assembled in the United States (other than minor completion or assembly),

(B) under subsection (b) of this section with respect to merchandise completed or assembled in other foreign countries, or

(C) under subsection (d) of this section with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product,

with respect to an antidumping or countervailing duty order or finding as to which the Commission has made an affirmative injury determination, the administering authority shall notify the Commission of the proposed inclusion of such merchandise in such countervailing or antidumping order or finding. Notwithstanding any other provision of law, a decision by the administering authority regarding whether any merchandise is within a category for which notice is required under this paragraph is not subject to judicial review.

(2) Request for consultation

After receiving notice under paragraph (1), the Commission may request consultations with the administering authority regarding the inclusion. Upon the request of the Commission, the administering authority shall consult with the Commission and any such consultation shall be completed within 15 days after the date of the request.

(3) Commission advice

If the Commission believes, after consultation under paragraph (2), that a significant injury issue is presented by the proposed inclusion, the Commission may provide written advice to the administering authority as to whether the inclusion would be inconsistent with the affirmative determination of the Commission on which the order or finding is based. If the Commission decides to provide such written advice, it shall promptly notify the administering authority of its intention to do so, and must provide such advice within 60 days after the date of notification under paragraph (1). For purposes of formulating its advice with respect to merchandise completed or assembled in the United States from parts or components produced in a foreign country, the Commission shall consider whether the inclusion of such parts or components taken as a whole would be inconsistent with its prior affirmative determination.

(f) Time limits for administering authority determinations

The administering authority shall, to the maximum extent practicable, make the determinations under this section within 300 days from the date of the initiation of a countervailing duty or antidumping circumvention inquiry under this section.

(June 17, 1930, ch. 497, title VII, § 781, as added Pub. L. 100–418, title I, § 1321(a), Aug. 23, 1988, 102 Stat. 1192; amended Pub. L. 103–465, title II, § 230, Dec. 8, 1994, 108 Stat. 4891.)

REFERENCES IN TEXT

The Antidumping Act, 1921, referred to in subsecs. (a)(1)(A)(ii), (b)(1)(A)(ii), and (c)(1)(C), 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.

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

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–465, § 230(a), amended subsecs. (a) and (b) generally, to include provisions relating to whether process of assembly or completion of merchandise in United States or foreign countries is minor or insignificant.

Subsec. (f). Pub. L. 103–465, § 230(b), added subsec. (f).

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 articles entered, or withdrawn from warehouse for consumption, on or after Aug. 23, 1988, see section 1337(d) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 1671 of this title.

§ 1677k. Third-country dumping

(a) Definitions

For purposes of this section:

(1)(A) The term ''Agreement'' means the Agreement on Implementation of Article VI of the GATT 1994 (relating to antidumping measures).

(B) The term ''GATT 1994'' has the meaning given that term in section 3501(1)(B) of this title.

(2) The term ''Agreement country'' means a foreign country that has accepted the Agreement.

(3) The term ''Trade Representative'' means the United States Trade Representative.

(b) Petition by domestic industry

(1) A domestic industry that produces a product that is like or directly competitive with merchandise produced by a foreign country (whether or not an Agreement country) may, if it has reason to believe that—

(A) such merchandise is being dumped in an Agreement country; and

(B) such domestic industry is being materially injured, or threatened with material injury, by reason of such dumping;

submit a petition to the Trade Representative that alleges the elements referred to in subparagraphs (A) and (B) and requests the Trade Representative to take action under subsection (c) 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 submit-

ted 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 authority 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 au-