

(or if no petition was filed, the affected United States industry) agree that it is unnecessary to revise the retaliation list.

(C) Schedule for revising list or action

The Trade Representative shall, 120 days after the date the retaliation list or other section 2411(a) action is first taken, and every 180 days thereafter, review the list or action taken and revise, in whole or in part, the list or action to affect other goods of the subject country or countries.

(D) Standards for revising list or action

In revising any list or action against a country or countries under this subsection, the Trade Representative shall act in a manner that is most likely to result in the country or countries implementing the recommendations adopted in the dispute settlement proceeding or in achieving a mutually satisfactory solution to the issue that gave rise to the dispute settlement proceeding. The Trade Representative shall consult with the petitioner, if any, involved in the initial investigation under this subchapter.

(E) Retaliation list

The term “retaliation list” means the list of products of a foreign country or countries that have failed to comply with the report of the panel or Appellate Body of the WTO and with respect to which the Trade Representative is imposing duties above the level that would otherwise be imposed under the Harmonized Tariff Schedule of the United States.

(F) Requirement to include reciprocal goods on retaliation list

The Trade Representative shall include on the retaliation list, and on any revised lists, reciprocal goods of the industries affected by the failure of the foreign country or countries to implement the recommendation made pursuant to a dispute settlement proceeding under the World Trade Organization, except in cases where existing retaliation and its corresponding preliminary retaliation list do not already meet this requirement.

(c) Consultations

Before making any determination under subsection (b) of this section, the Trade Representative shall—

(1) consult with the petitioner, if any, involved in the initial investigation under this subchapter and with representatives of the domestic industry concerned; and

(2) provide an opportunity for the presentation of views by interested persons.

(Pub. L. 93-618, title III, § 306, as added Pub. L. 96-39, title IX, § 901, July 26, 1979, 93 Stat. 299; amended Pub. L. 100-418, title I, § 1301(a), Aug. 23, 1988, 102 Stat. 1173; Pub. L. 103-465, title III, § 314(e), Dec. 8, 1994, 108 Stat. 4941; Pub. L. 104-295, § 20(c)(1), Oct. 11, 1996, 110 Stat. 3528; Pub. L. 106-200, title IV, § 407, May 18, 2000, 114 Stat. 293.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(2)(E), is not set out in the

Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

AMENDMENTS

2000—Subsec. (b)(2). Pub. L. 106-200 designated existing provisions as subpar. (A), inserted heading, and added subpars. (B) to (F).

1996—Subsec. (b)(1). Pub. L. 104-295 made technical amendment to Pub. L. 103-465. See 1994 Amendment note below.

1994—Subsecs. (a), (b). Pub. L. 103-465, as amended by Pub. L. 104-295, amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) read as follows:

“(a) IN GENERAL.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement of a kind described in clause (i), (ii), or (iii) of section 2411(a)(2)(B) of this title that is entered into under subsection (a) or (b) of section 2411 of this title, by a foreign country—

“(1) to enforce the rights of the United States under any trade agreement, or

“(2) to eliminate any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 2411 of this title.

“(b) FURTHER ACTION.—If, on the basis of the monitoring carried out under subsection (a) of this section, the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a) of this section, the Trade Representative shall determine what further action the Trade Representative shall take under section 2411(a) of this title. For purposes of section 2411 of this title, any such determination shall be treated as a determination made under section 2414(a)(1) of this title.”

1988—Pub. L. 100-418 amended section generally, substituting provisions relating to monitoring of foreign compliance for provisions relating to administration. See section 2419 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 316(a) of Pub. L. 103-465, set out as an Effective Date note under section 3581 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no decision had been made under section 2414 of this title regarding the petition or investigation, see section 1301(c) of Pub. L. 100-418, set out as a note under section 2411 of this title.

§ 2417. Modification and termination of actions

(a) In general

(1) The Trade Representative may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 2411 of this title if—

(A) any of the conditions described in section 2411(a)(2) of this title exist,

(B) the burden or restriction on United States commerce of the denial rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased, or

(C) such action is being taken under section 2411(b) of this title and is no longer appropriate.

(2) Before taking any action under paragraph (1) to modify or terminate any action taken

under section 2411 of this title, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

(b) Notice; report to Congress

The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 2411 of this title and the reasons therefor.

(c) Review of necessity

(1) If—

(A) a particular action has been taken under section 2411 of this title during any 4-year period, and

(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 2411 of this title, the Trade Representative shall conduct a review of—

(A) the effectiveness in achieving the objectives of section 2411 of this title of—

(i) such action, and

(ii) other actions that could be taken (including actions against other products or services), and

(B) the effects of such actions on the United States economy, including consumers.

(Pub. L. 93-618, title III, §307, as added Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1174.)

EFFECTIVE DATE

Section applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no decision had been made under section 2414 of this title regarding the petition or investigation, see section 1301(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 2411 of this title.

§ 2418. Request for information

(a) In general

Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

(1) the nature and extent of a specific trade policy or practice of a foreign country with respect to particular goods, services, investment, or intellectual property rights, to the extent that such information is available to the Trade Representative or other Federal agencies;

(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

(b) If information not available

If information that is requested by a person under subsection (a) of this section is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

(1) request the information from the foreign government; or

(2) decline to request the information and inform the person in writing of the reasons for refusal.

(c) Certain business information not made available

(1) Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5), no information requested and received by the Trade Representative in aid of any investigation under this subchapter shall be made available to any person if—

(A) the person providing such information certifies that—

(i) such information is business confidential,

(ii) the disclosure of such information would endanger trade secrets or profitability, and

(iii) such information is not generally available;

(B) the Trade Representative determines that such certification is well-founded; and

(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

(2) The Trade Representative may—

(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this subchapter, or

(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

(Pub. L. 93-618, title III, §308, as added Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1175.)

EFFECTIVE DATE

Section applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no