title, amending sections 1001, 1201, 1304, 1308, 1309, 1315, 1317, 1401, 1402, 1451, 1459, 1460, 1484, 1485, 1491, 1499, 1501, 1516, 1520, 1524, 1553, 1557 to 1559, 1562, 1563, 1603, 1607, 1609, 1613, 1623, 1709 of this title, and section 331 of former Title 46, Shipping, and enacting provisions set out as a note under section 1516 of this title] may be cited as the 'Customs Administrative Act of 1938'.''

SUBTITLE IV—COUNTERVAILING AND ANTIDUMPING DUTIES

PART I—IMPOSITION OF COUNTERVAILING DUTIES

CODIFICATION

The designations ''SUBTITLE IV'' and ''PART I'' were in the original ''TITLE VII'' and ''Subtitle A'' respectively, and were editorially changed in order to conform the numbering format of this subtitle to the usages employed in the codification of the remainder of the Tariff Act of 1930 as originally enacted.

§ 1671. Countervailing duties imposed

(a) General rule

If—

(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States, and

(2) in the case of merchandise imported from a Subsidies Agreement country, the Commission determines that—

(A) an industry in the United States—

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation,

then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net countervailable subsidy. For purposes of this subsection and section 1671d(b)(1) of this title, a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

(b) Subsidies Agreement country

For purposes of this subtitle, the term ''Subsidies Agreement country'' means—

(1) a WTO member country,

(2) a country which the President has determined has assumed obligations with respect to the United States which are substantially equivalent to the obligations under the Subsidies Agreement, or

(3) a country with respect to which the President determines that—

(A) there is an agreement in effect between the United States and that country which—

(i) was in force on December 8, 1994, and

(ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States, and

(B) the agreement described in subparagraph (A) does not expressly permit—

(i) actions required or permitted by the GATT 1947 or GATT 1994, as defined in section 3501(1) of this title, or required by the Congress, or

(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

(c) Countervailing duty investigations involving imports not entitled to a material injury determination

In the case of any article or merchandise imported from a country which is not a Subsidies Agreement country—

(1) no determination by the Commission under section 1671b(a), 1671c, or 1671d(b) of this title shall be required,

(2) an investigation may not be suspended under section 1671c(c) or 1671c(*l*) of this title,

(3) no determination as to the presence of critical circumstances shall be made under section 1671b(e) or 1671d(a)(2) of this title,

(4) section 1671e(c) of this title shall not apply,

(5) any reference to a determination described in paragraph (1) or (3), or to the suspension of an investigation under section 1671c(c) or 1671c(*l*) of this title, shall be disregarded, and

(6) section 1675(c) of this title shall not apply.

(d) Treatment of international consortia

For purposes of this part, if the members (or other participating entities) of an international consortium that is engaged in the production of subject merchandise receive countervailable subsidies from their respective home countries to assist, permit, or otherwise enable their participation in that consortium through production or manufacturing operations in their respective home countries, then the administering authority shall cumulate all such countervailable subsidies, as well as countervailable subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise.

(e) Upstream subsidies

Whenever the administering authority has reasonable grounds to believe or suspect that an upstream subsidy, as defined in section 1677–1(a)(1)[1] of this title, is being paid or bestowed, the administering authority shall investigate whether an upstream subsidy has in fact been paid or bestowed, and if so, shall include the amount of the upstream subsidy as provided in section 1677–1(a)(3)[2] of this title.

(f) Applicability to proceedings involving nonmarket economy countries

(1) In general

Except as provided in paragraph (2), the merchandise on which countervailing duties shall be imposed under subsection (a) includes a class or kind of merchandise imported, or sold

[1] So in original. Probably should be section ''1677–1(a)''.

[2] So in original. Probably should be section ''1677–1(c)''.

(or likely to be sold) for importation, into the United States from a nonmarket economy country.

(2) Exception

A countervailing duty is not required to be imposed under subsection (a) on a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States from a nonmarket economy country if the administering authority is unable to identify and measure subsidies provided by the government of the nonmarket economy country or a public entity within the territory of the nonmarket economy country because the economy of that country is essentially comprised of a single entity.

(June 17, 1930, ch. 497, title VII, § 701, as added Pub. L. 96–39, title I, § 101, July 26, 1979, 93 Stat. 151; amended Pub. L. 98–573, title VI, §§ 602(a)(1), 613(b), Oct. 30, 1984, 98 Stat. 3024, 3035; Pub. L. 99–514, title XVIII, § 1886(a)(1), Oct. 22, 1986, 100 Stat. 2921; Pub. L. 100–418, title I, §§ 1314, 1315, Aug. 23, 1988, 102 Stat. 1185; Pub. L. 100–647, title IX, § 9001(a)(9), Nov. 10, 1988, 102 Stat. 3807; Pub. L. 103–465, title II, §§ 233(a)(5)(A), 261(d)(1)(B)(iii), 262, 270(b)(1)(A), Dec. 8, 1994, 108 Stat. 4899, 4910, 4917; Pub. L. 112–99, § 1(a), Mar. 13, 2012, 126 Stat. 265.)

AMENDMENTS

2012—Subsec. (f). Pub. L. 112–99 added subsec. (f).

1994—Subsecs. (a) to (c). Pub. L. 103–465, § 262, amended subsecs. (a) to (c) generally, substituting present provisions for provisions which generally authorized the imposition of countervailing duties, defined ''country under the Agreement'', and provided for revocation of status as country under the Agreement.

Subsec. (d). Pub. L. 103–465, § 270(b)(1)(A), substituted ''countervailable subsidies'' for ''subsidies'' wherever appearing.

Pub. L. 103–465, § 233(a)(5)(A), substituted ''subject merchandise'' for ''a class or kind of merchandise subject to a countervailing duty investigation''.

Subsec. (f). Pub. L. 103–465, § 261(d)(1)(B)(iii), struck out subsec. (f) which provided for cross reference to section 1303 of this title for provisions of law applicable in the case of merchandise which was product of country other than country under the Agreement.

1988—Subsec. (c). Pub. L. 100–418, § 1314(2), added subsec. (c). Former subsec. (c) relating to upstream subsidies redesignated (d).

Subsec. (d). Pub. L. 100–647 redesignated subsec. (d), relating to cross reference, as (f).

Pub. L. 100–418, § 1315(2), added subsec. (d) relating to treatment of international consortia. Former subsec. (d), relating to upstream subsidies, redesignated (e).

Pub. L. 100–418, § 1314(1), redesignated subsec. (c), relating to upstream subsidies, as (d).

Subsec. (e). Pub. L. 100–418, § 1315(1), redesignated subsec. (d), relating to upstream subsidies, as (e).

Subsec. (f). Pub. L. 100–647 redesignated subsec (d), relating to cross reference, as (f).

1986—Subsecs. (c), (d), (g). Pub. L. 99–514 redesignated subsecs. (g) and (c) as (c) and (d), respectively.

1984—Subsec. (a). Pub. L. 98–573, § 602(a)(1)(C), inserted last sentence which provided that for purposes of this subsection and section 1671d(b)(1) of this title, a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

Subsec. (a)(1). Pub. L. 98–573, § 602(a)(1)(A), inserted '', or sold (or likely to be sold) for importation,'' in provisions following subpar. (B).

Subsec. (a)(2). Pub. L. 98–573, § 602(a)(1)(B), inserted ''or by reason of sales (or the likelihood of sales) of that merchandise for importation'' in provisions following subpar. (B).

Subsec. (g). Pub. L. 98–573, § 613(b), added subsec. (g).

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–99, § 1(b), Mar. 13, 2012, 126 Stat. 265, provided that: ''Subsection (f) of section 701 of the Tariff Act of 1930 [19 U.S.C. 1671(f)], as added by subsection (a) of this section, applies to—

''(1) all proceedings initiated under subtitle A of title VII of that Act (19 U.S.C. 1671 et seq.) on or after November 20, 2006;

''(2) all resulting actions by U.S. Customs and Border Protection; and

''(3) all civil actions, criminal proceedings, and other proceedings before a Federal court relating to proceedings referred to in paragraph (1) or actions referred to in paragraph (2).''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 261(d)(1)(B)(iii) of Pub. L. 103–465 effective on the effective date of title II of Pub. L. 103–465, Jan. 1, 1995, see section 261(d)(2) of Pub. L. 103–465, set out as a note under section 1315 of this title.

Pub. L. 103–465, title II, § 291, Dec. 8, 1994, 108 Stat. 4931, provided that:

''(a) IN GENERAL.—Except as provided in section 261 [amending this section and sections 1315, 1337, 1677i, 2192, and 2194 of this title, repealing section 1303 of this title, enacting provisions set out as notes under sections 1303 and 1315 of this title, and amending provisions set out as a note under section 1303 of this title], the amendments made by this title [see Tables for classification] shall take effect on the date described in subsection (b) and apply with respect to—

''(1) investigations initiated—

''(A) on the basis of petitions filed under section 702(b), 732(b), or 783(b) of the Tariff Act of 1930 [19 U.S.C. 1671a(b), 1673a(b), or 1677n(b)] after the date described in subsection (b), or

''(B) by the administering authority under section 702(a) or 732(a) of such Act after such date,

''(2) reviews initiated under section 751 of such Act [19 U.S.C. 1675]—

''(A) by the administering authority or the Commission on their own initiative after such date, or

''(B) pursuant to a request filed after such date,

''(3) investigations initiated under section 753 of such Act [19 U.S.C. 1675b] after such date,

''(4) petitions filed under section 780 of such Act [19 U.S.C. 1677i] after such date, and

''(5) inquiries initiated under section 781 of such Act [19 U.S.C. 1677j]—

''(A) by the administering authority on its own initiative after such date, or

''(B) pursuant to a request filed after such date.

''(b) DATE DESCRIBED.—The date described in this subsection is the date on which the WTO Agreement (as defined in section 2(9) [19 U.S.C. 3501(9)]) enters into force with respect to the United States [Jan. 1, 1995].''

EFFECTIVE DATE OF 1988 AMENDMENTS

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.

Pub. L. 100–418, title I, § 1337, Aug. 23, 1988, 102 Stat. 1211, as amended by Pub. L. 100–647, title IX, § 9001(a)(6), Nov. 10, 1988, 102 Stat. 3807, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part [part 2 (§§ 1311–1337) of subtitle C of title I of Pub. L. 100–418, enacting sections 1673h, 1677–2, 1677i to 1677k of this title, amending this section and sections 1516, 1671a to 1671d, 1673a to 1673e, 1675, 1677, 1677b, 1677e, 1677f, and 1677h of this section, and amending provisions set out as a note under section 2253 of this title] shall take effect on the date of enactment of this Act [Aug. 23, 1988].

''(b) INVESTIGATIONS AND REVIEWS AFTER ENACTMENT.—The amendments made by sections 1312, 1315, 1316, 1318, 1325, 1326, 1327, 1328, 1329, 1331, and 1332 [amending this section and sections 1516, 1671a to 1671c, 1673a to 1673c, 1673e, 1677, 1677b, 1677e, and 1677f of this title] shall only apply with respect to—

''(1) investigations initiated after the date of enactment of this Act [Aug. 23, 1988], and

''(2) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 [19 U.S.C. 1673e(c) or 1675] after the date of enactment of this Act [Aug. 23, 1988].

''(c) INVESTIGATIONS AFTER ENACTMENT.—The amendments made by sections 1324 and 1330 [amending sections 1671a, 1671b, 1671d, 1673a, 1673b, 1673d, and 1677 of this title] shall only apply with respect to investigations initiated after the date of enactment of this Act [Aug. 23, 1988].

''(d) PREVENTION OF CIRCUMVENTION OF DUTIES; DRAWBACK.—The provisions of section 781 of the Tariff Act of 1930, as added by section 1321(a) [19 U.S.C. 1677j], and the amendments made by section 1334 [amending section 1677h of this title] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act [Aug. 23, 1988].

''(e) GOVERNMENTAL IMPORTATIONS; STEEL.—The amendments made by sections 1322 [amending provisions set out as a note under section 2253 of this title] and 1335 [amending section 1677 of this title] shall apply with respect to entries, and withdrawals from warehouse for consumption, that are liquidated on or after the date of enactment of this Act [Aug. 23, 1988].

''(f) FICTITIOUS MARKETS.—The amendment made by section 1319 [amending section 1677b of this title] shall only apply with respect to—

''(1) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 [19 U.S.C. 1673e(c) or 1675] after the date of enactment of this Act [Aug. 23, 1988], and

''(2) reviews initiated under such sections—

''(A) which are pending on the date of enactment of this Act, and

''(B) in which a request for revocation is pending on the date of enactment of this Act.''

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–573, title VI, § 626, Oct. 30, 1984, 98 Stat. 3042, as amended by Pub. L. 99–514, title XVIII, § 1886(b), Oct. 22, 1986, 100 Stat. 2922, provided that:

''(a) Except as provided in subsections (b) and (c), this Act [probably should be ''this title''], and the amendments made by it [enacting sections 1671h, 1677–1, and 1677h of this title, amending this section and sections 1671b to 1671e, 1673c, 1673d, 1677a to 1677f, and 1677g of this title, and repealing sections 1673h and 1673i of this title], shall take effect on the date of the enactment of this Act [Oct. 30, 1984].

''(b)(1) The amendments made by sections 602, 609, 611, 612, and 620 [enacting sections 1676, 1676a, and 1677f–1 of this title and amending this section and sections 1514, 1671c, 1671d, 1673, 1673a, 1673c, 1673d, 1675, 1677, and 1677b of this title, section 2631 of Title 28, Judiciary and Judicial Procedure, and provisions set out as a note under this section] shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 [parts I and II of this subtitle], and to reviews begun under section 751 of that Act [section 1675 of this title], on or after such effective date.

''(2) The amendments made by section 623 [amending section 1516a of this title and sections 2636 and 2647 of Title 28] shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act [Oct. 30, 1984].

''(3) The administering authority may delay implementation of any of the amendments referred to in subsections (a) and (b)(1) with respect to any investigation in progress on the date of enactment of this Act [Oct. 30, 1984] if the administering authority determines that immediate implementation would prevent compliance with a statutory deadline in title VII of the Tariff Act of 1930 [this subtitle] that is applicable to that investigation.

''(4) The amendment made by section 621 [amending section 1677g of this title] shall apply with respect to merchandise that is unliquidated on or after November 4, 1984.

''(c)(1) No provision of title VII of the Tariff Act of 1930 [this subtitle] shall be interpreted to prevent the refiling of a petition under section 702 or 732 of that title [sections 1671a and 1673a of this title] that was filed before the date of the enactment of this title, if the purpose of such refiling is to avail the petitioner of the amendment made by section 612(a)(1) [amending section 1677(4)(A) of this title].

''(2) The amendment made by section 612(a)(1) shall not apply with respect to petitions filed (or refiled under paragraph (1)) under section 702 or 732 of the Tariff Act of 1930 after September 30, 1986.''

EFFECTIVE DATE

Pub. L. 96–39, title I, § 107, July 26, 1979, 93 Stat. 193, provided that: ''Except as otherwise provided in this title, this title and the amendments made by it [enacting this subtitle, amending sections 1303, 1337, 2033, and 2251 of this title, repealing sections 160 to 171 of this title, and enacting provisions set out as notes under this section and sections 160 and 1303 of this title] shall take effect on January 1, 1980, if—

''(1) the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), and

''(2) the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures),

approved by the Congress under section 2(a) of this Act [section 2503(a) of this title] have entered into force with respect to the United States as of that date.''

[These agreements entered into force with respect to the United States on Dec. 17, 1979.]

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to United States Trade Representative, see section 1–103(b) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 990, set out as a note under section 2171 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.

INVESTIGATIONS PENDING ON JANUARY 1, 1980

Pub. L. 96–39, title I, § 102, July 26, 1979, 93 Stat. 189, provided that:

''(a) PENDING INVESTIGATIONS OF BOUNTIES OR GRANTS.—If, on the effective date of the application of title VII of the Tariff Act of 1930 [see Effective Date note set out above] to imports from a country, there is an investigation in progress under section 303 of that Act [section 1303 of this title] as to whether a bounty or grant is being paid or bestowed on imports from such country, then:

''(1) If the Secretary of the Treasury has not yet made a preliminary determination under section 303 of that Act [section 1303 of this title] as to whether a bounty or grant is being paid or bestowed, he shall terminate the investigation under section 303 [section 1303 of this title] and the matter previously under investigation shall be subject to this title [this subtitle] as if the affirmative determination called for in

section 702 of that Act [section 1671a of this title] were made with respect to that matter on the effective date of the application of title VII of that Act [this subtitle] to such country.

''(2) If the Secretary has made a preliminary determination under such section 303 [section 1303 of this title], but not a final determination, as to whether a bounty or grant is being paid or bestowed, he shall terminate the investigation under such section 303 [section 1303 of this title] and the matter previously under investigation shall be subject to the provisions of title VII of that Act [this subtitle] as if the preliminary determination under section 303 [section 1303 of this title] were a preliminary determination under section 703 of that title [section 1671b of this title] made on the effective date of the application of that title [this subtitle] to such country.

''(b) PENDING INVESTIGATIONS OF LESS-THAN-FAIR-VALUE SALES.—If, on the effective date of title VII of the Tariff Act of 1930 [see Effective Date note set out above], there is an investigation in progress under the Antidumping Act, 1921 [sections 160 to 171 of this title], as to whether imports from a country are being, or are likely to be, sold in the United States or elsewhere at less than fair value, then:

''(1) If the Secretary has not yet made a preliminary determination under the Antidumping Act, 1921 [sections 160 to 171 of this title], as to the question of less-than-fair-value sales, he shall terminate the investigation and the United States International Trade Commission shall terminate any investigation under section 201(c)(2) of the Antidumping Act, 1921 [section 160(c)(2) of this title], and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 [this subtitle] as if the affirmative determination called for in section 732 [section 1673a of this title] were made with respect to such matter on the effective date of title VII of the Tariff Act of 1930.

''(2) If the Secretary has made under the Antidumping Act, 1921 [sections 160 to 171 of this title], a preliminary determination, but not a final determination, that imports from such country are being or are likely to be sold in the United States or elsewhere at less than fair value, the investigation shall be terminated and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 [this subtitle] as if the preliminary determination under the Antidumping Act, 1921 [sections 160 to 171 of this title], were a preliminary determination under section 733 of that title [section 1673b of this title] made on the effective date of title VII of the Tariff Act of 1930 [see Effective Date note set out above].

''(c) PENDING INVESTIGATIONS OF INJURY.—If, on the effective date of the application of title VII of the Tariff Act of 1930 [see Effective Date note set out above] to imports from a country, the United States International Trade Commission is conducting an investigation under section 303 of the Tariff Act of 1930 [section 1303 of this title] or section 201(a) of the Antidumping Act, 1921 [section 160(a) of this title], as to whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, it shall terminate any such investigation and initiate an investigation, under subtitle A or B of title VII of the Tariff Act of 1930 [part I or II of this subtitle], which shall be completed within 75 days, and—

''(1) treat any final determination of the Secretary of the Treasury under section 303 [section 1303 of this title] as a final determination under section 705(a) of the Tariff Act of 1930 [section 1671d(a) of this title] and consider the net amount of the bounty or grant estimated or determined under section 303 [section 1303 of this title] as the net subsidy amount under subtitle A of that title [part I of this subtitle]; and

''(2) treat any final determination of the Secretary of the Treasury under the Antidumping Act, 1921 [sections 160 to 171 of this title], as a final determination under section 735(a) of the Tariff Act of 1930 [section 1673d(a) of this title].''

TRANSITION RULES FOR COUNTERVAILING DUTY ORDERS

Pub. L. 96–39, title I, § 104, July 26, 1979, 93 Stat. 190, as amended by Pub. L. 98–573, title VI, § 611(c), Oct. 30, 1984, 98 Stat. 3033, provided that:

''(a) WAIVED COUNTERVAILING DUTY ORDERS.—

''(1) NOTIFICATION OF COMMISSION.—The administering authority shall notify the United States International Trade Commission by January 7, 1980, of any countervailing duty order in effect on January 1, 1980—

''(A)(i) for which the Secretary of the Treasury has waived the imposition of countervailing duties under section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), and

''(ii) which applies to merchandise other than quota cheese (as defined in section 701(c)(1) of this Act) [subsec. (c)(1) of this section], which is a product of a country under the Agreement,

''(B) published on or after the date of the enactment of this Act [July 26, 1979], and before January 1, 1980, with respect to products of a country under the Agreement (as defined in section 701(b) of the Tariff Act of 1930) [subsec. (b) of this section], or

''(C) applicable to frozen, boneless beef from the European Communities under Treasury Decision 76–109,

and shall furnish to the Commission the most current information it has with respect to the net subsidy benefitting the merchandise subject to the countervailing duty order.

''(2) DETERMINATION BY THE COMMISSION.—Within 180 days after the date on which it receives the information from the administering authority under paragraph (1), the Commission shall make a determination of whether—

''(A) an industry in the United States—

''(i) is materially injured, or

''(ii) is threatened with material injury, or

''(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise subject to the order.

''(3) EFFECT OF DETERMINATION.—

''(A) AFFIRMATIVE DETERMINATION.—Upon being notified by the Commission of an affirmative determination under paragraph (2), the administering authority shall terminate the waiver of imposition of countervailing duties for merchandise subject to the order, if any. The countervailing duty order under section 303 of the Tariff Act of 1930 [section 1303 of this title] which applies to that merchandise shall remain in effect until revoked, in whole or in part, under section 751(d) of such Act [section 1675(d) of this title].

''(B) NEGATIVE DETERMINATION.—Upon being notified by the Commission of a negative determination under paragraph (2), the administering authority shall revoke the countervailing duty order, and publish notice in the Federal Register of the revocation.

''(b) OTHER COUNTERVAILING DUTY ORDERS.—

''(1) REVIEW BY COMMISSION UPON REQUEST.—In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)—

''(A) which is not a countervailing duty order to which subsection (a) applies,

''(B) which applies to merchandise which is the product of a country under the Agreement, and

''(C) which is in effect on January 1, 1980, or which is issued pursuant to court order in an action brought under section 516(d) of that Act [section 1516(d) of this title] before that date,

the Commission, upon the request of the government of such a country or of exporters accounting for a significant proportion of exports to the United States of merchandise which is covered by the order, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 [see Effective Date note set out above] shall make a determination under paragraph (2) of this subsection.

''(2) DETERMINATION BY THE COMMISSION.—In a case described in paragraph (1) with respect to which it has received a request for review, the Commission shall commence an investigation to determine whether—

''(A) an industry in the United States—

''(i) would be materially injured, or

''(ii) would be threatened with material injury, or

''(B) the establishment of an industry in the United States would be materially retarded,

by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked. A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

''(3) SUSPENSION OF LIQUIDATION; INVESTIGATION TIME LIMITS.—Whenever the Commission receives a request under paragraph (1), it shall promptly notify the administering authority and the administering authority shall suspend liquidation of entries of the affected merchandise made on or after the date of receipt of the Commission's notification, or in the case of butter from Australia, entries of merchandise subject to the assessment of countervailing duties under Treasury Decision 42937, as amended, and collect estimated countervailing duties pending the determination of the Commission. The Commission shall issue its determination in any investigation under this subsection not later than 3 years after the date of commencement of such investigation.

''(4) EFFECT OF DETERMINATION.—

''(A) AFFIRMATIVE DETERMINATION.—Upon being notified of an affirmative determination under paragraph (2) by the Commission, the administering authority shall liquidate entries of merchandise the liquidation of which was suspended under paragraph (3) of this subsection and impose countervailing duties in the amount of the estimated duties required to be deposited. The countervailing duty order shall remain in effect until revoked, in whole or in part, under section 751(c) of the Tariff Act of 1930 [section 1675(c) of this title].

''(B) NEGATIVE DETERMINATION.—Upon being notified of a negative determination under paragraph (2) by the Commission, the administering authority shall revoke the countervailing duty order then in effect, publish notice thereof in the Federal Register, and refund, without payment of interest, any estimated countervailing duties collected during the period of suspension of liquidation.

''(c) ALL OUTSTANDING COUNTERVAILING DUTY ORDERS.—Subject to the provisions of subsections (a) and (b), any countervailing duty order issued under section 303 of the Tariff Act of 1930 [section 1303 of this title] which is—

''(1) in effect on the effective date of title VII of the Tariff Act of 1930 [see Effective Date note set out above] (as added by section 101 of this Act), or

''(2) issued pursuant to court order in a proceeding brought before that date under section 516(d) of the Tariff Act of 1930 [section 1516(d) of this title],

shall remain in effect after that date and shall be subject to review under section 751 of the Tariff Act of 1930 [section 1675 of this title].

''(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the Commission makes a determination under subsection (a) or (b), it shall publish notice of that determination in the Federal Register and notify the administering authority of its determination.

''(e) DEFINITIONS.—Whenever any term which is defined in section 771 of the Tariff Act of 1930 [section 1677 of this title] is used in this section, it has the same meaning as when it is used in title VII of that Act [this subtitle].''

§ 1671a. Procedures for initiating a countervailing duty investigation

(a) Initiation by administering authority

A countervailing duty investigation shall be initiated whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 1671(a) of this title exist.

(b) Initiation by petition

(1) Petition requirements

A countervailing duty proceeding shall be initiated whenever an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 1677(9) of this title files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 1671(a) of this title, and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

(2) Simultaneous filing with Commission

The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

(3) Petition based upon a derogation of an international undertaking on official export credits

If the sole basis of a petition filed under paragraph (1) is the derogation of an international undertaking on official export credits, the Administering Authority shall immediately notify the Secretary of the Treasury who shall, in consultation with the Administering Authority, within 5 days after the date on which the administering authority initiates an investigation under subsection (c), determine the existence and estimated value of the derogation, if any, and shall publish such determination in the Federal Register.

(4) Action with respect to petitions

(A) Notification of governments

Upon receipt of a petition filed under paragraph (1), the administering authority shall—

(i) notify the government of any exporting country named in the petition by delivering a public version of the petition to an appropriate representative of such country; and

(ii) provide the government of any exporting country named in the petition that is a Subsidies Agreement country an opportunity for consultations with respect to the petition.

(B) Acceptance of communications

The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 1677(9)(C), (D), (E), (F), or (G) of this title before the ad-