

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.

(A) in the case of an order described in paragraph (1)(B)(i), 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), the date on which the order is issued,

liquidation shall be suspended at the cash deposit rate in effect on the date described in subparagraph (A) or (B) (whichever is applicable).

(b) Investigation procedure and schedule

(1) Commission procedure

(A) In general

Except as otherwise provided in this section, the provisions of this subtitle regarding evidence in and procedures for investigations conducted under part I of this subtitle shall apply to investigations conducted by the Commission under this section.

(B) Time for Commission determination

Except as otherwise provided in subparagraph (C), the Commission shall issue its determination under subsection (a)(1) of this section, to the extent possible, not later than 1 year after the date on which the investigation is initiated under this section.

(C) Special rule to permit administrative flexibility

In the case of requests for investigations received under this section within 1 year after the date on which the WTO Agreement enters into force with respect to the United States, the Commission may, after consulting with the administering authority, initiate its investigations in a manner that results in determinations being made in all such investigations during the 4-year period beginning on such date.

(2) Net countervailable subsidy; nature of subsidy

(A) Net countervailable subsidy

The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order which is the subject of the investigation is revoked. The administering authority normally shall 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. If the Commission considers the magnitude of the net countervailable subsidy in making its determination under this section, the Commission shall use the net countervailable subsidy provided by the administering authority.

(B) Nature of subsidy

The administering authority shall inform the Commission of, and the Commission, in making its determination under this section, shall consider, the nature of the countervailable subsidy and whether the countervailable subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement.

(3) Effect of Commission determination

(A) Affirmative determination

Upon being notified by the Commission that it has made an affirmative determination under subsection (a)(1) of this section—

(i) the administering authority shall order the termination of the suspension of liquidation required pursuant to subsection (a)(4) of this section, and

(ii) the countervailing duty order shall remain in effect until revoked, in whole or in part, under section 1675(d) of this title.

For purposes of section 1675(c) of this title, a countervailing duty order described in this section shall be treated as issued on the date of publication of the Commission's determination under this subsection.

(B) Negative determination

(i) In general

Upon being notified by the Commission that it has made a negative determination under subsection (a)(1) of this section, the administering authority shall revoke the countervailing duty order, and shall refund, with interest, any estimated countervailing duties collected during the period liquidation was suspended pursuant to subsection (a)(4) of this section.

(ii) Limitation on negative determination

A determination by the Commission that revocation of the order is not likely to result in material injury to an industry by reason of imports of the subject merchandise shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States that were specifically intended to offset the countervailable subsidy received.

(4) Countervailing duty orders with respect to which no request for injury investigation is made

If, with respect to a countervailing duty order described in subsection (a) of this section, a request for an investigation is not made within the time required by subsection (a)(3) of this section, the Commission shall notify the administering authority that a negative determination has been made under subsection (a) of this section and the provisions of paragraph (3)(B) shall apply with respect to the order.

(c) Pending and suspended countervailing duty investigations

If, on the date on which a country becomes a Subsidies Agreement country, there is a countervailing duty investigation in progress or suspended under section 1303² of this title or section 1671(c) of this title that applies to merchandise which is a product of that country and with respect to which the requirement of an affirmative determination of material injury was not applicable at the time the investigation was initiated, the Commission shall—

(1) in the case of an investigation in progress, make a final determination under

²See References in Text note below.

section 1671d(b) of this title within 75 days after the date of an affirmative final determination, if any, by the administering authority.

(2) in the case of a suspended investigation to which section 1671c(i)(1)(B) of this title applies, make a final determination under section 1671d(b) of this title within 120 days after receiving notice from the administering authority of the resumption of the investigation pursuant to section 1671c(i) of this title, or within 45 days after the date of an affirmative final determination, if any, by the administering authority, whichever is later, or

(3) in the case of a suspended investigation to which section 1671c(i)(1)(C) of this title applies, treat the countervailing duty order issued pursuant to such section as if it were—

(A) an order issued under subsection (a)(1)(B)(ii) of this section for purposes of subsection (a)(3) of this section; and

(B) an order issued under subsection (a)(1)(B)(i) of this section for purposes of subsection (a)(4) of this section.

(d) Publication in Federal Register

The administering authority or the Commission, as the case may be, shall publish in the Federal Register a notice of the initiation of any investigation, and a notice of any determination or revocation, made pursuant to this section.

(e) Request for simultaneous expedited review under section 1675(c)

(1) General rule

(A) Requests for reviews

Notwithstanding section 1675(c)(6)(A) of this title and except as provided in subparagraph (B), an interested party may request a review of an order under section 1675(c) of this title at the same time the party requests an investigation under subsection (a) of this section, if the order involves the same or comparable subject merchandise. Upon receipt of such request, the administering authority, after consulting with the Commission, shall initiate a review of the order under section 1675(c) of this title. The Commission shall combine such review with the investigation under this section.

(B) Exception

If the administering authority determines that the interested party who requested an investigation under this section is a related party or an importer within the meaning of section 1677(4)(B) of this title, the administering authority may decline a request by such party to initiate a review of an order under section 1675(c) of this title which involves the same or comparable subject merchandise.

(2) Cumulation

If a review under section 1675(c) of this title is initiated under paragraph (1), such review shall be treated as having been initiated on the same day as the investigation under this section, and the Commission may, in accordance with section 1677(7)(G) of this title, cumulatively assess the volume and effect of im-

ports of the subject merchandise from all countries with respect to which such investigations are treated as initiated on the same day.

(3) Time and procedure for Commission determination

The Commission shall render its determination in the investigation conducted under this section at the same time as the Commission's determination is made in the review under section 1675(c) of this title that is initiated pursuant to this subsection. The Commission shall in all other respects apply the procedures and standards set forth in section 1675(c) of this title to such section 1675(c) of this title reviews.

(June 17, 1930, ch. 497, title VII, §753, as added Pub. L. 103-465, title II, §271(a), Dec. 8, 1994, 108 Stat. 4918; amended Pub. L. 104-295, §39, Oct. 11, 1996, 110 Stat. 3540.)

REFERENCES IN TEXT

Section 1303 of this title, referred to in subsecs. (a)(2) and (c), is defined in section 1677(26) of this title to mean section 1330 as in effect on the day before Jan. 1, 1995.

AMENDMENTS

1996—Pub. L. 104-295, §39(1), inserted “or section 1671(c)” after “section 1303” in section catchline.

Subsecs. (a)(2), (c). Pub. L. 104-295 inserted “or section 1671(c) of this title” after “section 1303 of this title” and struck out “under section 1303(a)(2) of this title” after “material injury”.

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.

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.

§ 1675c. Repealed. Pub. L. 109-171, title VII, § 7601(a), Feb. 8, 2006, 120 Stat. 154

Section 1675c, act June 17, 1930, ch. 497, title VII, §754, as added Pub. L. 106-387, §1(a) [title X, §1003(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A-73, related to the continued dumping and subsidy offset.

EFFECTIVE DATE OF REPEAL

Pub. L. 109-171, title VII, §7601(a), Feb. 8, 2006, 120 Stat. 154, provided that the repeal made by section 7601(a) is effective Feb. 8, 2006.

PROHIBITION ON COLLECTION OF CERTAIN PAYMENTS MADE UNDER THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000.

Pub. L. 111-5, div. B, title I, §1701, Feb. 17, 2009, 123 Stat. 366, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Secretary of Homeland Security nor any other person may—

“(1) require repayment of, or attempt in any other way to recoup, any payments described in subsection (b); or