into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of this title.

Amendment by sections 1312, 1316(b), 1326(a)–(c), and 1327–1329 of Pub. L. 100–418 applicable with respect to investigations initiated after Aug. 23, 1988, and to reviews initiated under section 1673e(c) or 1675 of this title after Aug. 23, 1988, see section 1337(b) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 1671 of this title.

Amendment by section 1330 of Pub. L. 100–418 applicable with respect to investigations initiated after Aug. 23, 1988, see section 1337(c) of Pub. L. 100–418.

Amendment by section 1335 of Pub. L. 100–418 applicable with respect to entries, and withdrawals from warehouse for consumption, that are liquidated on or after Aug. 23, 1988, see section 1337(e) of Pub. L. 100–418.

EFFECTIVE AND TERMINATION DATES 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; but provisions of this subtitle not to be interpreted to prevent refiling of a petition under section 1671a or 1673a of this title that was filed before Oct. 30, 1984, if the purpose of refiling was to avail petitioner of amendment of par. (4)(A) of this section by Pub. L. 98–573, and such amendment of par. (4)(A) inapplicable to petitions filed (or refiled) under section 1671a or 1673a of this title after Sept. 30, 1986, see section 626(b)(1), (c)(1), (2) of Pub. L. 98–573, as amended, set out as an Effective Date of 1984 Amendment 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.

All functions of the Secretary of the Treasury under this subtitle were transferred to the Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, § 5(a)(1)(C), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1–107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title, except that the Customs Service of the Department of the Treasury was to accept such deposits, bonds, or other security as deemed appropriate by the Secretary of Commerce, assess and collect such duties as directed by the Secretary of Commerce, and furnish such of its important records or copies thereof as requested by the Secretary incident to the functions transferred.

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.

EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103–182, see section 3451 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.

§ 1677–1. Upstream subsidies

(a) "Upstream subsidy" defined

The term ''upstream subsidy'' means any countervailable subsidy, other than an export subsidy, that—

(1) is paid or bestowed by an authority (as defined in section 1677(5) of this title) with respect to a product (hereafter in this section referred to as an ''input product'') that is used in the same country as the authority in the manufacture or production of merchandise which is the subject of a countervailing duty proceeding;

(2) in the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this subsection, an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country if the countervailable subsidy is provided by the customs union.

(b) Determination of competitive benefit

(1) In general

Except as provided in paragraph (2), the administering authority shall decide that a competitive benefit has been bestowed when the price for the input product referred to in subsection (a)(1) of this section for such use is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

(2) Adjustments

If the administering authority has determined in a previous proceeding that a countervailable subsidy is paid or bestowed on the input product that is used for comparison under paragraph (1), the administering authority may (A) where appropriate, adjust the price that the manufacturer or producer of merchandise which is the subject of such proceeding would otherwise pay for the product to reflect the effects of the countervailable subsidy, or (B) select in lieu of that price a price from another source.

(c) Inclusion of amount of countervailable subsidy

If the administering authority decides, during the course of a countervailing duty proceeding that an upstream countervailable subsidy is

being or has been paid or bestowed regarding the subject merchandise, the administering authority shall include in the amount of any countervailing duty imposed on the merchandise an amount equal to the amount of the competitive benefit referred to in subparagraph (1)(B),[1] except that in no event shall the amount be greater than the amount of the countervailable subsidy determined with respect to the upstream product.

(June 17, 1930, ch. 497, title VII, § 771A, as added Pub. L. 98–573, title VI, § 613(a), Oct. 30, 1984, 98 Stat. 3035; amended Pub. L. 99–514, title XVIII, § 1886(a)(10), Oct. 22, 1986, 100 Stat. 2922; Pub. L. 103–465, title II, §§ 233(a)(5)(GG), 268, 270(a)(1)(K), (L), (2)(B), (c)(3), Dec. 8, 1994, 108 Stat. 4901, 4916, 4917; Pub. L. 104–295, § 20(b)(2), Oct. 11, 1996, 110 Stat. 3527.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–295 amended directory language of Pub. L. 103–465, § 270(a)(2)(B). See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103–465, § 268, inserted introductory provisions and struck out former introductory provisions which read as follows: ''The term 'upstream subsidy' means any subsidy described in section 1677(5)(B)(i), (ii), (iii), or (iv) of this title by the government of a country that—'', and in concluding provisions, inserted ''countervailable'' before ''subsidy''.

Subsec. (a)(1). Pub. L. 103–465, § 268(1), added par. (1) and struck out former par. (1) which read as follows: ''is paid or bestowed by that government with respect to a product (hereafter referred to as an 'input product') that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;''.

Subsec. (b)(2). Pub. L. 103–465, § 270(a)(1)(K), inserted ''countervailable'' before ''subsidy'' in two places.

Subsec. (c). Pub. L. 103–465, § 270(a)(2)(B), as amended by Pub. L. 104–295, inserted ''countervailable'' before ''subsidy'' in heading.

Pub. L. 103–465, § 270(a)(1)(L), (c)(3), inserted ''countervailable'' after ''upstream'' and substituted ''the countervailable subsidy determined'' for ''subsidization determined''.

Pub. L. 103–465, § 233(a)(5)(GG), substituted ''subject merchandise'' for ''merchandise under investigation''.

1986—Subsec. (a). Pub. L. 99–514 substituted ''(ii), (iii), or (iv)'' for ''(ii), or (iii)'' in introductory provisions.

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 effective Oct. 30, 1984, see section 626(a) of Pub. L. 98–573, set out as an Effective Date of 1984 Amendment note under section 1671 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.

[1] So in original. Probably should be ''subsection (a)(2) of this section,''.

§ 1677–2. Calculation of countervailable subsidies on certain processed agricultural products

In the case of an agricultural product processed from a raw agricultural product in which—

(1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and

(2) the processing operation adds only limited value to the raw commodity,

countervailable subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.

(June 17, 1930, ch. 497, title VII, § 771B, as added Pub. L. 100–418, title I, § 1313(a), Aug. 23, 1988, 102 Stat. 1185; amended Pub. L. 100–647, title IX, § 9001(a)(4), Nov. 10, 1988, 102 Stat. 3806; Pub. L. 103–465, title II, § 270(b)(1)(D), (2), Dec. 8, 1994, 108 Stat. 4917.)

AMENDMENTS

1994—Pub. L. 103–465 inserted ''countervailable'' before ''subsidies'' in section catchline and concluding provisions.

1988—Pub. L. 100–647 amended section generally. Prior to amendment, section read as follows: ''In the case of an agricultural product processed from a raw agricultural product in which (1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and (2) the processing operation adds only limited value to the raw commodity, subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.''

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 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100–647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

§ 1677a. Export price and constructed export price

(a) Export price

The term ''export price'' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c) of this section.

(b) Constructed export price

The term ''constructed export price'' means the price at which the subject merchandise is