EFFECTIVE DATE

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

§ 1677n. Antidumping petitions by third countries

(a) Filing of petition

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

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

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

(b) Initiation

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

(c) Determinations

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

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

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

(d) Public comment

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

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

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

(e) Issuance of order

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

(f) Reviews of determinations

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

(g) Access to information

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

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

AMENDMENTS

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

EFFECTIVE DATE

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

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

CODIFICATION

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).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. C, title IV, § 401(g), Dec. 20, 2006, 120 Stat. 3050, provided that: "The amendments made by this section [amending this section, sections 1681a and 1681b of this title, and sections 5754 and 5761 of Title 26, Internal Revenue Code] shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Dec. 20, 2006]."

EFFECTIVE DATE

Pub. L. 106–476, title IV, § 4004(b), Nov. 9, 2000, 114 Stat. 2181, provided that: "The amendment made by subsection (a) [enacting this subtitle] shall take effect 30 days after the date of the enactment of this Act [Nov. 9, 2000]."

§ 1681a. Requirements for entry of certain cigarettes and smokeless tobacco products

(a) General rule

Except as provided in subsection (b) of this section, cigarettes or smokeless tobacco products may be imported into the United States only if—

(1) the original manufacturer of those cigarettes or smokeless tobacco products has timely submitted, or has certified that it will timely submit, to the Secretary of Health and Human Services the lists of the ingredients added to the tobacco in the manufacture of such cigarettes or smokeless tobacco products as described in section 1335a of title 15 or section 4403 of title 15, as the case may be;

(2) the precise warning statements in the precise format specified in section 1333 of title 15 or section 4402 of title 15, as the case may be, are permanently imprinted on both—

(A) the primary packaging of all those cigarettes or smokeless tobacco products; and

(B) any other pack, box, carton, or container of any kind in which those cigarettes or smokeless tobacco products are to be offered for sale or otherwise distributed to consumers;

(3) the manufacturer or importer of those cigarettes or smokeless tobacco products is in compliance with respect to those cigarettes or smokeless tobacco products being imported into the United States with a rotation plan approved by the Federal Trade Commission pursuant to section 1333(c)[1] of title 15 or section 4402(d)[1] of title 15, as the case may be;

(4) if such cigarettes or smokeless tobacco products bear a United States trademark registered for such cigarettes or smokeless tobacco products, the owner of such United States trademark registration for cigarettes or smokeless tobacco products (or a person authorized to act on behalf of such owner) has consented to the importation of such cigarettes or smokeless tobacco products into the United States; and

(5) the importer has submitted at the time of entry all of the certificates described in subsection (c) of this section.

(b) Exemptions

Cigarettes or smokeless tobacco products satisfying the conditions of any of the following paragraphs shall not be subject to the requirements of subsection (a) of this section:

(1) Personal-use cigarettes or smokeless tobacco products

Cigarettes or smokeless tobacco products that are imported into the United States in personal use quantities that are allowed entry free of tax and duty under subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States. The preceding sentence shall not apply to any cigarettes or smokeless tobacco products sold in connection with a delivery sale.

(2) Cigarettes or smokeless tobacco products imported into the United States for analysis

Cigarettes or smokeless tobacco products that are imported into the United States solely for the purpose of analysis in quantities suitable for such purpose, but only if the importer submits at the time of entry a certificate signed, under penalties of perjury, by the consignee (or a person authorized by such consignee) providing such facts as may be required by the Secretary to establish that such consignee is a manufacturer of cigarettes or smokeless tobacco products, a Federal or State government agency, a university, or is otherwise engaged in bona fide research and stating that such cigarettes or smokeless tobacco products will be used solely for analysis and will not be sold in domestic commerce in the United States.

(3) Cigarettes or smokeless tobacco products intended for noncommercial use, reexport, or repackaging

Cigarettes or smokeless tobacco products—

(A) for which the owner of such United States trademark registration for cigarettes or smokeless tobacco products (or a person authorized to act on behalf of such owner) has consented to the importation of such cigarettes or smokeless tobacco products into the United States; and

(B) for which the importer submits a certificate signed by the manufacturer or export warehouse (or a person authorized by such manufacturer or export warehouse) to which such cigarettes or smokeless tobacco products are to be delivered (as provided in subparagraph (A)) stating, under penalties of perjury, with respect to those cigarettes or smokeless tobacco products, that it will not distribute those cigarettes or smokeless tobacco products into domestic commerce unless prior to such distribution all steps have been taken to comply with paragraphs (1),

[1] See References in Text note below.