

169; amended Pub. L. 98-573, title VI, §§ 602(c), 605(b), Oct. 30, 1984, 98 Stat. 3024, 3028; Pub. L. 100-418, title I, §§ 1324(b)(3), 1333(a), Aug. 23, 1988, 102 Stat. 1201, 1209; Pub. L. 103-465, title II, §§ 212(b)(2)(B), 213(b), 214(b)(2), 219(b), (c)(6)-(8), 233(a)(5)(V), Dec. 8, 1994, 108 Stat. 4849-4851, 4856, 4857, 4900; Pub. L. 104-295, § 20(b)(6), Oct. 11, 1996, 110 Stat. 3527.)

AMENDMENTS

1996—Subsec. (a)(3)(A)(i). Pub. L. 104-295 amended Pub. L. 103-465, § 214(b)(2)(A)(i). See 1994 Amendment note below.

1994—Subsec. (a)(1). Pub. L. 103-465, § 233(a)(5)(V), substituted “subject merchandise” for “merchandise which was the subject of the investigation”.

Subsec. (a)(3)(A)(i). Pub. L. 103-465, § 214(b)(2)(A)(i), as amended by Pub. L. 104-295, inserted “and material injury by reason of dumped imports” after “history of dumping” and substituted “subject merchandise” for “class or kind of merchandise which is the subject of the investigation”.

Subsec. (a)(3)(A)(ii). Pub. L. 103-465, § 214(b)(2)(A)(ii), substituted “subject merchandise at less than its fair value and that there would be material injury by reason of such sales” for “merchandise which is the subject of the investigation at less than its fair value”.

Subsec. (a)(3)(B). Pub. L. 103-465, § 214(b)(2)(A)(iii), substituted “subject merchandise” for “merchandise which is the subject of the investigation”.

Subsec. (a)(4). Pub. L. 103-465, § 213(b), added par. (4).

Subsec. (b)(1). Pub. L. 103-465, § 212(b)(2)(B), inserted at end of concluding provisions “If the Commission determines that imports of the subject merchandise are negligible, the investigation shall be terminated.”

Subsec. (b)(4)(A). Pub. L. 103-465, § 214(b)(2)(B), amended subpar. (A) generally, substituting present provisions for provisions requiring, in the case of an affirmative critical circumstances determination, a further finding as to whether retroactive imposition of antidumping duties on the subject merchandise would be necessary to prevent recurrence of material injury caused by massive imports of the merchandise over a relatively short period of time.

Subsec. (c)(1). Pub. L. 103-465, § 219(b)(1), struck out “and” at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C) and substituted “the suspension of liquidation under section 1673b(d)(2) of this title” for “under paragraphs (1) and (2) of section 1673b(d) of this title the suspension of liquidation and the posting of a cash deposit, bond, or other security”.

Subsec. (c)(2)(A). Pub. L. 103-465, § 219(c)(6), substituted “1673b(d)(2)” for “1671b(d)(1)”.

Subsec. (c)(2)(B). Pub. L. 103-465, § 219(c)(7), substituted “1673b(d)(1)(B)” for “1673b(d)(2)”.

Subsec. (c)(3)(B). Pub. L. 103-465, § 219(c)(8), substituted “1673b(d)(1)(B)” for “1673b(d)(2)”.

Subsec. (c)(5). Pub. L. 103-465, § 219(b)(2), added par. (5).

1988—Subsec. (b)(4)(A). Pub. L. 100-418, § 1324(b)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “If the finding of the administering authority under subsection (a)(2) of this section is affirmative, then the final determination of the Commission shall include a finding as to whether the material injury is by reason of massive imports described in subsection (a)(3) of this section to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty imposed by section 1673 of this title retroactively on those imports.”

Subsec. (e). Pub. L. 100-418, § 1333(a), added subsec. (e).
1984—Subsec. (a)(3). Pub. L. 98-573, § 605(b)(1), inserted provision that such findings may be affirmative even though the preliminary determination under section 1673b(e)(1) of this title was negative.

Subsec. (b)(1). Pub. L. 98-573, § 602(c), inserted “, or sales (or the likelihood of sales) for importation,” in provisions after subpar. (B).

Subsec. (c)(3)(A). Pub. L. 98-573, § 605(b)(3), inserted reference to par. (4).

Subsec. (c)(4). Pub. L. 98-573, § 605(b)(2), added par. (4).

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 1988 AMENDMENT

Amendment by section 1333(a) of Pub. L. 100-418 effective Aug. 23, 1988, and amendment by section 1324(b)(3) of Pub. L. 100-418 applicable with respect to investigations initiated after Aug. 23, 1988, see section 1337(a), (c) of Pub. L. 100-418, set out as a note under section 1671 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 602(c) of 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, and amendment by section 605(b) of Pub. L. 98-573 effective Oct. 30, 1984, see section 626(a), (b)(1) of Pub. L. 98-573, as amended, set out as a note under section 1671 of this title.

§ 1673e. Assessment of duty

(a) Publication of antidumping duty order

Within 7 days after being notified by the Commission of an affirmative determination under section 1673d(b) of this title, the administering authority shall publish an antidumping duty order which—

(1) directs customs officers to assess an antidumping duty equal to the amount by which the normal value of the merchandise exceeds the export price (or the constructed export price) of the merchandise, within 6 months after the date on which the administering authority receives satisfactory information upon which the assessment may be based, but in no event later than—

(A) 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption, or

(B) in the case of merchandise not sold prior to its importation into the United States, 12 months after the end of the annual accounting period of the manufacturer or exporter within which it is sold in the United States to a person who is not the exporter of that merchandise,

(2) includes a description of the subject merchandise, in such detail as the administering authority deems necessary, and

(3) requires the deposit of estimated antidumping duties pending liquidation of entries of merchandise at the same time as estimated normal customs duties on that merchandise are deposited.

(b) Imposition of duty

(1) General rule

If the Commission, in its final determination under section 1673d(b) of this title, finds mate-

rial injury or threat of material injury which, but for the suspension of liquidation under section 1673b(d)(2) of this title would have led to a finding of material injury, then entries of the subject merchandise, the liquidation of which has been suspended under section 1673b(d)(2) of this title, shall be subject to the imposition of antidumping duties under section 1673 of this title.

(2) Special rule

If the Commission, in its final determination under section 1673d(b) of this title, finds threat of material injury, other than threat of material injury described in paragraph (1), or material retardation of the establishment of an industry in the United States, then subject merchandise which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 1673d(b) of this title shall be subject to the assessment of antidumping duties under section 1673 of this title, and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

(c) Security in lieu of estimated duty pending early determination of duty

(1) Conditions for waiver of deposit of estimated duties

The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a) of this section, the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) of this section if—

(A) the investigation has not been designated as extraordinarily complicated by reason of—

(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

(ii) the novelty of the issues presented, or

(iii) the number of firms whose activities must be investigated,

(B) the final determination in the investigation has not been postponed under section 1673d(a)(2)(A) of this title;

(C) on the basis of information presented to the administering authority by any manufacturer, producer, or exporter in such form and within such time as the administering authority may require, the administering authority is satisfied that a determination will be made, within 90 days after the date of publication of an order under subsection (a) of this section, of the normal value and the export price (or the constructed export price) for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

(i) an affirmative preliminary determination by the administering authority under section 1673b(b) of this title, or

(ii) if its determination under section 1673b(b) of this title was negative, an affirmative final determination by the administering authority under section 1673d(a) of this title,

and before the date of publication of the affirmative final determination by the Commission under section 1673d(b) of this title;

(D) the party described in subparagraph (C) provides credible evidence that the amount by which the normal value of the merchandise exceeds the export price (or the constructed export price) of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a) of this section; and

(E) the data concerning the normal value and the export price (or the constructed export price) apply to sales in the usual commercial quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.

(2) Notice; hearing

If the administering authority permits the posting of a bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), it shall—

(A) publish notice of its action in the Federal Register, and

(B) upon the request of any interested party, hold a hearing in accordance with section 1677c of this title before determining the normal value and the export price (or the constructed export price) of the merchandise.

(3) Determinations to be basis of antidumping duty

The administering authority shall publish notice in the Federal Register of the results of its determination of normal value and export price (or the constructed export price), and that determination shall be the basis for the assessment of antidumping duties on entries of merchandise to which the notice under this subsection applies and also shall be the basis for the deposit of estimated antidumping duties on future entries of merchandise of manufacturers, producers, or exporters described in paragraph (1) to which the order issued under subsection (a) of this section applies.

(4) Provision of business proprietary information; written comments

Before determining whether to permit the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties, the administering authority shall—

(A) make all business proprietary information supplied to the administering authority under paragraph (1) available under a protective order in accordance with section 1677f(c) of this title to all interested parties described in subparagraph (C), (D), (E), (F), or (G) of section 1677(9) of this title, and

(B) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security under

paragraph (1) in lieu of the deposit of estimated antidumping duties should be permitted.

(d) Special rule for regional industries

(1) In general

In an investigation in which the Commission makes a regional industry determination under section 1677(4)(C) of this title, the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

(2) Exception for new exporters and producers

After publication of the antidumping duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 1675(a)(2)(B) of this title.

(June 17, 1930, ch. 497, title VII, §736, as added Pub. L. 96-39, title I, §101, July 26, 1979, 93 Stat. 172; amended Pub. L. 99-514, title XVIII, §1886(a)(7), Oct. 22, 1986, 100 Stat. 2922; Pub. L. 100-418, title I, §1325, Aug. 23, 1988, 102 Stat. 1201; Pub. L. 103-465, title II, §§218(b)(2), 219(c)(9), 233(a)(1)(C), (2)(A)(iii), (5)(W)-(Y), Dec. 8, 1994, 108 Stat. 4855, 4857, 4898, 4900.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-465, §233(a)(1)(C), (2)(A)(iii), substituted “normal value” for “foreign market value” and “export price (or the constructed export price)” for “United States price”.

Subsec. (a)(2). Pub. L. 103-465, §233(a)(5)(W), substituted “subject merchandise” for “class or kind of merchandise to which it applies”.

Subsec. (b)(1). Pub. L. 103-465, §§219(c)(9), 233(a)(5)(X), substituted “1673b(d)(2)” for “1673b(d)(1)” in two places and “subject merchandise” for “merchandise subject to the antidumping duty order”.

Subsec. (b)(2). Pub. L. 103-465, §233(a)(5)(Y), substituted “subject merchandise” for “merchandise subject to an antidumping duty order”.

Subsec. (c). Pub. L. 103-465, §233(a)(1)(C), (2)(A)(iii), substituted “normal value” for “foreign market value” and “export price (or the constructed export price)” for “United States price” in pars. (1)(C) to (E), (2)(B), and (3).

Subsec. (d). Pub. L. 103-465, §218(b)(2), added subsec. (d).

1988—Subsec. (c)(1). Pub. L. 100-418, §1325(a), amended par. (1) generally, designating existing provisions as cl. (C) and adding cls. (A), (B), (D), and (E).

Subsec. (c)(4). Pub. L. 100-418, §1325(b), added par. (4).

1986—Subsec. (c)(1). Pub. L. 99-514 inserted “, and was sold to any person that is not related to such manufacturer, producer, or exporter,” before “on or after the date”.

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 1988 AMENDMENT

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 a note under section 1671 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.

§ 1673f. Treatment of difference between deposit of estimated antidumping duty and final assessed duty under antidumping duty order

(a) Deposit of estimated antidumping duty under section 1673b(d)(1)(B) of this title

If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated antidumping duty under section 1673b(d)(1)(B) of this title is different from the amount of the antidumping duty determined under an antidumping duty order published under section 1673e of this title, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 1673d(b) of this title is published shall be—

(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or

(2) refunded or released, to the extent that the cash deposit, bond, or other security is higher than the duty under the order.

(b) Deposit of estimated antidumping duty under section 1673e(a)(3) of this title

If the amount of an estimated antidumping duty deposited under section 1673e(a)(3) of this title is different from the amount of the antidumping duty determined under an antidumping duty order published under section 1673e of this title, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 1673d(b) of this title is published shall be—

(1) collected, to the extent that the deposit under section 1673e(a)(3) of this title is lower than the duty determined under the order, or

(2) refunded, to the extent that the deposit under section 1673e(a)(3) of this title is higher than the duty determined under the order,

together with interest as provided by section 1677g of this title.

(June 17, 1930, ch. 497, title VII, §737, as added Pub. L. 96-39, title I, §101, July 26, 1979, 93 Stat. 173; amended Pub. L. 103-465, title II, §219(c)(10), Dec. 8, 1994, 108 Stat. 4857; Pub. L. 104-295, §40, Oct. 11, 1996, 110 Stat. 3541.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-295, §40(1), substituted “deposit, or the amount of any bond or other security,