

national Trade Commission shall submit the findings of its investigation to the President no later than 30 days after the request is received by the International Trade Commission.

(3) “Surge” defined

For purposes of this subsection, the term “surge” means a significant increase in imports over the trend for a recent representative base period.

(d) Condition applicable to quantitative restrictions

Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article, with allowance for reasonable growth.

(Pub. L. 103–182, title III, §312, Dec. 8, 1993, 107 Stat. 2107.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsecs. (a) to (c), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

SUBPART 3—GENERAL PROVISIONS

§ 3381. Monitoring

For purposes of expediting an investigation concerning provisional relief under this part or section 2252 of this title regarding—

- (1) fresh or chilled tomatoes provided for in subheading 0702.00.00 of the HTS; and
- (2) fresh or chilled peppers, other than chili peppers provided for in subheading 0709.60.00 of the HTS;

the International Trade Commission, until January 1, 2009, shall monitor imports of such goods as if proper requests for such monitoring had been made under subsection (d)(1)(C)(i) of section 2252 of this title. At the request of the International Trade Commission, the Secretary of Agriculture and the Commissioner of Customs shall provide to the International Trade Commission information relevant to the monitoring carried out under this section.

(Pub. L. 103–182, title III, §316, Dec. 8, 1993, 107 Stat. 2108; Pub. L. 104–295, §21(b)(3), Oct. 11, 1996, 110 Stat. 3530.)

REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle A (§§301–318) of title III of Pub. L. 103–182, Dec. 8, 1993, 107 Stat. 2100, which enacted this part, amended section 2252 of this title, enacted provisions set out as notes under sections 2112 and 3351 of this title, and amended provisions set out as a note under section 2112 of this title.

AMENDMENTS

1996—Pub. L. 104–295 substituted “subsection (d)(1)(C)(i) of section 2252” for “section 2252(d)(1)(C)(i) of section 2252”.

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.

§ 3382. Procedures concerning conduct of International Trade Commission investigations

The International Trade Commission shall adopt such procedures and rules and regulations as are necessary to bring its procedures into conformity with chapter 8 of the Agreement.

(Pub. L. 103–182, title III, §317(a), Dec. 8, 1993, 107 Stat. 2108.)

PART B—AGRICULTURE

§ 3391. Agriculture

(a) Omitted

(b) Section 624 of title 7

(1) In general

The President may, pursuant to article 309 and Annex 703.2 of the Agreement, exempt from any quantitative limitation or fee imposed pursuant to section 624 of title 7 any article which originates in Mexico, if Mexico is a NAFTA country.

(2) Qualification of articles

The determination of whether an article originates in Mexico shall be made in accordance with section 3332 of this title, except that operations performed in, or materials obtained from, any country other than the United States or Mexico shall be treated as if performed in or obtained from a country other than a NAFTA country.

(c) Tariff rate quotas

In implementing the tariff rate quotas set out in the United States Schedule to Annex 302.2 of the Agreement, the President shall take such action as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

(d) Peanuts

(1) Effect of the Agreement

(A) In general

Nothing in the Agreement or this Act reduces or eliminates—

- (i) any penalty required under section 1359a(d)¹ of title 7; or
- (ii) any requirement under Marketing Agreement No. 146, Regulating the Quality of Domestically Produced Peanuts, on peanuts in the domestic market, pursuant to section 1445c–3(f)¹ of title 7.

(B) Omitted

(2) Consultations on imports

It is the sense of Congress that the United States should request consultations in the

¹ See References in Text note below.

Working Group on Emergency Action, established in the Understanding Between the Parties to the North American Free Trade Agreement Concerning Chapter Eight—Emergency Action, if imports of peanuts exceed the in-quota quantity under a tariff rate quota set out in the United States Schedule to Annex 302.2 of the Agreement concerning whether—

(A) the increased imports of peanuts constitute a substantial cause of, or contribute importantly to, serious injury, or threat of serious injury, to the domestic peanut industry; and

(B) recourse under Chapter Eight of the Agreement or Article XIX of the General Agreement on Tariffs and Trade is appropriate.

(e) Fresh fruits, vegetables, and cut flowers

(1) In general

The Secretary of Agriculture shall collect and compile the information specified under paragraph (3), if reasonably available, from appropriate Federal departments and agencies and the relevant counterpart ministries of the Government of Mexico.

(2) Designation of an office

The Secretary of Agriculture shall designate an office within the United States Department of Agriculture to be responsible for maintaining and disseminating, in a timely manner, the data accumulated for verifying citrus, fruit, vegetable, and cut flower trade between the United States and Mexico. The information shall be made available to the public and the NAFTA Agriculture Committee Working Groups.

(3) Information collected

The information to be collected, if reasonably available, includes—

(A) monthly fresh fruit, fresh vegetable, fresh citrus, and processed citrus product import and export data;

(B) monthly citrus juice production and export data;

(C) data on inspections of shipments of citrus, vegetables, and cut flowers entering the United States from Mexico; and

(D) in the case of fruits, vegetables, and cut flowers entering the United States from Mexico, data regarding—

- (i) planted and harvested acreage; and
- (ii) wholesale prices, quality, and grades.

(f) End-use certificates

(1) In general

The Secretary of Agriculture (referred to in this subsection as the “Secretary”) shall implement, in coordination with the Commissioner of Customs, a program requiring that end-use certificates be included in the documentation covering the entry into, or the withdrawal from a warehouse for consumption in, the customs territory of the United States—

(A) of any wheat that is a product of any foreign country or instrumentality that requires, as of the effective date of this subsection, end-use certificates for imports of wheat that is a product of the United States

(referred to in this subsection as “United States-produced wheat”); and

(B) of any barley that is a product of any foreign country or instrumentality that requires, as of the effective date of this subsection, end-use certificates for imports of barley that is a product of the United States (referred to in this subsection as “United States-produced barley”).

(2) Regulations

The Secretary shall prescribe by regulation such requirements regarding the information to be included in end-use certificates as may be necessary and appropriate to carry out this subsection.

(3) Producer protection determination

At any time after the effective date of the requirements established under paragraph (1), the Secretary may, subject to paragraph (5), suspend the requirements when making a determination, after consultation with domestic producers, that the program implemented under this subsection has directly resulted in—

(A) the reduction of income to the United States producers of agricultural commodities; or

(B) the reduction of the competitiveness of United States agricultural commodities in the world export markets.

(4) Suspension of requirements

(A) Wheat

If a foreign country or instrumentality that requires end-use certificates for imports of United States-produced wheat as of the effective date of the requirement under paragraph (1)(A) eliminates the requirement, the Secretary shall suspend the requirement under paragraph (1)(A) beginning 30 calendar days after suspension by the foreign country or instrumentality.

(B) Barley

If a foreign country or instrumentality that requires end-use certificates for imports of United States-produced barley as of the effective date of the requirement under paragraph (1)(B) eliminates the requirement, the Secretary shall suspend the requirement under paragraph (1)(B) beginning 30 calendar days after suspension by the foreign country or instrumentality.

(5) Report to Congress

The Secretary shall not suspend the requirements established under paragraph (1) under circumstances identified in paragraph (3) before the Secretary submits a report to Congress detailing the determination made under paragraph (3) and the reasons for making the determination.

(6) Compliance

It shall be a violation of section 1001 of title 18 for a person to engage in fraud or knowingly violate this subsection or a regulation implementing this subsection.

(7) Effective date

This subsection shall become effective on the date that is 120 days after December 8, 1993.

(g) Omitted

(Pub. L. 103-182, title III, §321, Dec. 8, 1993, 107 Stat. 2108.)

(h) Assistance for affected farmworkers**(1) In general**

Subject to paragraph (3), if at any time the Secretary of Agriculture determines that the implementation of the Agreement has caused low-income migrant or seasonal farmworkers to lose income, the Secretary may make available grants, not to exceed \$20,000,000 for any fiscal year, to public agencies or private organizations with tax-exempt status under section 501(c)(3) of title 26, that have experience in providing emergency services to low-income migrant or seasonal farmworkers. Emergency services to be provided with assistance received under this subsection may include such types of assistance as the Secretary determines to be necessary and appropriate.

(2) “Low-income migrant or seasonal farmworker” defined

As used in this subsection, the term “low-income migrant or seasonal farmworker” shall have the same meaning as provided in section 5177a(b) of title 42.

(3) Authorization of appropriations

There are authorized to be appropriated \$20,000,000 for each fiscal year to carry out this subsection.

(i) Biennial report on effects of Agreement on American agriculture**(1) In general**

The Secretary of Agriculture shall prepare a biennial report on the effects of the Agreement on United States producers of agricultural commodities and on rural communities located in the United States.

(2) Contents of report

The report required under this subsection shall include—

(A) an assessment of the effects of implementing the Agreement on the various agricultural commodities affected by the Agreement, on a commodity-by-commodity basis;

(B) an assessment of the effects of implementing the Agreement on investments made in United States agriculture and on rural communities located in the United States;

(C) an assessment of the effects of implementing the Agreement on employment in United States agriculture, including any gains or losses of jobs in businesses directly or indirectly related to United States agriculture; and

(D) such other information and data as the Secretary determines appropriate.

(3) Submission of report

The Secretary shall furnish the report required under this subsection to the Committee on Agriculture, Nutrition, and Forestry of the Senate and to the Committee on Agriculture of the House of Representatives. The report shall be due every 2 years and shall be submitted by March 1 of the year in which the report is due. The first report shall be due by March 1, 1997, and the final report shall be due by March 1, 2011.

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(1)(A), is Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2057, known as the North American Free Trade Agreement Implementation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

Section 1359a of title 7, referred to in subsec. (d)(1)(A)(i), was repealed by Pub. L. 107-171, title I, §1309(a)(1), May 13, 2002, 116 Stat. 179.

Section 1445c-3(f) of title 7, referred to in subsec. (d)(1)(A)(ii), was repealed by Pub. L. 104-127, title I, §171(b)(2)(E), Apr. 4, 1996, 110 Stat. 938.

CODIFICATION

Section is comprised of section 321 of Pub. L. 103-182. Subsec. (a) of section 321 of Pub. L. 103-182 amended provisions set out as a note under section 2253 of this title. Subsec. (d)(1)(B) of section 321 of Pub. L. 103-182 amended section 1359a of Title 7, Agriculture. Subsec. (g) of section 321 of Pub. L. 103-182 amended provisions set out as a note under section 5622 of Title 7.

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.

PART C—TEMPORARY ENTRY OF BUSINESS PERSONS

§ 3401. Nonimmigrant traders and investors

Upon a basis of reciprocity secured by the Agreement, an alien who is a citizen of Canada or Mexico, and the spouse and children of any such alien if accompanying or following to join such alien, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Section B of Annex 1603 of the Agreement, but only if any such purpose shall have been specified in such Annex on the date of entry into force of the Agreement. For purposes of this section, the term “citizen of Mexico” means “citizen” as defined in Annex 1608 of the Agreement.

(Pub. L. 103-182, title III, §341(a), Dec. 8, 1993, 107 Stat. 2116.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

EFFECTIVE DATE

Pub. L. 103-182, title III, §342, Dec. 8, 1993, 107 Stat. 2118, provided that: “The provisions of this subtitle [subtitle D (§§341, 342) of title III of Pub. L. 103-182, enacting this section and amending section 1184 of Title