

Subsec. (c)(2). Pub. L. 100-418, §1332(3), struck out “or the Commission denies a request for proprietary information submitted by the petitioner or an interested party in support of the petitioner concerning the domestic price or cost of production of the like product,” after “information under paragraph (1).”

Subsec. (d). Pub. L. 100-449 added subsec. (d) relating to disclosure of proprietary information, etc.

Pub. L. 100-418, §1332(4), added subsec. (d) relating to service.

Subsec. (e). Pub. L. 100-418, §1332(4), added subsec. (e). 1986—Subsec. (a)(4). Pub. L. 99-514, §1886(a)(13)(A), substituted “non-proprietary” for “nonconfidential” in heading, and “proprietary” for “confidential” in two places in text.

Subsec. (b). Pub. L. 99-514, §1886(a)(13)(A), substituted “Proprietary” for “Confidential” in heading.

Subsec. (b)(1). Pub. L. 99-514, §1886(a)(13)(A), substituted “Proprietary status” for “Confidentiality” in heading, “proprietary” for “confidential” in two places in introductory provisions, and “non-proprietary” for “nonconfidential” in subpar. (A)(i).

Pub. L. 99-514, §1889(8), made technical correction to directory language of Pub. L. 98-573, §619(3), requiring no change in text. See 1984 Amendment note below.

Subsec. (b)(1)(B)(i). Pub. L. 99-514, §1886(a)(13)(B), inserted “or the Commission” after “authority”.

Subsec. (b)(2). Pub. L. 99-514, §1886(a)(13)(A), substituted “proprietary” for “confidential”.

Subsec. (c). Pub. L. 99-514, §1886(a)(13)(A), substituted “proprietary” for “confidential” in heading and in pars. (1)(A) and (2).

1984—Subsec. (a)(3). Pub. L. 98-573, §619(1), amended par. (3) generally, substituting in provisions preceding subpar. (A) “of any ex parte meeting” for “of ex parte meetings”, in subpar. (A) “a proceeding” for “an investigation”, in subpar. (B) “or any person” for “and any person” and “that proceeding,” for “that investigation,” and, in provisions following subpar. (B), “if information relating to that proceeding was presented or discussed at such meeting. The record of such an” for “The record of the”.

Subsec. (b)(1). Pub. L. 98-573, §619(2), in first sentence, inserted provision referring to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this subtitle.

Pub. L. 98-573, §619(3), as amended by Pub. L. 99-514, §1889(8), amended second sentence generally, and thereby substituted “the Commission shall require” for “the Commission may require”, designated existing provisions as subpar. (A) and, in subpar. (A) as so designated, substituted “either— (i) a nonconfidential summary” for “a non-confidential summary”, inserted designation “(ii)”, substituted “summary accompanied” for “summary, accompanied”, and added subpar. (B).

Subsec. (c)(1)(A). Pub. L. 98-573, §619(4), inserted “(before or after receipt of the information requested)”.

#### 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 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of this title, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada or Mexico be-

fore such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or to any extraordinary challenge arising out of any such review that was commenced before such date, see section 416 of Pub. L. 103-182, set out as an Effective Date note under section 3431 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

Amendment by Pub. L. 100-418 applicable with respect to investigations initiated after Aug. 23, 1988, and to reviews initiated under section 1673e(c) or 1675 of this title after Aug. 23, 1988, see section 1337(b) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 1671 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 30, 1984, see section 626(a) of Pub. L. 98-573, 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.

#### EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103-182, see section 3451 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.

### § 1677f-1. Sampling and averaging; determination of weighted average dumping margin and countervailable subsidy rate

#### (a) In general

For purposes of determining the export price (or constructed export price) under section 1677a of this title or the normal value under section 1677b of this title, and in carrying out reviews under section 1675 of this title, the administering authority may—

(1) use averaging and statistically valid samples, if there is a significant volume of sales of the subject merchandise or a significant number or types of products, and

(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

#### (b) Selection of averages and samples

The authority to select averages and statistically valid samples shall rest exclusively with

the administering authority. The administering authority shall, to the greatest extent possible, consult with the exporters and producers regarding the method to be used to select exporters, producers, or types of products under this section.

**(c) Determination of dumping margin**

**(1) General rule**

In determining weighted average dumping margins under section 1673b(d), 1673d(c), or 1675(a) of this title, the administering authority shall determine the individual weighted average dumping margin for each known exporter and producer of the subject merchandise.

**(2) Exception**

If it is not practicable to make individual weighted average dumping margin determinations under paragraph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may determine the weighted average dumping margins for a reasonable number of exporters or producers by limiting its examination to—

(A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the administering authority at the time of selection, or

(B) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined.

**(d) Determination of less than fair value**

**(1) Investigations**

**(A) In general**

In an investigation under part II of this subtitle, the administering authority shall determine whether the subject merchandise is being sold in the United States at less than fair value—

(i) by comparing the weighted average of the normal values to the weighted average of the export prices (and constructed export prices) for comparable merchandise, or

(ii) by comparing the normal values of individual transactions to the export prices (or constructed export prices) of individual transactions for comparable merchandise.

**(B) Exception**

The administering authority may determine whether the subject merchandise is being sold in the United States at less than fair value by comparing the weighted average of the normal values to the export prices (or constructed export prices) of individual transactions for comparable merchandise, if—

(i) there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and

(ii) the administering authority explains why such differences cannot be taken into

account using a method described in paragraph (1)(A)(i) or (ii).

**(2) Reviews**

In a review under section 1675 of this title, when comparing export prices (or constructed export prices) of individual transactions to the weighted average price of sales of the foreign like product, the administering authority shall limit its averaging of prices to a period not exceeding the calendar month that corresponds most closely to the calendar month of the individual export sale.

**(e) Determination of countervailable subsidy rate**

**(1) General rule**

In determining countervailable subsidy rates under section 1671b(d), 1671d(c), or 1675(a) of this title, the administering authority shall determine an individual countervailable subsidy rate for each known exporter or producer of the subject merchandise.

**(2) Exception**

If the administering authority determines that it is not practicable to determine individual countervailable subsidy rates under paragraph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may—

(A) determine individual countervailable subsidy rates for a reasonable number of exporters or producers by limiting its examination to—

(i) a sample of exporters or producers that the administering authority determines is statistically valid based on the information available to the administering authority at the time of selection, or

(ii) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that the administering authority determines can be reasonably examined; or

(B) determine a single country-wide subsidy rate to be applied to all exporters and producers.

The individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 1671d(c)(5) of this title.

(June 17, 1930, ch. 497, title VII, §777A, as added Pub. L. 98-573, title VI, §620(a), Oct. 30, 1984, 98 Stat. 3039; amended Pub. L. 103-465, title II, §§229(a), 269(a), (b)(1), Dec. 8, 1994, 108 Stat. 4889, 4916.)

AMENDMENTS

1994—Pub. L. 103-465, §269(b)(1), inserted “and countervailable subsidy rate” after “margin” in section catchline.

Pub. L. 103-465, §269(a), added subsec. (e).

Pub. L. 103-465, §229(a), amended section generally, substituting present provisions for provisions authorizing use of averaging or generally recognized sampling techniques for purposes of determining United States price or foreign market value and for purposes of annual reviews under section 1675 of this title, and providing for selection of samples and averages by administering authority.

## 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 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 an Effective Date of 1984 Amendment note under section 1671 of this title.

### § 1677g. Interest on certain overpayments and underpayments

#### (a) General rule

Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

- (1) the date of publication of a countervailing or antidumping duty order under this subtitle or section 1303<sup>1</sup> of this title, or
- (2) the date of a finding under the Antidumping Act, 1921.

#### (b) Rate

The rate of interest payable under subsection (a) of this section for any period of time is the rate of interest established under section 6621 of title 26 for such period.

(June 17, 1930, ch. 497, title VII, § 778, as added Pub. L. 96-39, title I, § 101, July 26, 1979, 93 Stat. 188; amended Pub. L. 98-573, title VI, § 621, Oct. 30, 1984, 98 Stat. 3039; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

## REFERENCES IN TEXT

Section 1303 of this title, referred to in subsec. (a)(1), is defined in section 1677(26) of this title to mean section 1330 as in effect on the day before Jan. 1, 1995.

The Antidumping Act, 1921, referred to in subsec. (a)(2), 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.

## AMENDMENTS

1986—Subsec. (b). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1984—Subsec. (a). Pub. L. 98-573 amended subsec. (a) generally, substituting provisions making interest payable on and after the date of publication of a countervailing or antidumping duty order under this subtitle or section 1303 of this title or the date of a finding under the Antidumping Act, 1921 for provisions making interest payable on and after the date on which notice of an affirmative determination by the Commission under section 1671d(b) or 1673d(b) of this title with respect to such merchandise was published.

Subsec. (b). Pub. L. 98-573 amended subsec. (b) generally, substituting provisions that the rate of interest payable under subsec. (a) for any period of time is the rate of interest established under section 6621 of title 26

for such period for provision that the rate at which such interest was payable would be 8 percent per annum or, if higher, the rate in effect under section 6621 of title 26 on the date on which the rate or amount of the duty was finally determined.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to merchandise that is unliquidated on or after Nov. 4, 1984, see section 626(b)(4) of Pub. L. 98-573, set out as a note under section 1671 of this title.

### § 1677h. Drawback treatment

For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this subtitle shall not be treated as being regular customs duties.

(June 17, 1930, ch. 497, title VII, § 779, as added Pub. L. 98-573, title VI, § 622(a)(2), Oct. 30, 1984, 98 Stat. 3039; amended Pub. L. 100-418, title I, § 1334(a), (b)(1), Aug. 23, 1988, 102 Stat. 1209, 1210.)

## AMENDMENTS

1988—Pub. L. 100-418 substituted “Drawback treatment” for “Drawbacks” in section catchline and “not be treated as being regular” for “be treated as any other” in text.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 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 a note under section 1671 of this title.

## EFFECTIVE DATE

Section effective Oct. 30, 1984, see section 626(a) of Pub. L. 98-573, set out as an Effective Date of 1984 Amendment note under section 1671 of this title.

### § 1677i. Downstream product monitoring

#### (a) Petition requesting monitoring

##### (1) In general

A domestic producer of an article that is like a component part or a downstream product may petition the administering authority to designate a downstream product for monitoring under subsection (b) of this section. The petition shall specify—

- (A) the downstream product,
- (B) the component product incorporated into such downstream product, and
- (C) the reasons for suspecting that the imposition of antidumping or countervailing duties has resulted in a diversion of exports of the component part into increased production and exportation to the United States of such downstream product.

##### (2) Determination regarding petition

Within 14 days after receiving a petition submitted under paragraph (1), the administering authority shall determine—

- (A) whether there is a reasonable likelihood that imports into the United States of the downstream product will increase as an indirect result of any diversion with respect to the component part, and
- (B) whether—
  - (i) the component part is already subject to monitoring to aid in the enforcement of

<sup>1</sup> See References in Text note below.