

PART III—REVIEWS; OTHER ACTIONS REGARDING  
AGREEMENTS

CODIFICATION

The designation “PART III” was in the original “Subtitle C” 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format of this subtitle to the usages employed in the codification of the remainder of the Tariff Act of 1930 as originally enacted.

SUBPART A—REVIEW OF AMOUNT OF DUTY AND  
AGREEMENTS OTHER THAN QUANTITATIVE RE-  
STRICTION AGREEMENTS

**§ 1675. Administrative review of determinations**

**(a) Periodic review of amount of duty**

**(1) In general**

At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this subtitle or under section 1303<sup>1</sup> of this title, an antidumping duty order under this subtitle or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, if a request for such a review has been received and after publication of notice of such review in the Federal Register, shall—

(A) review and determine the amount of any net countervailable subsidy,

(B) review, and determine (in accordance with paragraph (2)), the amount of any antidumping duty, and

(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net countervailable subsidy or dumping margin involved in the agreement,

and shall publish in the Federal Register the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed.

**(2) Determination of antidumping duties**

**(A) In general**

For the purpose of paragraph (1)(B), the administering authority shall determine—

(i) the normal value and export price (or constructed export price) of each entry of the subject merchandise, and

(ii) the dumping margin for each such entry.

**(B) Determination of antidumping or countervailing duties for new exporters and producers**

**(i) In general**

If the administering authority receives a request from an exporter or producer of the subject merchandise establishing that—

(I) such exporter or producer did not export the merchandise that was the subject of an antidumping duty or countervailing duty order to the United States (or, in the case of a regional industry, did not export the subject mer-

chandise for sale in the region concerned) during the period of investigation, and

(II) such exporter or producer is not affiliated (within the meaning of section 1677(33) of this title) with any exporter or producer who exported the subject merchandise to the United States (or in the case of a regional industry, who exported the subject merchandise for sale in the region concerned) during that period,

the administering authority shall conduct a review under this subsection to establish an individual weighted average dumping margin or an individual countervailing duty rate (as the case may be) for such exporter or producer.

**(ii) Time for review under clause (i)**

The administering authority shall commence a review under clause (i) in the calendar month beginning after—

(I) the end of the 6-month period beginning on the date of the countervailing duty or antidumping duty order under review, or

(II) the end of any 6-month period occurring thereafter,

if the request for the review is made during that 6-month period.

**(iii) Posting bond or security**

The administering authority shall, at the time a review under this subparagraph is initiated, direct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise.

**(iv) Time limits**

The administering authority shall make a preliminary determination in a review conducted under this subparagraph within 180 days after the date on which the review is initiated, and a final determination within 90 days after the date the preliminary determination is issued, except that if the administering authority concludes that the case is extraordinarily complicated, it may extend the 180-day period to 300 days and may extend the 90-day period to 150 days.

**(C) Results of determinations**

The determination under this paragraph shall be the basis for the assessment of countervailing or antidumping duties on entries of merchandise covered by the determination and for deposits of estimated duties.

**(3) Time limits**

**(A) Preliminary and final determinations**

The administering authority shall make a preliminary determination under subparagraph (A), (B), or (C) of paragraph (1) within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under

<sup>1</sup> See References in Text note below.

paragraph (1) is requested, and a final determination under paragraph (1) within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 245-day period to 365 days and may extend that 120-day period to 180 days. The administering authority may extend the time for making a final determination without extending the time for making a preliminary determination, if such final determination is made not later than 300 days after the date on which the preliminary determination is published.

**(B) Liquidation of entries**

If the administering authority orders any liquidation of entries pursuant to a review under paragraph (1), such liquidation shall be made promptly and, to the greatest extent practicable, within 90 days after the instructions to Customs are issued. In any case in which liquidation has not occurred within that 90-day period, the Secretary of the Treasury shall, upon the request of the affected party, provide an explanation thereof.

**(C) Effect of pending review under section 1516a**

In a case in which a final determination under paragraph (1) is under review under section 1516a of this title and a liquidation of entries covered by the determination is enjoined under section 1516a(c)(2) of this title or suspended under section 1516a(g)(5)(C) of this title, the administering authority shall, within 10 days after the final disposition of the review under section 1516a of this title, transmit to the Federal Register for publication the final disposition and issue instructions to the Customs Service with respect to the liquidation of entries pursuant to the review. In such a case, the 90-day period referred to in subparagraph (B) shall begin on the day on which the administering authority issues such instructions.

**(4) Absorption of antidumping duties**

During any review under this subsection initiated 2 years or 4 years after the publication of an antidumping duty order under section 1673e(a) of this title, the administering authority, if requested, shall determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. The administering authority shall notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting a review under subsection (c) of this section.

**(b) Reviews based on changed circumstances**

**(1) In general**

Whenever the administering authority or the Commission receives information concerning, or a request from an interested party for a review of—

(A) a final affirmative determination that resulted in an antidumping duty order under this subtitle or a finding under the Antidumping Act, 1921, or in a countervailing duty order under this subtitle or section 1303<sup>1</sup> of this title,

(B) a suspension agreement accepted under section 1671c or 1673c of this title, or

(C) a final affirmative determination resulting from an investigation continued pursuant to section 1671c(g) or 1673c(g) of this title,

which shows changed circumstances sufficient to warrant a review of such determination or agreement, the administering authority or the Commission (as the case may be) shall conduct a review of the determination or agreement after publishing notice of the review in the Federal Register.

**(2) Commission review**

In conducting a review under this subsection, the Commission shall—

(A) in the case of a countervailing duty order or antidumping duty order or finding, determine whether revocation of the order or finding is likely to lead to continuation or recurrence of material injury,

(B) in the case of a determination made pursuant to section 1671c(h)(2) or 1673c(h)(2) of this title, determine whether the suspension agreement continues to eliminate completely the injurious effects of imports of the subject merchandise, and

(C) in the case of an affirmative determination resulting from an investigation continued under section 1671c(g) or 1673c(g) of this title, determine whether termination of the suspended investigation is likely to lead to continuation or recurrence of material injury.

**(3) Burden of persuasion**

During a review conducted by the Commission under this subsection—

(A) the party seeking revocation of an order or finding described in paragraph (1)(A) shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such revocation, and

(B) the party seeking termination of a suspended investigation or a suspension agreement shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such termination.

**(4) Limitation on period for review**

In the absence of good cause shown—

(A) the Commission may not review a determination made under section 1671d(b) or 1673d(b) of this title, or an investigation suspended under section 1671c or 1673c of this title, and

(B) the administering authority may not review a determination made under section 1671d(a) or 1673d(a) of this title, or an investigation suspended under section 1671c or 1673c of this title,

less than 24 months after the date of publication of notice of that determination or suspension.

**(c) Five-year review****(1) In general**

Notwithstanding subsection (b) of this section and except in the case of a transition order defined in paragraph (6), 5 years after the date of publication of—

(A) a countervailing duty order (other than a countervailing duty order to which subparagraph (B) applies or which was issued without an affirmative determination of injury by the Commission under section 1303<sup>1</sup> of this title), an antidumping duty order, or a notice of suspension of an investigation, described in subsection (a)(1) of this section,

(B) a notice of injury determination under section 1675b of this title with respect to a countervailing duty order, or

(C) a determination under this section to continue an order or suspension agreement,

the administering authority and the Commission shall conduct a review to determine, in accordance with section 1675a of this title, whether revocation of the countervailing or antidumping duty order or termination of the investigation suspended under section 1671c or 1673c of this title would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

**(2) Notice of initiation of review**

Not later than 30 days before the fifth anniversary of the date described in paragraph (1), the administering authority shall publish in the Federal Register a notice of initiation of a review under this subsection and request that interested parties submit—

(A) a statement expressing their willingness to participate in the review by providing information requested by the administering authority and the Commission,

(B) a statement regarding the likely effects of revocation of the order or termination of the suspended investigation, and

(C) such other information or industry data as the administering authority or the Commission may specify.

**(3) Responses to notice of initiation****(A) No response**

If no interested party responds to the notice of initiation under this subsection, the administering authority shall issue a final determination, within 90 days after the initiation of a review, revoking the order or terminating the suspended investigation to which such notice relates. For purposes of this paragraph, an interested party means a party described in section 1677(9)(C), (D), (E), (F), or (G) of this title.

**(B) Inadequate response**

If interested parties provide inadequate responses to a notice of initiation, the administering authority, within 120 days after the initiation of the review, or the Commission, within 150 days after such initiation, may issue, without further investigation, a final determination based on the facts available, in accordance with section 1677e of this title.

**(4) Waiver of participation by certain interested parties****(A) In general**

An interested party described in section 1677(9)(A) or (B) of this title may elect not to participate in a review conducted by the administering authority under this subsection and to participate only in the review conducted by the Commission under this subsection.

**(B) Effect of waiver**

In a review in which an interested party waives its participation pursuant to this paragraph, the administering authority shall conclude that revocation of the order or termination of the investigation would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) with respect to that interested party.

**(5) Conduct of review****(A) Time limits for completion of review**

Unless the review has been completed pursuant to paragraph (3) or paragraph (4) applies, the administering authority shall make its final determination pursuant to section 1675a(b) or (c) of this title within 240 days after the date on which a review is initiated under this subsection. If the administering authority makes a final affirmative determination, the Commission shall make its final determination pursuant to section 1675a(a) of this title within 360 days after the date on which a review is initiated under this subsection.

**(B) Extension of time limit**

The administering authority or the Commission (as the case may be) may extend the period of time for making their respective determinations under this subsection by not more than 90 days, if the administering authority or the Commission (as the case may be) determines that the review is extraordinarily complicated. In a review in which the administering authority extends the time for making a final determination, but the Commission does not extend the time for making a determination, the Commission's determination shall be made not later than 120 days after the date on which the final determination of the administering authority is published.

**(C) Extraordinarily complicated**

For purposes of this subsection, the administering authority or the Commission (as the case may be) may treat a review as extraordinarily complicated if—

(i) there is a large number of issues,

(ii) the issues to be considered are complex,

(iii) there is a large number of firms involved,

(iv) the orders or suspended investigations have been grouped as described in subparagraph (D), or

(v) it is a review of a transition order.

**(D) Grouped reviews**

The Commission, in consultation with the administering authority, may group orders

or suspended investigations for review if it considers that such grouping is appropriate and will promote administrative efficiency. Where orders or suspended investigations have been grouped, the Commission shall, subject to subparagraph (B), make its final determination under this subsection not later than 120 days after the date that the administering authority publishes notice of its final determination with respect to the last order or agreement in the group.

**(6) Special transition rules**

**(A) Schedule for reviews of transition orders**

**(i) Initiation**

The administering authority shall begin its review of transition orders in the 42d calendar month after the date such orders are issued. A review of all transition orders shall be initiated not later than the 5th anniversary after the date such orders are issued.

**(ii) Completion**

A review of a transition order shall be completed not later than 18 months after the date such review is initiated. Reviews of all transition orders shall be completed not later than 18 months after the 5th anniversary of the date such orders are issued.

**(iii) Subsequent reviews**

The time limits set forth in clauses (i) and (ii) shall be applied to all subsequent 5-year reviews of transition orders by substituting “date of the determination to continue such orders” for “date such orders are issued”.

**(iv) Revocation and termination**

No transition order may be revoked under this subsection before the date that is 5 years after the date the WTO Agreement enters into force with respect to the United States.

**(B) Sequence of transition reviews**

The administering authority, in consultation with the Commission, shall determine such sequence of review of transition orders as it deems appropriate to promote administrative efficiency. To the extent practicable, older orders shall be reviewed first.

**(C) “Transition order” defined**

For purposes of this section, the term “transition order” means—

- (i) a countervailing duty order under this subtitle or under section 1303<sup>2</sup> of this title,
- (ii) an antidumping duty order under this subtitle or a finding under the Antidumping Act, 1921, or
- (iii) a suspension of an investigation under section 1671c or 1673c of this title,

which is in effect on the date the WTO Agreement enters into force with respect to the United States.

**(D) Issue date for transition orders**

For purposes of this subsection, a transition order shall be treated as issued on the

date the WTO Agreement enters into force with respect to the United States, if such order is based on an investigation conducted by both the administering authority and the Commission.

**(7) Exclusions from computations**

**(A) In general**

Subject to subparagraph (B), there shall be excluded from the computation of the 5-year period described in paragraph (1) and the periods described in paragraph (6) any period during which the importation of the subject merchandise is prohibited on account of the imposition, under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.] or other provision of law, of sanctions by the United States against the country in which the subject merchandise originates.

**(B) Application of exclusion**

Subparagraph (A) shall apply only with respect to subject merchandise which originates in a country that is not a WTO member.

**(d) Revocation of order or finding; termination of suspended investigation**

**(1) In general**

The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, after review under subsection (a) or (b) of this section. The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States which are specifically intended to offset the countervailable subsidy received.

**(2) Five-year reviews**

In the case of a review conducted under subsection (c) of this section, the administering authority shall revoke a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, unless—

(A) the administering authority makes a determination that dumping or a countervailable subsidy, as the case may be, would be likely to continue or recur, and

(B) the Commission makes a determination that material injury would be likely to continue or recur as described in section 1675a(a) of this title.

**(3) Application of revocation or termination**

A determination under this section to revoke an order or finding or terminate a suspended investigation shall apply with respect to unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date determined by the administering authority.

**(e) Hearings**

Whenever the administering authority or the Commission conducts a review under this sec-

<sup>2</sup> See References in Text note below.

tion, it shall, upon the request of an interested party, hold a hearing in accordance with section 1677c(b) of this title in connection with that review.

**(f) Determination that basis for suspension no longer exists**

If the determination of the Commission under subsection (b)(2)(B) of this section is negative, the suspension agreement shall be treated as not accepted, beginning on the date of publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 1671c(i) or 1673c(i) of this title, as if the suspension agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

**(g) Reviews to implement results of subsidies enforcement proceeding**

**(1) Violations of article 8 of the subsidies agreement**

If—

(A) the administering authority receives notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement,

(B) the administering authority has reason to believe that merchandise subject to an existing countervailing duty order or suspended investigation is benefiting from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement, and

(C) no review pursuant to subsection (a)(1) of this section is in progress,

the administering authority shall conduct a review of the order or suspended investigation to determine whether the subject merchandise benefits from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement. If the administering authority determines that the subject merchandise is benefiting from the subsidy or subsidy program, it shall make appropriate adjustments in the estimated duty to be deposited or appropriate revisions to the terms of the suspension agreement.

**(2) Withdrawal of subsidy or imposition of countermeasures**

If the Trade Representative notifies the administering authority that, pursuant to Article 4 or Article 7 of the Subsidies Agreement—

(A)(i) the United States has imposed countermeasures, and

(ii) such countermeasures are based on the effects in the United States of imports of merchandise that is the subject of a countervailing duty order, or

(B) a WTO member country has withdrawn a countervailable subsidy provided with respect to merchandise subject to a countervailing duty order,

the administering authority shall conduct a review to determine if the amount of the estimated duty to be deposited should be adjusted or the order should be revoked.

**(3) Expedited review**

The administering authority shall conduct reviews under this subsection on an expedited basis, and shall publish the results of such reviews in the Federal Register.

**(h) Correction of ministerial errors**

The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term “ministerial error” includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

(June 17, 1930, ch. 497, title VII, §751, as added Pub. L. 96-39, title I, §101, July 26, 1979, 93 Stat. 175; amended Pub. L. 98-573, title VI, §611(a)(2), (3), Oct. 30, 1984, 98 Stat. 3031; Pub. L. 99-514, title XVIII, §1886(a)(8), Oct. 22, 1986, 100 Stat. 2922; Pub. L. 100-418, title I, §1333(b), Aug. 23, 1988, 102 Stat. 1209; Pub. L. 103-465, title II, §§220(a), 283(c), Dec. 8, 1994, 108 Stat. 4857, 4930; Pub. L. 106-36, title II, §2410, June 25, 1999, 113 Stat. 171.)

REFERENCES IN TEXT

Section 1303 of this title, referred to in subsecs. (a)(1), (b)(1)(A), and (c)(1)(A), (6)(C)(i), is defined in section 1677(26) of this title to mean section 1330 as in effect on the day before Jan. 1, 1995.

The Antidumping Act, 1921, referred to in subsecs. (a)(1), (b)(1)(A), and (c)(6)(C)(ii), is act May 27, 1921, ch. 14, title II, 42 Stat. 11, as amended, which was classified generally to sections 160 to 171 of this title, and was repealed by Pub. L. 96-39, title I, §106(a), July 26, 1979, 93 Stat. 193.

The International Emergency Economic Powers Act, referred to in subsec. (c)(7)(A), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, as amended, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

AMENDMENTS

1999—Subsec. (c)(7). Pub. L. 106-36 added par. (7).

1994—Pub. L. 103-465, §283(c), added subsec. (g) and redesignated former subsec. (g) as (h).

Pub. L. 103-465, §220(a), amended section generally, substituting present provisions for provisions relating to administrative review of determinations, which provided for periodic review of amount of duty in subsec. (a), review upon information or request in subsec. (b), revocation of countervailing duty order or antidumping duty order in subsec. (c), hearings in subsec. (d), determination that basis for suspension no longer existed in subsec. (e), and correction of ministerial errors in subsec. (f).

1988—Subsec. (f). Pub. L. 100-418 added subsec. (f).

1986—Subsec. (b)(1). Pub. L. 99-514 inserted “or countervailing duty” after “antidumping” in two places in last sentence.

1984—Subsec. (a)(1). Pub. L. 98-573, §611(a)(2)(A), inserted “if a request for such a review has been received and” in provisions preceding subpar. (A).

Subsec. (b)(1). Pub. L. 98-573, §611(a)(2)(B), substituted “1671c of this title (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3))

or 1673c of this title (other than a quantitative restriction agreement described in subsection (a)(2))” for “1671c or 1673c of this title”, inserted reference to section 1676a(a)(1) or 1676a(a)(2) of this title, and inserted provision that during an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order.

Subsec. (c). Pub. L. 98-573, §611(a)(3), inserted provision that the administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 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 a note under section 1671 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to investigations initiated by petition or by the administering authority under parts I and II of this subtitle, and to reviews begun under section 1675 of this title, on or after Oct. 30, 1984, see section 626(b)(1) of Pub. L. 98-573, as amended, set out as a note under section 1671 of this title.

#### EFFECTIVE DATE

Part effective Jan. 1, 1980, see section 107 of Pub. L. 96-39, set out as a note under section 1671 of this title.

#### 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.

#### SUSPENSION OF THE AVAILABILITY OF BONDS TO NEW SHIPPERS

Pub. L. 109-280, title XIV, §1632(a), Aug. 17, 2006, 120 Stat. 1165, provided that: “Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the period beginning on April 1, 2006, and ending on June 30, 2009.”

#### URUGUAY ROUND AGREEMENTS: ENTRY INTO FORCE

The Uruguay Round Agreements, including the World Trade Organization Agreement and agreements annexed to that Agreement, as referred to in section 3511(d) of this title, entered into force with respect to the United States on Jan. 1, 1995. See note set out under section 3511 of this title.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

### § 1675a. Special rules for section 1675(b) and 1675(c) reviews

#### (a) Determination of likelihood of continuation or recurrence of material injury

##### (1) In general

In a review conducted under section 1675(b) or (c) of this title, the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account—

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

(D) in an antidumping proceeding under section 1675(c) of this title, the findings of the administering authority regarding duty absorption under section 1675(a)(4) of this title.

##### (2) Volume

In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including—

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

##### (3) Price

In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether—

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

**(4) Impact on the industry**

In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to—

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all relevant economic factors described in this paragraph within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

**(5) Basis for determination**

The presence or absence of any factor which the Commission is required to consider under this subsection shall not necessarily give decisive guidance with respect to the Commission's determination of whether material injury is likely to continue or recur within a reasonably foreseeable time if the order is revoked or the suspended investigation is terminated. In making that determination, the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.

**(6) Magnitude of margin of dumping and net countervailable subsidy; nature of countervailable subsidy**

In making a determination under section 1675(b) or (c) of this title, the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.

**(7) Cumulation**

For purposes of this subsection, the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and ef-

fects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.

**(8) Special rule for regional industries**

In a review under section 1675(b) or (c) of this title involving a regional industry, the Commission may base its determination on the regional industry defined in the original investigation under this subtitle, another region that satisfies the criteria established in section 1677(4)(C) of this title, or the United States as a whole. In determining if a regional industry analysis is appropriate for the determination in the review, the Commission shall consider whether the criteria established in section 1677(4)(C) of this title are likely to be satisfied if the order is revoked or the suspended investigation is terminated.

**(b) Determination of likelihood of continuation or recurrence of a countervailable subsidy**

**(1) In general**

In a review conducted under section 1675(c) of this title, the administering authority shall determine whether revocation of a countervailing duty order or termination of a suspended investigation under section 1671c of this title would be likely to lead to continuation or recurrence of a countervailable subsidy. The administering authority shall consider—

(A) the net countervailable subsidy determined in the investigation and subsequent reviews, and

(B) whether any change in the program which gave rise to the net countervailable subsidy described in subparagraph (A) has occurred that is likely to affect that net countervailable subsidy.

**(2) Consideration of other factors**

If good cause is shown, the administering authority shall also consider—

(A) programs determined to provide countervailable subsidies in other investigations or reviews under this subtitle, but only to the extent that such programs—

(i) can potentially be used by the exporters or producers subject to the review under section 1675(c) of this title, and

(ii) did not exist at the time that the countervailing duty order was issued or the suspension agreement was accepted, and

(B) programs newly alleged to provide countervailable subsidies but only to the extent that the administering authority makes an affirmative countervailing duty determination with respect to such programs and with respect to the exporters or producers subject to the review.

**(3) Net countervailable subsidy**

The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a net countervailable subsidy that was determined under section 1671d of

this title or subsection (a) or (b)(1) of section 1675 of this title.

**(4) Special rule**

**(A) Treatment of zero and de minimis rates**

A net countervailable subsidy described in paragraph (1)(A) that is zero or de minimis shall not by itself require the administering authority to determine that revocation of a countervailing duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of a countervailable subsidy.

**(B) Application of de minimis standards**

For purposes of this paragraph, the administering authority shall apply the de minimis standards applicable to reviews conducted under subsections (a) and (b)(1) of section 1675 of this title.

**(c) Determination of likelihood of continuation or recurrence of dumping**

**(1) In general**

In a review conducted under section 1675(c) of this title, the administering authority shall determine whether revocation of an antidumping duty order or termination of a suspended investigation under section 1673c of this title would be likely to lead to continuation or recurrence of sales of the subject merchandise at less than fair value. The administering authority shall consider—

(A) the weighted average dumping margins determined in the investigation and subsequent reviews, and

(B) the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order or acceptance of the suspension agreement.

**(2) Consideration of other factors**

If good cause is shown, the administering authority shall also consider such other price, cost, market, or economic factors as it deems relevant.

**(3) Magnitude of the margin of dumping**

The administering authority shall provide to the Commission the magnitude of the margin of dumping that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a margin that was determined under section 1673d of this title or under subsection (a) or (b)(1) of section 1675 of this title.

**(4) Special rule**

**(A) Treatment of zero or de minimis margins**

A dumping margin described in paragraph (1)(A) that is zero or de minimis shall not by itself require the administering authority to determine that revocation of an antidumping duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of sales at less than fair value.

**(B) Application of de minimis standards**

For purposes of this paragraph, the administering authority shall apply the de mini-

mis standards applicable to reviews conducted under subsections (a) and (b) of section 1675 of this title.

(June 17, 1930, ch. 497, title VII, §752, as added Pub. L. 103-465, title II, §221(a), Dec. 8, 1994, 108 Stat. 4865.)

**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.

**§ 1675b. Special rules for injury investigations for certain section 1303 or section 1671(c) countervailing duty orders and investigations**

**(a) In general**

**(1) Investigation by the commission upon request**

In the case of a countervailing duty order described in paragraph (2), which—

(A) applies to merchandise that is the product of a Subsidies Agreement country, and

(B)(i) is in effect on the date on which such country becomes a Subsidies Agreement country, or

(ii) is issued on a date that is after the date described in clause (i) pursuant to a court order in an action brought under section 1516a of this title,

the Commission, upon receipt of a request from an interested party described in section 1677(9)(C), (D), (E), (F), or (G) of this title for an injury investigation with respect to such order, shall initiate an investigation and shall determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked.

**(2) Description of countervailing duty orders**

A countervailing duty order described in this paragraph is an order issued under section 1303<sup>1</sup> of this title or section 1671(c) of this title with respect to which the requirement of an affirmative determination of material injury was not applicable at the time such order was issued.

**(3) Requirements of request for investigation**

A request for an investigation under this subsection shall be submitted—

(A) in the case of an order described in paragraph (1)(B)(i), within 6 months after the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

(B) in the case of an order described in paragraph (1)(B)(ii), within 6 months after the date the order is issued.

**(4) Suspension of liquidation**

With respect to entries of subject merchandise made on or after—

<sup>1</sup> See References in Text note below.

(A) in the case of an order described in paragraph (1)(B)(i), the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

(B) in the case of an order described in paragraph (1)(B)(ii), the date on which the order is issued,

liquidation shall be suspended at the cash deposit rate in effect on the date described in subparagraph (A) or (B) (whichever is applicable).

**(b) Investigation procedure and schedule**

**(1) Commission procedure**

**(A) In general**

Except as otherwise provided in this section, the provisions of this subtitle regarding evidence in and procedures for investigations conducted under part I of this subtitle shall apply to investigations conducted by the Commission under this section.

**(B) Time for Commission determination**

Except as otherwise provided in subparagraph (C), the Commission shall issue its determination under subsection (a)(1) of this section, to the extent possible, not later than 1 year after the date on which the investigation is initiated under this section.

**(C) Special rule to permit administrative flexibility**

In the case of requests for investigations received under this section within 1 year after the date on which the WTO Agreement enters into force with respect to the United States, the Commission may, after consulting with the administering authority, initiate its investigations in a manner that results in determinations being made in all such investigations during the 4-year period beginning on such date.

**(2) Net countervailable subsidy; nature of subsidy**

**(A) Net countervailable subsidy**

The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order which is the subject of the investigation is revoked. The administering authority normally shall choose a net countervailable subsidy that was determined under section 1671d of this title or subsection (a) or (b)(1) of section 1675 of this title. If the Commission considers the magnitude of the net countervailable subsidy in making its determination under this section, the Commission shall use the net countervailable subsidy provided by the administering authority.

**(B) Nature of subsidy**

The administering authority shall inform the Commission of, and the Commission, in making its determination under this section, shall consider, the nature of the countervailable subsidy and whether the countervailable subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement.

**(3) Effect of Commission determination**

**(A) Affirmative determination**

Upon being notified by the Commission that it has made an affirmative determination under subsection (a)(1) of this section—

(i) the administering authority shall order the termination of the suspension of liquidation required pursuant to subsection (a)(4) of this section, and

(ii) the countervailing duty order shall remain in effect until revoked, in whole or in part, under section 1675(d) of this title.

For purposes of section 1675(c) of this title, a countervailing duty order described in this section shall be treated as issued on the date of publication of the Commission's determination under this subsection.

**(B) Negative determination**

**(i) In general**

Upon being notified by the Commission that it has made a negative determination under subsection (a)(1) of this section, the administering authority shall revoke the countervailing duty order, and shall refund, with interest, any estimated countervailing duties collected during the period liquidation was suspended pursuant to subsection (a)(4) of this section.

**(ii) Limitation on negative determination**

A determination by the Commission that revocation of the order is not likely to result in material injury to an industry by reason of imports of the subject merchandise shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States that were specifically intended to offset the countervailable subsidy received.

**(4) Countervailing duty orders with respect to which no request for injury investigation is made**

If, with respect to a countervailing duty order described in subsection (a) of this section, a request for an investigation is not made within the time required by subsection (a)(3) of this section, the Commission shall notify the administering authority that a negative determination has been made under subsection (a) of this section and the provisions of paragraph (3)(B) shall apply with respect to the order.

**(c) Pending and suspended countervailing duty investigations**

If, on the date on which a country becomes a Subsidies Agreement country, there is a countervailing duty investigation in progress or suspended under section 1303<sup>2</sup> of this title or section 1671(c) of this title that applies to merchandise which is a product of that country and with respect to which the requirement of an affirmative determination of material injury was not applicable at the time the investigation was initiated, the Commission shall—

(1) in the case of an investigation in progress, make a final determination under

<sup>2</sup> See References in Text note below.

section 1671d(b) of this title within 75 days after the date of an affirmative final determination, if any, by the administering authority.

(2) in the case of a suspended investigation to which section 1671c(i)(1)(B) of this title applies, make a final determination under section 1671d(b) of this title within 120 days after receiving notice from the administering authority of the resumption of the investigation pursuant to section 1671c(i) of this title, or within 45 days after the date of an affirmative final determination, if any, by the administering authority, whichever is later, or

(3) in the case of a suspended investigation to which section 1671c(i)(1)(C) of this title applies, treat the countervailing duty order issued pursuant to such section as if it were—

(A) an order issued under subsection (a)(1)(B)(ii) of this section for purposes of subsection (a)(3) of this section; and

(B) an order issued under subsection (a)(1)(B)(i) of this section for purposes of subsection (a)(4) of this section.

**(d) Publication in Federal Register**

The administering authority or the Commission, as the case may be, shall publish in the Federal Register a notice of the initiation of any investigation, and a notice of any determination or revocation, made pursuant to this section.

**(e) Request for simultaneous expedited review under section 1675(c)**

**(1) General rule**

**(A) Requests for reviews**

Notwithstanding section 1675(c)(6)(A) of this title and except as provided in subparagraph (B), an interested party may request a review of an order under section 1675(c) of this title at the same time the party requests an investigation under subsection (a) of this section, if the order involves the same or comparable subject merchandise. Upon receipt of such request, the administering authority, after consulting with the Commission, shall initiate a review of the order under section 1675(c) of this title. The Commission shall combine such review with the investigation under this section.

**(B) Exception**

If the administering authority determines that the interested party who requested an investigation under this section is a related party or an importer within the meaning of section 1677(4)(B) of this title, the administering authority may decline a request by such party to initiate a review of an order under section 1675(c) of this title which involves the same or comparable subject merchandise.

**(2) Cumulation**

If a review under section 1675(c) of this title is initiated under paragraph (1), such review shall be treated as having been initiated on the same day as the investigation under this section, and the Commission may, in accordance with section 1677(7)(G) of this title, cumulatively assess the volume and effect of im-

ports of the subject merchandise from all countries with respect to which such investigations are treated as initiated on the same day.

**(3) Time and procedure for Commission determination**

The Commission shall render its determination in the investigation conducted under this section at the same time as the Commission's determination is made in the review under section 1675(c) of this title that is initiated pursuant to this subsection. The Commission shall in all other respects apply the procedures and standards set forth in section 1675(c) of this title to such section 1675(c) of this title reviews.

(June 17, 1930, ch. 497, title VII, §753, as added Pub. L. 103-465, title II, §271(a), Dec. 8, 1994, 108 Stat. 4918; amended Pub. L. 104-295, §39, Oct. 11, 1996, 110 Stat. 3540.)

REFERENCES IN TEXT

Section 1303 of this title, referred to in subsecs. (a)(2) and (c), is defined in section 1677(26) of this title to mean section 1330 as in effect on the day before Jan. 1, 1995.

AMENDMENTS

1996—Pub. L. 104-295, §39(1), inserted “or section 1671(c)” after “section 1303” in section catchline.

Subsecs. (a)(2), (c). Pub. L. 104-295 inserted “or section 1671(c) of this title” after “section 1303 of this title” and struck out “under section 1303(a)(2) of this title” after “material injury”.

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.

URUGUAY ROUND AGREEMENTS: ENTRY INTO FORCE

The Uruguay Round Agreements, including the World Trade Organization Agreement and agreements annexed to that Agreement, as referred to in section 3511(d) of this title, entered into force with respect to the United States on Jan. 1, 1995. See note set out under section 3511 of this title.

**§ 1675c. Repealed. Pub. L. 109-171, title VII, § 7601(a), Feb. 8, 2006, 120 Stat. 154**

Section 1675c, act June 17, 1930, ch. 497, title VII, §754, as added Pub. L. 106-387, §1(a) [title X, §1003(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A-73, related to the continued dumping and subsidy offset.

EFFECTIVE DATE OF REPEAL

Pub. L. 109-171, title VII, §7601(a), Feb. 8, 2006, 120 Stat. 154, provided that the repeal made by section 7601(a) is effective Feb. 8, 2006.

PROHIBITION ON COLLECTION OF CERTAIN PAYMENTS MADE UNDER THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000.

Pub. L. 111-5, div. B, title I, §1701, Feb. 17, 2009, 123 Stat. 366, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Secretary of Homeland Security nor any other person may—

“(1) require repayment of, or attempt in any other way to recoup, any payments described in subsection (b); or

“(2) offset any past, current, or future distributions of antidumping or countervailing duties assessed with respect to imports from countries that are not parties to the North American Free Trade Agreement in an attempt to recoup any payments described in subsection (b).

“(b) PAYMENTS DESCRIBED.—Payments described in this subsection are payments of antidumping or countervailing duties made pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c; repealed by subtitle F of title VII of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 154))) that were—

“(1) assessed and paid on imports of goods from countries that are parties to the North American Free Trade Agreement; and

“(2) distributed on or after January 1, 2001, and before January 1, 2006.

“(c) PAYMENT OF FUNDS COLLECTED OR WITHHELD.—Not later than the date that is 60 days after the date of the enactment of this Act [Feb. 17, 2009], the Secretary of Homeland Security shall—

“(1) refund any repayments, or any other recoupment, of payments described in subsection (b); and

“(2) fully distribute any antidumping or countervailing duties that the U.S. Customs and Border Protection is withholding as an offset as described in subsection (a)(2).

“(d) LIMITATION.—Nothing in this section shall be construed to prevent the Secretary of Homeland Security, or any other person, from requiring repayment of, or attempting to otherwise recoup, any payments described in subsection (b) as a result of—

“(1) a finding of false statements or other misconduct by a recipient of such a payment; or

“(2) the reliquidation of an entry with respect to which such a payment was made.”

#### DISTRIBUTIONS ON CERTAIN ENTRIES

Pub. L. 109–171, title VII, §7601(b), Feb. 8, 2006, 120 Stat. 154, provided that: “All duties on entries of goods made and filed before October 1, 2007, that would, but for subsection (a) of this section [repealing this section], be distributed under section 754 of the Tariff Act of 1930 [this section], shall be distributed as if section 754 of the Tariff Act of 1930 had not been repealed by subsection (a).”

#### SUBPART B—CONSULTATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

### § 1676. Required consultations

#### (a) Agreements in response to countervailable subsidies

Within 90 days after the administering authority accepts a quantitative restriction agreement under section 1671c(a)(2) or (c)(3) of this title, the President shall enter into consultations with the government that is party to the agreement for purposes of—

(1) eliminating the countervailable subsidy completely, or

(2) reducing the net countervailable subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

#### (b) Modification of agreements on basis of consultations

At the direction of the President, the administering authority shall modify a quantitative restriction agreement as a result of consultations entered into under subsection (a) of this section.

#### (c) Special rule regarding agreements under section 1671c(c)(3) of this title

This chapter shall cease to apply to a quantitative restriction agreement described in section 1671c(c)(3) of this title at such time as that agreement ceases to have force and effect under section 1671c(f) of this title or violation is found under section 1671c(i) of this title.

(June 17, 1930, ch. 497, title VII, §761, as added Pub. L. 98–573, title VI, §611(a)(4), Oct. 30, 1984, 98 Stat. 3031; amended Pub. L. 103–465, title II, §270(a)(1)(I), (b)(1)(C), (2), Dec. 8, 1994, 108 Stat. 4917.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103–465, §270(b)(1)(C), (2), inserted “countervailable” before “subsidies” in heading.

Subsec. (a)(1), (2). Pub. L. 103–465, §270(a)(1)(I), inserted “countervailable” before “subsidy”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 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 a note under section 1671 of this title.

#### EFFECTIVE DATE

Section applicable with respect to investigations initiated by petition or by the administering authority under parts I and II of this subtitle, and to reviews begun under section 1675 of this title, on or after Oct. 30, 1984, see section 626(b)(1) of Pub. L. 98–573, as amended, set out as an Effective Date of 1984 Amendment note under section 1671 of this title.

### § 1676a. Required determinations

#### (a) In general

Before the expiration date, if any, of a quantitative restriction agreement accepted under section 1671c(a)(2) or 1671c(c)(3) of this title (if suspension of the related investigation is still in effect)—

(1) the administering authority shall, at the direction of the President, initiate a proceeding to determine whether any countervailable subsidy is being provided with respect to the subject merchandise and, if being so provided, the net countervailable subsidy; and

(2) if the administering authority initiates a proceeding under paragraph (1), the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

#### (b) Determinations

The determinations required to be made by the administering authority and the Commission under subsection (a) of this section shall be made under such procedures as the administering authority and the Commission, respectively, shall by regulation prescribe, and shall be treated as final determinations made under section 1671d of this title for purposes of judicial review under section 1516a of this title. If the deter-

minations by each are affirmative, the administering authority shall—

(1) issue a countervailing duty order under section 1671e of this title effective with respect to merchandise entered on and after the date on which the agreement terminates; and

(2) order the suspension of liquidation of all entries of subject merchandise which are entered, or withdrawn from warehouse for consumption, on or after the date of publication of the order in the Federal Register.

### (c) Hearings

The determination proceedings required to be prescribed under subsection (b) of this section shall provide that the administering authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 1677c of this title on the issues involved.

(June 17, 1930, ch. 497, title VII, § 762, as added Pub. L. 98-573, title VI, § 611(a)(4), Oct. 30, 1984, 98 Stat. 3032; amended Pub. L. 103-465, title II, § 233(a)(5)(Z), (AA), 270(a)(1)(J), Dec. 8, 1994, 108 Stat. 4900, 4917.)

#### AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-465, §§ 233(a)(5)(Z), 270(a)(1)(J), inserted “countervailable” before “subsidy” in two places and substituted “subject merchandise” for “merchandise subject to the agreement”.

Subsec. (b)(2). Pub. L. 103-465, § 233(a)(5)(AA), substituted “subject merchandise” for “merchandise subject to the order”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 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 a note under section 1671 of this title.

#### EFFECTIVE DATE

Section applicable with respect to investigations initiated by petition or by the administering authority under parts I and II of this subtitle, or reviews begun under section 1675 of this title, on or after Oct. 30, 1984, see section 626(b)(1) of Pub. L. 98-573, as amended, set out as an Effective Date of 1984 Amendment note under section 1671 of this title.

### PART IV—GENERAL PROVISIONS

#### CODIFICATION

The designation “PART IV” was in the original “Subtitle D” 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 as originally enacted.

### § 1677. Definitions; special rules

For purposes of this subtitle—

#### (1) Administering authority

The term “administering authority” means the Secretary of Commerce, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under this subtitle are transferred by law.

#### (2) Commission

The term “Commission” means the United States International Trade Commission.

### (3) Country

The term “country” means a foreign country, a political subdivision, dependent territory, or possession of a foreign country, and, except for the purpose of antidumping proceedings, may include an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.

### (4) Industry

#### (A) In general

The term “industry” means the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.

#### (B) Related parties

(i) If a producer of a domestic like product and an exporter or importer of the subject merchandise are related parties, or if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.

(ii) For purposes of clause (i), a producer and an exporter or importer shall be considered to be related parties, if—

(I) the producer directly or indirectly controls the exporter or importer,

(II) the exporter or importer directly or indirectly controls the producer,

(III) a third party directly or indirectly controls the producer and the exporter or importer, or

(IV) the producer and the exporter or importer directly or indirectly control a third party and there is reason to believe that the relationship causes the producer to act differently than a nonrelated producer.

For purposes of this subparagraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.

#### (C) Regional industries

In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if—

(i) the producers within such market sell all or almost all of their production of the domestic like product in question in that market, and

(ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collec-