

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) 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 submitted 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), 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), 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.)

Editorial Notes

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).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title VI, §621(b), Dec. 8, 1994, 108 Stat. 4993, 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).”

§ 1677l. Repealed. Pub. L. 116-113, title VI, § 601, Jan. 29, 2020, 134 Stat. 78

Section, Pub. L. 103-182, title VI, §691(a), Dec. 8, 1993, 107 Stat. 2223; Pub. L. 114-125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210, related to annual reports on anti-dumping and countervailing duty collections.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective on the date the USMCA entered into force (July 1, 2020), see section 601 of Pub. L. 116-113, set out as a note under former section 3301 of this title.

§ 1677m. Conduct of investigations and administrative reviews

(a) Treatment of voluntary responses in countervailing or antidumping duty investigations and reviews

(1) In general

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—

(A) such information is so submitted by the date specified—

(i) for exporters and producers that were initially selected for examination, or

(ii) for the foreign government, in a countervailing duty case where the administering authority has determined a single country-wide rate; and

(B) the number of exporters or producers subject to the investigation or review is not so large that any additional individual examination of such exporters or producers would be unduly burdensome to the administering authority and inhibit the timely completion of the investigation or review.

(2) Determination of unduly burdensome

In determining if an individual examination under paragraph (1)(B) would be unduly burdensome, the administering authority may consider the following:

(A) The complexity of the issues or information presented in the proceeding, including questionnaires and any responses thereto.

(B) Any prior experience of the administering authority in the same or similar proceeding.

(C) The total number of investigations under part I or II and reviews under section 1675 of this title being conducted by the administering authority as of the date of the determination.

(D) Such other factors relating to the timely completion of each such investigation and review as the administering authority considers appropriate.

(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 authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

(2) Assistance to interested parties

The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations and reviews under this subtitle, and shall provide to such interested parties any assistance that is practicable in supplying such information.

(d) Deficient submissions

If the administering authority or the Commission determines that a response to a request for information under this subtitle does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this subtitle. If that person submits further information in response to such deficiency and either—

(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (e), disregard all or part of the original and subsequent responses.

(e) Use of certain information

In reaching a determination under section 1671b, 1671d, 1673b, 1673d, 1675, or 1675b of this title the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission, if—

(1) the information is submitted by the deadline established for its submission,

(2) the information can be verified,

(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

(5) the information can be used without undue difficulties.

(f) Nonacceptance of submissions

If the administering authority or the Commission declines to accept into the record any information submitted in an investigation or review under this subtitle, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

(g) Public comment on information

Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this subtitle shall be subject to comment by other parties to the proceeding within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 1671d, 1673d, 1675, or 1675b of this title shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

(h) Termination of investigation or revocation of order for lack of interest

The administering authority may—

(1) terminate an investigation under part I or II of this subtitle with respect to a domestic like product if, prior to publication of an order under section 1671e or 1673e of this title, the administering authority determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in issuance of an order; and

(2) revoke an order issued under section 1671e or 1673e of this title with respect to a domestic like product, or terminate an investigation suspended under section 1671c or 1673c of this title with respect to a domestic like product, if the administering authority determines that producers accounting for substantially all of the production of that domestic like product, have expressed a lack of interest in the order or suspended investigation.

(i) Verification

The administering authority shall verify all information relied upon in making—

- (1) a final determination in an investigation,
- (2) a revocation under section 1675(d) of this title, and
- (3) a final determination in a review under section 1675(a) of this title, if—

(A) verification is timely requested by an interested party as defined in section 1677(9)(C), (D), (E), (F), or (G) of this title, and

(B) no verification was made under this subparagraph during the 2 immediately preceding reviews and determinations under section 1675(a) of this title of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

(June 17, 1930, ch. 497, title VII, §782, as added Pub. L. 103-465, title II, §231(a), Dec. 8, 1994, 108 Stat. 4893; amended Pub. L. 114-27, title V, §506, June 29, 2015, 129 Stat. 386.)

Editorial Notes

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-27 designated existing provisions as par. (1) and inserted heading, redesignated former par. (1) and subpars. (A) and (B) as subpar. (A) and cls. (i) and (ii), respectively, added par. (2), and redesignated former par. (2) as subpar. (B) of par. (1) and amended it generally. Prior to amendment, subpar. (B) of par. (1) read as follows: “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.”

Statutory Notes and Related Subsidiaries

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).

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

(e) Issuance of order

If the administering authority makes an affirmative determination under paragraph (1) of subsection (c), and the Commission makes an affirmative determination under paragraph (2) of subsection (c), 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), 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.)

Editorial Notes

AMENDMENTS

1996—Subsec. (f). Pub. L. 104-295 substituted “subsection (e)” for “subsection (d)”.