42 Stat. 947. These acts were superseded by section 333 of act June 17, 1930, comprising this section, and section 318(f) of the 1922 act was repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1990—Subsec. (h). Pub. L. 101–382 added subsec. (h).

1975—Subsec. (c). Pub. L. 93–618, § 174(1), substituted ''At the request of'' for ''Upon application of the Attorney General of the United States, at the request of''.

Subsec. (g). Pub. L. 93–618, § 174(2), added subsec. (g).

1970—Subsec. (e). Pub. L. 91–452 struck out provisions relating to the immunity from prosecution of any natural person compelled to testify or produce evidence in obedience to the subpoena of the commission.

1958—Subsec. (a). Pub. L. 85–686, § 9(a), substituted ''For the purposes of carrying out its functions and duties in connection with any investigation authorized by law'' for ''For the purposes of carrying Part II of this subtitle into effect'', inserted provisions empowering the commission to require any person, firm, copartnership, corporation, or association to furnish in writing, in such detail and in such form as the commission may prescribe, information in their possession pertaining to an investigation.

Subsec. (d). Pub. L. 85–686, § 9(b), substituted ''pending before the commission'' for ''pending under Part II of this subtitle''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 1334. Cooperation with other agencies

The commission shall in appropriate matters act in conjunction and cooperation with the Treasury Department, the Department of Commerce, the Federal Trade Commission, or any other departments, or independent establishments of the Government, and such departments and independent establishments of the Government shall cooperate fully with the commission for the purposes of aiding and assisting in its work, and, when directed by the President, shall furnish to the commission, on its request, all records, papers, and information in their possession relating to any of the subjects of investigation by the commission and shall detail, from time to time, such officials and employees to said commission as he may direct.

(June 17, 1930, ch. 497, title III, § 334, 46 Stat. 700.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, § 707, 39 Stat. 797. That section was superseded by section 334 of act June 17, 1930, comprising this section.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission transferred, with certain reservations, to Chairman of such Commission by Reorg. Plan No. 8 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1335. Rules and regulations

The commission is authorized to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties.

(June 17, 1930, ch. 497, title III, § 335, as added Aug. 20, 1958, Pub. L. 85–686, § 9(c)(2), 72 Stat. 680.)

PRIOR PROVISIONS

A prior section 335 of act June 17, 1930, related to disclosure of trade secrets and prescribed penalty therefor, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See section 1905 of Title 18, Crimes and Criminal Procedure.

§ 1336. Equalization of costs of production

(a) Change of classification or duties

In order to put into force and effect the policy of Congress by this chapter intended, the commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article. In the course of the investigation the commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the commission shall specify in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute.

(b) Repealed. Pub. L. 96–39, title II, § 202(a)(2)(A), July 26, 1979, 93 Stat. 202

(c) Proclamation by the President

The President shall by proclamation approve the rates of duty and changes in classification specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

(d) Effective date of rates and changes

Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification specified in the report of the commission shall take effect.

(e) Ascertainment of differences in costs of production

In ascertaining under this section the differences in costs of production, the commission

shall take into consideration, in so far as it finds it practicable:

(1) In the case of a domestic article

(A) The cost of production as hereinafter in this section defined; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

(2) In the case of a foreign article

(A) The cost of production as hereinafter in this section defined, or, if the commission finds that such cost is not readily ascertainable, the commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and/or the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets); (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association in a foreign country.

(f) Modification of changes in duty

Any increased or decreased rate of duty or change in classification which has taken effect as above provided may be modified or terminated in the same manner and subject to the same conditions and limitations (including time of taking effect) as is provided in this section in the case of original increases, decreases, or changes.

(g) Prohibition against transfers from the free list to the dutiable list or from the dutiable list to the free list

Nothing in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of Subtitle I of this chapter, or in any amendatory act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provisions of this section upon such articles shall exceed the maximum ad valorem rate so specified.

(h) Definitions

For the purpose of this section—

(1) The term ''domestic article'' means an article wholly or in part the growth or product of the United States; and the term ''foreign article'' means an article wholly or in part the growth or product of a foreign country.

(2) The term ''United States'' includes the several States and Territories and the District of Columbia.

(3) The term ''foreign country'' means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions).

(4) The term ''cost of production'', when applied with respect to either a domestic article or a foreign article, includes, for a period which is representative of conditions in production of the article: (A) The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; (B) the usual general expenses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; and (C) the cost of containers and coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for delivery.

(i) Rules and regulations of President

The President is authorized to make all needful rules and regulations for carrying out his functions under the provisions of this section.

(j) Repealed. Pub. L. 96–39, title II, § 202(a)(2)(D), July 26, 1979, 93 Stat. 202

(k) Investigations prior to June 17, 1930

All uncompleted investigations instituted prior to June 17, 1930, under the provisions of sections 154 to 159[1] of this title, including investigations in which the President has not proclaimed changes in classification or increases or decreases in rates of duty, shall be dismissed without prejudice; but the information and evidence secured by the commission in any such investigation may be given due consideration in any investigation instituted under the provisions of this section.

(June 17, 1930, ch. 497, title III, § 336, 46 Stat. 701; Aug. 2, 1956, ch. 887, § 2(d), 70 Stat. 946; Pub. L. 85–686, § 9(c)(1), Aug. 20, 1958, 72 Stat. 679; Pub. L. 96–39, title II, § 202(a)(2), July 26, 1979, 93 Stat. 202.)

REFERENCES IN TEXT

Sections 154 to 159 of this title, referred to in subsec. (k), were repealed by section 651(a)(1) of act June 17, 1930.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title III, § 315, 42 Stat. 941. That section was superseded by section 336 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96–39, § 202(a)(2)(A), struck out subsec. (b) which related to the setting of ad valorem rates based upon the American selling price of domestic articles as would be necessary to equalize differences in the costs of production.

Subsec. (c). Pub. L. 96–39, § 202(a)(2)(B), substituted ''changes in classification specified in any report'' for

[1] See References in Text note below.

''changes in classification and in basis of value specified in any report''.

Subsec. (d). Pub. L. 96–39, § 202(a)(2)(C), substituted ''changes in classification specified in the report'' for ''changes in classification or in basis of value specified in the report''.

Subsec. (f). Pub. L. 96–39, § 202(a)(2)(C), substituted ''change in classification which has taken effect'' for ''change in classification or in basis of value which has taken effect''.

Subsec. (j). Pub. L. 96–39, § 202(a)(2)(D), struck out subsec. (j) which authorized the Secretary of the Treasury to make necessary rules and regulations for the entry and declaration of foreign articles with respect to which a change in the basis of value had been made.

Subsec. (k). Pub. L. 96–39, § 202(a)(2)(C), substituted ''changes in classification or increases or decreases'' for ''changes in classification or in basis of value or increases or decreases''.

1958—Subsec. (a). Pub. L. 85–686 struck out provisions which authorized the commission to adopt such reasonable procedure and rules and regulations as it deemed necessary to execute its functions under this section. See section 1335 of this title.

1956—Subsec. (b). Act Aug. 2, 1956, struck out ''(as defined in section 1402(g))'' after ''selling price''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–39 effective July 1, 1980, see section 204(a) of Pub. L. 96–39, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 2, 1956, effective only as to articles entered, or withdrawn from warehouse, for consumption on or after thirtieth day following publication of the final list provided for in section 6(a) of said act, set out in note under section 1402 of this title, see section 8 of act Aug. 2, 1956, set out as an Effective Date note under section 1401a of this title.

§ 1337. Unfair practices in import trade

(a) Unlawful activities; covered industries; definitions

(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), (D), and (E)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

(i) to destroy or substantially injure an industry in the United States;

(ii) to prevent the establishment of such an industry; or

(iii) to restrain or monopolize trade and commerce in the United States.

(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

(i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17; or

(ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946 [15 U.S.C. 1051 et seq.].

(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17.

(E) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consigner, of an article that constitutes infringement of the exclusive rights in a design protected under chapter 13 of title 17.

(2) Subparagraphs (B), (C), (D), and (E) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, mask work, or design concerned, exists or is in the process of being established.

(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned—

(A) significant investment in plant and equipment;

(B) significant employment of labor or capital; or

(C) substantial investment in its exploitation, including engineering, research and development, or licensing.

(4) For the purposes of this section, the phrase ''owner, importer, or consignee'' includes any agent of the owner, importer, or consignee.

(b) Investigation of violations by Commission

(1) The Commission shall investigate any alleged violation of this section on complaint under oath or upon its initiative. Upon commencing any such investigation, the Commission shall publish notice thereof in the Federal Register. The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall, within 45 days after an investigation is initiated, establish a target date for its final determination.

(2) During the course of each investigation under this section, the Commission shall consult with, and seek advice and information from, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as it considers appropriate.

(3) Whenever, in the course of an investigation under this section, the Commission has reason to believe, based on information before it, that a matter, in whole or in part, may come within the purview of part II of subtitle IV of this chapter, it shall promptly notify the Secretary of