

their respective authority to investigate possible violations of the Federal antitrust laws, conduct investigations to obtain antitrust evidence relating to a possible violation of the foreign antitrust laws administered or enforced by the foreign antitrust authority with respect to which such agreement is in effect under this chapter, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

- (1) in determining whether a person has violated or is about to violate any of such foreign antitrust laws, or
- (2) in enforcing any of such foreign antitrust laws.

**(c) Special scope of authority**

An investigation may be conducted under subsection (b) of this section, and antitrust evidence obtained through such investigation may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

**(d) Rights and privileges preserved**

A person may not be compelled in connection with an investigation under this section to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(Pub. L. 103-438, §3, Nov. 2, 1994, 108 Stat. 4597.)

CODIFICATION

Section is comprised of section 3 of Pub. L. 103-438. Subsec. (e) of section 3 of Pub. L. 103-438 amended sections 46, 57b-1, 1311, and 1312 of this title.

**§ 6203. Jurisdiction of district courts of United States**

**(a) Authority of district courts**

On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement in effect under this chapter, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist a foreign antitrust authority with respect to which such agreement is in effect under this chapter—

- (1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or
- (2) in enforcing any of such foreign antitrust laws.

**(b) Contents of order**

**(1) Use of appointee to receive evidence**

(A) An order issued under subsection (a) of this section may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(B) A person appointed under subparagraph (A) shall have power to administer any necessary oath and to take such testimony or such statement.

**(2) Practice and procedure**

(A) An order issued under subsection (a) of this section may prescribe the practice and

procedure for taking testimony and statements and for producing documents and other things.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

**(c) Rights and privileges preserved**

A person may not be compelled under an order issued under subsection (a) of this section to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

**(d) Voluntary conduct**

This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

(Pub. L. 103-438, §4, Nov. 2, 1994, 108 Stat. 4599.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2)(C), are classified to Title 28, Appendix, Judiciary and Judicial Procedure.

**§ 6204. Limitations on authority**

Sections 6201, 6202, and 6203 of this title shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 18a of this title. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under section 18a of this title.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except that for the purpose of applying Rule 6(e)(3)(C)(iv) of the Federal Rules of Criminal Procedure with respect to this section—

(A) a foreign antitrust authority with respect to which a particularized need for such antitrust evidence is shown shall be considered to be an appropriate official of any of the several States, and

(B) a foreign antitrust law administered or enforced by the foreign antitrust authority shall be considered to be a State criminal law.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor, or