§ 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

Subtitle is comprised of title VIII of act June 17, 1930, as added by Pub. L. 106–476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2178. Another title VIII of act June 17, 1930, was added by Pub. L. 110–246, title III, § 3301(a), June 18, 2008, 122 Stat. 1844, and is classified to subtitle VI (§ 1683 et seq.) of this chapter.

§ 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 method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco product is delivered by use of a common carrier, private delivery service, or the mail, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the delivered cigarettes or smokeless tobacco product.

(June 17, 1930, ch. 497, title VIII, § 801, as added Pub. L. 106–476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2178; amended Pub. L. 109–432, div. C, title IV, § 401(a), Dec. 20, 2006, 120 Stat. 3047.)

AMENDMENTS

2006—Par. (3). Pub. L. 109–432 added par. (3).