequate and a dismissal is warranted, see Section VIII.

B. Contents of the Initiation Package

1. The Initiation Notice.

Always check the last several initiation notices that were published. In general, this notice should contain the following information:

- a. Identification of the petitioner.
- b. A description of the basis for the calculation of the EPs/CEPs and NVs contained in the petition.
- c. Any adjustments the Department makes to the submitted EPs/CEPs and NVs.
- d. If sales below cost or critical circumstances are alleged, this should be stated.
- e. Range of estimated margins as presented or corrected.
- f. A statement of industry support for the petition.
- g. A detailed description of the scope of the merchandise under investigation, including the HTS numbers, and a statement regarding consultations with parties on the scope of the investigation.
- h. The due date for a preliminary determination.

2. Other Documents

In addition to the initiation notice, make sure the following documents are prepared:

- a. The “Anti-dumping Investigations Initiation Checklist.”
- b. A like-product analysis memo.
- c. Interested party letters announcing the initiation.

C. Post-Initiation Requirements

1. Ensure that the Initiation Notice is sent to the Official Gazette.
2. On the day of publication, make phone calls to the petitioner or its counsel, counsel for potential respondents, if known, and the foreign country’s embassy.
3. Begin preparing AD questionnaires for foreign respondents, and injury questionnaires for the domestic industry.

VIII. ANTI-DUMPING INVESTIGATIONS INITIATION CHECKLIST

This checklist is used for analyzing all draft and formally filed petitions. It is the central document in the initiation process, and must be filled out to the extent possible. It usually forms the complete analytical record for this phase of the investigation. The only other document that should be prepared is a like-product analysis memo. You may also have to prepare a memo documenting your contacts with consultants if any supplied information for the petition (see Section II for information on contacts with consultants and Section IV for information on like-product analysis). There should be no other analytical documents prepared unless specifically authorized by your supervisor or the Undersecretary.

The checklist is a standard format. No changes should be made to the content of this document without the approval of your supervisor.

ANTI-DUMPING INVESTIGATIONS INITIATION CHECKLIST

SUBJECT: (insert case name)

CASE NUMBER: (insert case number)

PETITIONER(S):

(Insert name(s) – provide the locations of each plant and headquarters)

COUNSEL:

(Insert name of law firm)

RESPONDENT (S):

(Insert name(s))

SCOPE:

(Insert the scope of the merchandise under investigation)

IMPORT STATISTICS:

(Insert the volume and value of imports for the most-recently completed calendar year, year-to-date, and the corresponding prior period)

CASE CALENDAR:

Petition Filed:

Initiation Deadline:

Preliminary Determination (if applicable):

Final Determination:

Information with respect to material injury. (The relevant injury data can be found on page (insert #) of the petition.)

Does the petition contain evidence of causation? (Answer Yes or No) (See page (insert #) of the petition.) Specifically, does the petition contain information relative to:

___ Volume and value of imports (see page (insert #) of the petition)

___ Jordanian market share (*i.e.*, the ratio of imports to consumption) (see page (insert #) of the petition)

___ Actual pricing (*i.e.*, evidence of decreased pricing) (see page (insert #) of the petition)

___ Relative pricing (*i.e.*, evidence of imports underselling Jordanian products) (see page (insert #) of the petition)

PETITION REQUIREMENTS:

Does the petition contain the following:

___ the name and address of the petitioner

___ the names and addresses of all known domestic producers of the domestic like product

___ the volume and value of the domestic like product produced by the petitioner and each domestic producer identified for the most-recently completed 12-month period for which data are available

Was the entire domestic industry identified in the petition?

___ Yes

___ No (% of producers identified)

Does the petition contain the following:

___ A clear and detailed description of the merchandise to be investigated, including the appropriate HTS numbers

___ The name of each country in which the merchandise originates or from which the merchandise is exported

- ___ An adequate summary of the proprietary data
- ___ Import volume and value information for the most recent 2-year period.

LESS-THAN-FAIR-VALUE ALLEGATION:**Export Price/Constructed Export Price**

Provide an explanation of how the EP and/or [CEP – should this be COP?] was derived (include in your description the source of the pricing information and any adjustments necessary to calculate an ex-factory price; reference the pages in the petition that contain this information; if the information is based on a market research report or affidavit, explain why you believe that these sources are appropriate).

Does the petition contain the following:

- ___ Support documentation for the alleged prices or costs and claimed adjustments
- ___ Any market research reports including affidavits referring to sources and how information was obtained
- ___ Current and dated price data (no more than 1-year old)
- ___ Price and cost data from contemporaneous time periods
- ___ Correct currency rates for all conversions (*e.g.*, if U.S. dollars are used, rates from the Federal Reserve Bank of New York)
- ___ Conversion factors for comparisons of differing units of measure.

Normal Value

Provide an explanation of how the Normal Value was derived (include in your description the source of the pricing and/or cost information and any adjustments necessary to calculate an ex-factory price or a COP; reference the pages in the petition that contain this information; if the information is based on a market research report or affidavit, explain why you believe that these sources are appropriate).

Does the petition contain the following:

- ___ Support documentation for the alleged prices or costs and claimed adjustments
- ___ Any market research reports including affidavits referring to sources and how information was obtained
- ___ Current and dated price data (no more than 1-year old)
- ___ Price and cost data from contemporaneous periods
- ___ Correct currency rates used for all conversions (*e.g.*, if U.S. dollars are used, rates from the Federal Reserve Bank of New York)
- ___ Conversion factors for comparisons of differing units of measure.

ESTIMATED MARGINS:

(Insert the range of estimated dumping margins)

OTHER ISSUES:

(*E.g.*, COP allegation, regional industry, critical circumstances)

RECOMMENDATION:

Based on sources readily available to the Department, we have examined the accuracy and adequacy of the evidence provided in the petition, and recommend determining

that the evidence is sufficient to justify the initiation of an anti-dumping investigation. We also recommend determining that the petition has been filed by or on behalf of the domestic industry.

IX. DISMISSALS

If deficiencies in the petition cannot be corrected, the petitioner must be given an opportunity to withdraw the petition (subsequent re-filing is possible). If the petition is not withdrawn, a notice of dismissal should be prepared instead of an Initiation Notice. That notice must contain a detailed statement of the reasons for the dismissal of the petition. The preparation and review process is the same as that for an initiation.

If a petition is withdrawn prior to initiation or dismissal, no Department action is required.

X. POST-INITIATION WITHDRAWAL

If a petition is withdrawn after the initiation of the investigation, a public interest memorandum should be prepared indicating that the termination of the investigation is in the public interest. Make sure you consult with the Injury Section, and notify all parties. You should prepare a notice and send it through the normal review channels. The notice should include the scope of the investigation and the reasons for the termination.

After terminating the investigation you should notify the interested parties and the foreign embassy. You should also ensure that Customs is made aware of the termination, so that imports are not affected or any AD duties assessed.

XI. INJURY ALLEGATION

The Injury Section finds that the petition contains adequate and accurate information with respect to material injury. (The relevant injury data can be found on page (insert#) of the petition.)

Does the petition contain evidence of causation? (Answer Yes or No) (See page (insert #) of the petition.) Specifically, does the petition contain information relative to:

- Volume and value of imports (see page (insert #) of the petition)
- Jordanian market share (*i.e.*, the ratio of imports to consumption) (see page (insert #) of the petition)
- Actual pricing (*i.e.*, evidence of decreased pricing) (see page (insert #) of the petition)
- Relative pricing (*i.e.*, evidence of imports underselling Jordanian products) (see page (insert #) of the petition)

PETITION REQUIREMENTS:

Does the petition contain the following:

- the name and address of the petitioner
- the names and addresses of all known domestic producers of the domestic like product

___ the volume and value of the domestic like product produced by the petitioner and each domestic producer identified for the most-recently completed 12-month period for which data are available

Was the entire domestic industry identified in the petition?

___ Yes

___ No (% of producers identified)

Does the petition contain the following:

___ A clear and detailed description of the merchandise to be investigated, including the appropriate HTS numbers

___ The name of each country in which the merchandise originates or from which the merchandise is exported

___ An adequate summary of the proprietary data

___ Import volume and value information for the most recent 2-year period.

LESS-THAN-FAIR-VALUE ALLEGATION:

Export Price/Constructed Value Export Price

Provide an explanation of how the EP and/or CEP was derived (include in your description the source of the pricing information and any adjustments necessary to calculate an ex-factory price; reference the pages in the petition that contain this information; if the information is based on a market research report or affidavit, explain why you believe that these sources are appropriate).

Does the petition contain the following:

___ Support documentation for the alleged prices or costs and claimed adjustments

___ Any market research reports including affidavits referring to sources and how information was obtained

___ Current and dated price data (no more than 1-year old)

___ Price and cost data from contemporaneous time periods

___ Correct currency rates for all conversions (*e.g.*, if U.S. dollars are used, rates from the Federal Reserve Bank of New York)

___ Conversion factors for comparisons of differing units of measure.

Normal Value

Provide an explanation of how the Normal Value was derived (include in your description the source of the pricing and/or cost information and any adjustments necessary to calculate an ex-factory price or a COP; reference the pages in the petition that contain this information; if the information is based on a market research report or affidavit, explain why you believe that these sources are appropriate).

ESTIMATED MARGINS:

(Insert the range of estimated dumping margins)

OTHER ISSUES:

(*E.g.*, COP allegation, regional industry, critical circumstances)

RECOMMENDATION:

Based on sources readily available to the Department, we have examined the accuracy and adequacy of the evidence provided in the petition, and recommend determining that the evidence is sufficient to justify the initiation of an anti-dumping investigation. We also recommend determining that the petition has been filed by or on behalf of the domestic industry.

XII. DISMISSALS

If deficiencies in the petition cannot be corrected, the petitioner must be given an opportunity to withdraw the petition (subsequent re-filing is possible). If the petition is not withdrawn, a notice of dismissal should be prepared instead of an Initiation Notice. That notice must contain a detailed statement of the reasons for the dismissal of the petition. The preparation and review process is the same as that for an initiation. If a petition is withdrawn prior to initiation or dismissal, no Department action is required.

XII. POST-INITIATION WITHDRAWAL

If a petition is withdrawn after the initiation of the investigation, a public interest memorandum should be prepared indicating that the termination of the investigation is in the public interest. Make sure you consult with the Injury Section, and notify all parties. You should prepare a notice and send it through the normal review channels. The notice should include the scope of the investigation and the reasons for the termination.

After terminating the investigation you should notify the interested parties and the foreign embassy. You should also ensure that Customs is made aware of the termination, so that imports are not affected or any AD duties assessed.

APPENDIX

Consultant Scope of Work

Annex D

Scope of Work: Specific Tasks of the Consultant(s)

Activity	531.2 Support to National Production Protection Department
SOW Title:	Investigation Training and Assistance
Modification	1
SOW Date:	Tuesday, February 26, 2002
SOW	Draft
Total LOE:	30
Task and Consultant	

LOE/F/Investigation Training and Assistance#1
 JKK John K Kugelman

I. Specific Challenges Addressed by this Consultancy

In the course of its negotiations on accession to the WTO, Jordan made the commitment that it would not take any anti-dumping, countervailing, or safeguard measures against imports from WTO members until it had notified and implemented the relevant WTO-consistent laws. Jordan also made the commitment that once such legislation was implemented, it would apply dumping, countervail, or safeguard measures only in full conformity with the relevant WTO provisions.

In 1998, Jordan enacted a "National Production Protection" law, which is a trade

defense law concerned primarily with safeguard measures. In November 2000, the Government of Jordan issued regulations under this law to provide for assessment of safeguard measures. The National Production Protection Department ("NPP" Department) of the Ministry of Industry and Trade was charged with administering the law. The Ministry also intends to issue in the near future a regulation on antidumping and countervailing measures under authority of the 1998 law. Both the safeguard regulation and the antidumping/countervailing measures regulation were developed with technical assistance of AMIR Program consultants, and AMIR consultants have assisted in drafting of the newest regulation. Six Ministry employees staff the NPP Department. The staff does not have experience with the operation of the WTO trade remedy laws (or WTO agreements generally), and has received only limited training. To date, a number of petitions for trade measures have been filed with the NPP Department by Jordanian firms. Most of these petitions request application of safeguard measures. To date, the Department has undertaken only one anti-dumping case. Evidence suggests that this is a function, principally, of insufficient capacity within the Department to carry out the necessary investigations. The NPP staff has an urgent need for technical assistance and training, focusing principally on

II. Objective

To assist the Ministry of Industry and Trade/National Production Protection Department to develop technical capacity necessary for administration of trade case investigation within the framework of WTO trade remedy laws (antidumping, countervailing, administration of the new safeguard regulation), focusing mainly on the technical skills required for antidumping case

III. Specific Tasks of the Consultant(s)

Under this Scope of Work, the Consultant(s) shall perform, but not be limited to, the tasks specified under the following categories:

A. Background Reading Related to Understanding the Work and Its

Consultant(s) shall read, but is/are not limited to, the following materials related to fully understanding the work specified under this consultancy:

- John Kugelman
 1. AMIR 1.0 Report, March 2001: Trade Remedy Case Processing – Phase II
 2. AMIR 1.0 Report, May 2000: Amendments to National Production Protection Law Jordan's Conformity to the WTO Agreements on Anti-dumping, Countervailing and Safeguards
 3. AMIR 1.0 Report, February 2000: Development of Procedures for Trade Remedy Case Processing
 4. AMIR 1.0 Report, October 1999: Anti-Dumping, Countervailing Duty and Safeguard Measures: an Assessment of the Institutional and Legal Framework in the Hashemite Kingdom of Jordan
 5. AMIR 1.0 Report, August 1998: Admendments to National Production Protection Law Jordan's Conformity to the WTO Agreements on Anti-dumping, Countervailing and Safeguards

B. Background Interviews Related to Understanding the Work and Its

The Consultant(s) shall interview, but is/are not limited to, the following individuals or groups of individuals in order to fully understand the work specified under this consultancy:

- John Kugelman
 1. Steve Wade, Chief of Party, AMIR 2.0 Program
 2. Charles Krakoff, PSPS Team Leader AMIR 2.0
 3. Peter Carr, TMA Advisor, AMIR 2.0 Program
 4. Mr Majed Hamoudi, Director, Department of International Organizations, Ministry of Industry and Trade
 5. Mr Baha Armouti, Acting Director, Department of National Production Protection, MIT
 6. John Lindborg, Jim Barnhard and Jamal Al-Jabiri, USAID/Amman

C. **Tasks Related to Achieving the Consultant's Objectives.**

The Consultant(s) shall use his/her education, considerable experience, and additional understanding gleaned from the tasks specified in A. and B. above to:

~~By~~ John Kugelman

Based on his interviews, background reading and experience in Jordan, the Consultant will provide on-the-job training to staff of the National Production Protection Department on antidumping case investigation, using an actual case currently under consideration by the Department. The Consultant's efforts will focus on effective implementation of and adherence to the standard procedures previously developed, and on developing the analytical capability needed to conduct fair and accurate investigations.

The Consultant will deliver a brief final report summarizing the results of his work and identifying future technical assistance, training and/or commodity procurement needs of the NPP Department. The Consultant will also identify any insufficiencies in the current laws and regulations pertaining to trade remedies that may need to be rectified for Jordan fully to meet its commitments under its WTO accession agreement.

IV. **Time frame for the Consultancy.**

Unless otherwise specified, the following time frame will govern the timing for the completion of this consultancy:

	Start	LOE	To Post	From Post	Field Work	3rd Country	
	U.S.A.						
John Kugelman	09-Mar-200	30	1 days	1 days	28 days	0 days	0 days

V. **LOE for the Consultancy.**

This consultancy will require the effort of the following consultants:

<u>Consultant Name</u>	<u>Travel</u>	<u>Field</u>	<u>U.S.</u>	<u>3rd</u>	<u>Total</u>
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John Kugelman	2	28	0	0	30
<i>Subtotal</i>	2	28	0	0	30

VI. Consultancy Qualifications

The Consultant(s) shall have the following minimum requirements:

- **John Kugelman**

- **Phase 1**

- 1. *Educational Qualifications*

- Bachelor's Degree or higher in any relevant discipline

- 2. *Work Experience Qualifications*

- 25 years of experience in antidumping and other trade remedies, with specific experience in enforcement, investigation and training.