

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 1303¹ 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—

¹ See References in Text note below.