of this section on behalf of the domestic industry.

(2) A petition submitted under paragraph (1) shall contain such detailed information as the Trade Representative may require in support of the allegations in the petition.

(c) Application for antidumping action on behalf of domestic industry

(1) If the Trade Representative, on the basis of the information contained in a petition submitted under paragraph (1), determines that there is a reasonable basis for the allegations in the petition, the Trade Representative shall submit to the appropriate authority of the Agreement country where the alleged dumping is occurring an application pursuant to Article 12 of the Agreement which requests that appropriate antidumping action under the law of that country be taken, on behalf of the United States, with respect to imports into that country of the merchandise concerned.

(2) At the request of the Trade Representative, the appropriate officers of the Department of Commerce and the United States International Trade Commission shall assist the Trade Representative in preparing the application under paragraph (1).

(d) Consultation after submission of application

After submitting an application under subsection (c)(1) of this section, the Trade Representative shall seek consultations with the appropriate authority of the Agreement country regarding the request for antidumping action.

(e) Action upon refusal of Agreement country to act

If the appropriate authority of an Agreement country refuses to undertake antidumping measures in response to a request made therefor by the Trade Representative under subsection (c) of this section, the Trade Representative shall promptly consult with the domestic industry on whether action under any other law of the United States is appropriate.

(Pub. L. 100–418, title I, § 1317, Aug. 23, 1988, 102 Stat. 1188; Pub. L. 103–465, title VI, § 621(a)(1), Dec. 8, 1994, 108 Stat. 4992.)

CODIFICATION

Section was enacted as part of the Omnibus Trade and Competitiveness Act of 1988, and not as part of the Tariff Act of 1930 which comprises this chapter.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–465 designated existing provisions as subpar. (A), substituted ''GATT 1994'' for ''General Agreement on Tariffs and Trade'', and added subpar. (B).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 621(b) of Pub. L. 103–465 provided that: ''The amendments made by this section [amending this section and sections 2171, 2411, 2702, 2905, 2906, 3107, 3111, and 3202 of this title] shall take effect on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995].''

§ 1677*l*. Antidumping and countervailing duty collections

The Commissioner of Customs shall before the 60th day of each fiscal year after fiscal year 1994 submit to Congress a report regarding the collection during the preceding fiscal year of duties imposed under the antidumping and countervailing duty laws.

(Pub. L. 103–182, title VI, § 691(a), Dec. 8, 1993, 107 Stat. 2223.)

CODIFICATION

Section was enacted as part of the North American Free Trade Agreement Implementation Act, and not as part of the Tariff Act of 1930 which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1677m. Conduct of investigations and administrative reviews

(a) Treatment of voluntary responses in countervailing or antidumping duty investigations and reviews

In any investigation under part I or II of this subtitle or a review under section 1675(a) of this title in which the administering authority has, under section 1677f–1(c)(2) of this title or section 1677f–1(e)(2)(A) of this title (whichever is applicable), limited the number of exporters or producers examined, or determined a single country-wide rate, the administering authority shall establish an individual countervailable subsidy rate or an individual weighted average dumping margin for any exporter or producer not initially selected for individual examination under such sections who submits to the administering authority the information requested from exporters or producers selected for examination, if—

(1) such information is so submitted by the date specified—

(A) for exporters and producers that were initially selected for examination, or

(B) for the foreign government, in a countervailing duty case where the administering authority has determined a single country-wide rate; and

(2) the number of exporters or producers who have submitted such information is not so large that individual examination of such exporters or producers would be unduly burdensome and inhibit the timely completion of the investigation.

(b) Certification of submissions

Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this subtitle on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

(c) Difficulties in meeting requirements

(1) Notification by interested party

If an interested party, promptly after receiving a request from the administering author-

ity or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

(2) Assistance to interested parties

The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations and reviews under this subtitle, and shall provide to such interested parties any assistance that is practicable in supplying such information.

(d) Deficient submissions

If the administering authority or the Commission determines that a response to a request for information under this subtitle does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this subtitle. If that person submits further information in response to such deficiency and either—

(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (e) of this section, disregard all or part of the original and subsequent responses.

(e) Use of certain information

In reaching a determination under section 1671b, 1671d, 1673b, 1673d, 1675, or 1675b of this title the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission, if—

(1) the information is submitted by the deadline established for its submission,

(2) the information can be verified,

(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

(5) the information can be used without undue difficulties.

(f) Nonacceptance of submissions

If the administering authority or the Commission declines to accept into the record any information submitted in an investigation or review under this subtitle, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

(g) Public comment on information

Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this subtitle shall be subject to comment by other parties to the proceeding within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 1671d, 1673d, 1675, or 1675b of this title shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

(h) Termination of investigation or revocation of order for lack of interest

The administering authority may—

(1) terminate an investigation under part I or II of this subtitle with respect to a domestic like product if, prior to publication of an order under section 1671e or 1673e of this title, the administering authority determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in issuance of an order; and

(2) revoke an order issued under section 1671e or 1673e of this title with respect to a domestic like product, or terminate an investigation suspended under section 1671c or 1673c of this title with respect to a domestic like product, if the administering authority determines that producers accounting for substantially all of the production of that domestic like product, have expressed a lack of interest in the order or suspended investigation.

(i) Verification

The administering authority shall verify all information relied upon in making—

(1) a final determination in an investigation,

(2) a revocation under section 1675(d) of this title, and

(3) a final determination in a review under section 1675(a) of this title, if—

(A) verification is timely requested by an interested party as defined in section 1677(9)(C), (D), (E), (F), or (G) of this title, and

(B) no verification was made under this subparagraph during the 2 immediately pre-

ceding reviews and determinations under section 1675(a) of this title of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

(June 17, 1930, ch. 497, title VII, § 782, as added Pub. L. 103–465, title II, § 231(a), Dec. 8, 1994, 108 Stat. 4893.)

EFFECTIVE DATE

Section effective, except as otherwise provided, on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], and applicable with respect to investigations, reviews, and inquiries initiated and petitions filed under specified provisions of this chapter after such date, see section 291 of Pub. L. 103–465, set out as an Effective Date of 1994 Amendment note under section 1671 of this title.

§ 1677n. Antidumping petitions by third countries

(a) Filing of petition

The government of a WTO member may file with the Trade Representative a petition requesting that an investigation be conducted to determine if—

(1) imports from another country are being sold in the United States at less than fair value, and

(2) an industry in the petitioning country is materially injured by reason of those imports.

(b) Initiation

The Trade Representative, after consultation with the administering authority and the Commission and obtaining the approval of the WTO Council for Trade in Goods, shall determine whether to initiate an investigation described in subsection (a) of this section.

(c) Determinations

Upon initiation of an investigation under this section, the Trade Representative shall request the following determinations be made according to substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this subtitle:

(1) The administering authority shall determine whether imports into the United States of the subject merchandise are being sold at less than fair value.

(2) The Commission shall determine whether an industry in the petitioning country is materially injured by reason of imports of the subject merchandise into the United States.

(d) Public comment

An opportunity for public comment shall be provided, as appropriate—

(1) by the Trade Representative, in making the determination required by subsection (b) of this section, and

(2) by the administering authority and the Commission, in making the determination required by subsection (c) of this section.

(e) Issuance of order

If the administering authority makes an affirmative determination under paragraph (1) of subsection (c) of this section, and the Commission makes an affirmative determination under paragraph (2) of subsection (c) of this section, the administering authority shall issue an antidumping duty order in accordance with section 1673e of this title and take such other actions as are required by section 1673e of this title.

(f) Reviews of determinations

For purposes of review under section 1516a of this title or review under section 1675 of this title, if an order is issued under subsection (e) of this section, the final determinations of the administering authority and the Commission under this section shall be treated as final determinations made under section 1673d of this title.

(g) Access to information

Section 1677f of this title shall apply to investigations under this section, to the extent specified by the Trade Representative, after consultation with the administering authority and the Commission.

(June 17, 1930, ch. 497, title VII, § 783, as added Pub. L. 103–465, title II, § 232(a), Dec. 8, 1994, 108 Stat. 4897; amended Pub. L. 104–295, § 20(b)(17), Oct. 11, 1996, 110 Stat. 3528.)

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–295 substituted ''subsection (e)'' for ''subsection (d)''.

EFFECTIVE DATE

Section effective, except as otherwise provided, on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], and applicable with respect to investigations, reviews, and inquiries initiated and petitions filed under specified provisions of this chapter after such date, see section 291 of Pub. L. 103–465, set out as an Effective Date of 1994 Amendment note under section 1671 of this title.

SUBTITLE V—REQUIREMENTS APPLICABLE TO IMPORTS OF CERTAIN CIGARETTES AND SMOKELESS TOBACCO PRODUCTS

CODIFICATION

The designation ''SUBTITLE V'' was in the original ''TITLE VIII'', and was editorially changed in order to conform the numbering format of this subtitle to the usages employed in the codification of the remainder of the Tariff Act of 1930.

§ 1681. Definitions

In this subtitle:

(1) Secretary

Except as otherwise indicated, the term ''Secretary'' means the Secretary of the Treasury.

(2) Primary packaging

The term ''primary packaging'' refers to the permanent packaging inside of the innermost cellophane or other transparent wrapping and labels, if any. Warnings or other statements shall be deemed ''permanently imprinted'' only if printed directly on such primary packaging and not by way of stickers or other similar devices.

(3) Delivery sale

The term ''delivery sale'' means any sale of cigarettes or a smokeless tobacco product to a consumer if—

(A) the consumer submits the order for such sale by means of a telephone or other