

(Pub. L. 96-39, title IV, § 422, July 26, 1979, 93 Stat. 247; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative” wherever appearing.

§ 2553. Action after receipt of representations

(a) Review

Upon receipt of any representation made under section 2552 of this title, the Trade Representative shall review the issues concerned in consultation with—

- (1) the agency or person alleged to be engaging in violations under the Agreement;
- (2) the member agencies of the interagency trade organization established under section 1872(a) of this title;
- (3) other appropriate Federal agencies; and
- (4) appropriate representatives referred to in section 2547 of this title.

(b) Resolution

The Trade Representative shall undertake to resolve, on a mutually satisfactory basis, the issues set forth in the representation through consultation with the parties concerned.

(Pub. L. 96-39, title IV, § 423, July 26, 1979, 93 Stat. 247; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative” wherever appearing.

§ 2554. Procedure after finding by international forum

(a) In general

If an appropriate international forum finds that a standards-related activity being engaged in within the United States conflicts with the obligations of the United States under the Agreement, the interagency trade organization established under section 1872(a) of this title shall review the finding and the matters related thereto with a view to recommending appropriate action.

(b) Cross reference

For provisions of law regarding remedies available to domestic persons alleging that standards activities engaged in by Parties to the Agreement (other than the United States) violate the obligations of the Agreement, see section 2411 of this title.

(Pub. L. 96-39, title IV, § 424, July 26, 1979, 93 Stat. 248.)

SUBPART 2—OTHER PROCEEDINGS REGARDING CERTAIN STANDARDS-RELATED ACTIVITIES

§ 2561. Findings of reciprocity required in administrative proceedings

(a) In general

Except as provided under subpart 1, no Federal agency may consider a complaint or petition

against any standards-related activity regarding an imported product, if that activity is engaged in within the United States and is covered by the Agreement, unless the Trade Representative finds, and informs the agency concerned in writing, that—

- (1) the country of origin of the imported product is a Party to the Agreement or a foreign country described in section 2552(2) of this title; and
- (2) the dispute settlement procedures provided under the Agreement are not appropriate.

(b) Exemptions

This section does not apply with respect to causes of action arising under—

- (1) the antitrust laws as defined in section 12(a) of title 15; or
- (2) statutes administered by the Secretary of Agriculture.

This section does not apply with respect to petitions and proceedings that are provided for under the practices of any Federal agency for the purpose of ensuring, in accordance with section 553 of title 5, that interested persons are given an opportunity to participate in agency rulemaking or to seek the issuance, amendment, or repeal of a rule.

(Pub. L. 96-39, title IV, § 441, July 26, 1979, 93 Stat. 248; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Subsec. (a). Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative”.

§ 2562. Consideration of standards-related activities by an international forum

No standards-related activity being engaged in within the United States may be stayed in any judicial or administrative proceeding on the basis that such activity is currently being considered, pursuant to the Agreement, by an international forum.

(Pub. L. 96-39, title IV, § 442, July 26, 1979, 93 Stat. 248.)

PART D—DEFINITIONS AND MISCELLANEOUS PROVISIONS

§ 2571. Definitions

As used in this subchapter—

(1) Agreement

The term “Agreement” means the Agreement on Technical Barriers to Trade referred to in section 3511(d)(5) of this title.

(2) Conformity assessment procedure

The term “conformity assessment procedure” means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

(3) Federal agency

The term “Federal agency” means any of the following within the meaning of chapter 2 of part I of title 5:

- (A) Any executive department.
- (B) Any military department.
- (C) Any Government corporation.
- (D) Any Government-controlled corporation.
- (E) Any independent establishment.

(4) International conformity assessment procedure

The term “international conformity assessment procedure” means a conformity assessment procedure that is adopted by an international standards organization.

(5) International standard

The term “international standard” means any standard that is promulgated by an international standards organization.

(6) International standards organization

The term “international standards organization” means any organization—

- (A) the membership of which is open to representatives, whether public or private, of the United States and at least all Members; and

- (B) that is engaged in international standards-related activities.

(7) International standards-related activity

The term “international standards-related activity” means the negotiation, development, or promulgation of, or any amendment or change to, an international standard, or an international conformity assessment procedure, or both.

(8) Member

The term “Member” means a WTO member as defined in section 3501(10) of this title.

(9) Private person

The term “private person” means—

- (A) any individual who is a citizen or national of the United States; and

- (B) any corporation, partnership, association, or other legal entity organized or existing under the law of any State, whether for profit or not for profit.

(10) Product

The term “product” means any natural or manufactured item.

(11) Secretary concerned

The term “Secretary concerned” means the Secretary of Commerce with respect to functions under this subchapter relating to non-agricultural products, and the Secretary of Agriculture with respect to functions under this subchapter relating to agricultural products.

(12) Trade Representative

The term “Trade Representative” means the United States Trade Representative.

(13) Standard

The term “standard” means a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines, or characteristics for products or related processes and production methods, with which compliance is not mandatory. Such term may

also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

(14) Standards-related activity

The term “standards-related activity” means the development, adoption, or application of any standard, technical regulation, or conformity assessment procedure.

(15) State

The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and any other Commonwealth, territory, or possession of the United States.

(16) State agency

The term “State agency” means any department, agency, or other instrumentality of the government of any State or of any political subdivision of any State.

(17) Technical regulation

The term “technical regulation” means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

(18) United States

The term “United States”, when used in a geographical context, means all States.

(Pub. L. 96-39, title IV, § 451, July 26, 1979, 93 Stat. 249; Pub. L. 103-182, title III, § 351(b)(1), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 103-465, title III, § 351(e), Dec. 8, 1994, 108 Stat. 4956; Pub. L. 104-295, § 20(c)(16), Oct. 11, 1996, 110 Stat. 3529.)

REFERENCES IN TEXT

Chapter 2 of part I of title 5, referred to in par. (3), probably means chapter 1 of part I of title 5, which is classified to section 101 et seq. of Title 5, Government Organization and Employees, and which relates to organization of agencies.

AMENDMENTS

1996—Par. (6)(A). Pub. L. 104-295 substituted “; and” for period at end.

1994—Par. (1). Pub. L. 103-465, § 351(e)(1), amended par. (1) generally, substituting “referred to in section 3511(d)(5) of this title” for “approved under section 2503(a) of this title”.

Par. (2). Pub. L. 103-465, § 351(e)(2), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “The term ‘certification system’ means a system—

“(A) for determining whether a product conforms with product standards applicable to that product; and

“(B) if a product so conforms, for attesting, by means of a document, mark, or other appropriate evidence of conformity, to that conformity.”

Such term also includes any modification of, or change to, any such system.”

Par. (4). Pub. L. 103-465, § 351(e)(3), substituted “conformity assessment procedure” for “certification system” in two places.

Par. (6)(A). Pub. L. 103-465, § 351(e)(4), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the membership of which is open to representatives, whether public or private, of the United States and—

“(i) all Parties to the Agreement, or

“(ii) some but not all Parties of the Agreement; and”.

Par. (7). Pub. L. 103-465, § 351(e)(5), substituted “conformity assessment procedure” for “certification system”.

Par. (8). Pub. L. 103-465, § 351(e)(6), amended heading and text of par. (8) generally. Prior to amendment, text read as follows: “The term ‘Party to the Agreement’ means any foreign country or instrumentality determined by the President to have assumed, and to be applying, the obligations of the Agreement with respect to the United States.”

Par. (13). Pub. L. 103-465, § 351(e)(7), amended heading and text of par. (13) generally. Prior to amendment, text read as follows: “The term ‘standard’ means any of the following, and any amendment or change to any of the following:

“(A) The specification of the characteristics of a product, including, but not limited to, levels of quality, performance, safety, or dimensions.

“(B) Specifications relating to the terminology, symbols, testing and test methods, packaging, or marking or labeling requirements applicable to a product.

“(C) Administrative procedures related to the application of any specification referred to in paragraph (A) or (B).”

Par. (14). Pub. L. 103-465, § 351(e)(8), substituted “, technical regulation, or conformity assessment procedure” for “or any certification system”.

Pars. (17), (18). Pub. L. 103-465, § 351(e)(9), added par. (17) and redesignated former par. (17) as (18).

1993—Par. (12). Pub. L. 103-182 amended par. (12) generally. Prior to amendment, par. (12) read as follows:

“(12) SPECIAL REPRESENTATIVE.—The term ‘Special Representative’ means the Special Representative for Trade Negotiations.”

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 352 of Pub. L. 103-465, set out as a note under section 2531 of this title.

§ 2572. Exemptions

This subchapter does not apply to—

(1) any standards activity engaged in by any Federal agency or State agency for the use (including, but not limited to, use with respect to research and development, production, or consumption) of that agency or the use of another such agency; or

(2) any standards activity engaged in by any private person solely for use in the production or consumption of products by that person.

(Pub. L. 96-39, title IV, § 452, July 26, 1979, 93 Stat. 250.)

§ 2573. Reports to Congress on operation of agreement

As soon as practicable after the close of the 3-year period beginning on the date on which this subchapter takes effect, and as soon as practicable after the close of each succeeding 3-year period through 2001, the Trade Representative shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement, both domestically and internationally, during the period.

(Pub. L. 96-39, title IV, § 453, July 26, 1979, 93 Stat. 250; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 103-465, title III, § 351(f), Dec. 8, 1994, 108 Stat. 4957; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1994—Pub. L. 103-465 inserted “through 2001” after “succeeding 3-year period”.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative”.

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 352 of Pub. L. 103-465, set out as a note under section 2531 of this title.

PART E—STANDARDS AND MEASURES UNDER THE NORTH AMERICAN FREE TRADE AGREEMENT

SUBPART 1—SANITARY AND PHYTOSANITARY MEASURES

§ 2575. General

Nothing in this subpart may be construed—

(1) to prohibit a Federal agency or State agency from engaging in activity related to sanitary or phytosanitary measures to protect human, animal, or plant life or health; or

(2) to limit the authority of a Federal agency or State agency to determine the level of protection of human, animal, or plant life or health the agency considers appropriate.

(Pub. L. 96-39, title IV, § 461, as added Pub. L. 103-182, title III, § 351(a), Dec. 8, 1993, 107 Stat. 2118.)

§ 2575a. Inquiry point

The standards information center maintained under section 2544 of this title shall, in addition to the functions specified therein, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

(1) any sanitary or phytosanitary measure of general application, including any control or inspection procedure or approval procedure proposed, adopted, or maintained by a Federal or State agency;

(2) the procedures of a Federal or State agency for risk assessment, and factors the agency considers in conducting the assessment and in establishing the levels of protection that the agency considers appropriate;

(3) the membership and participation of the Federal Government and State governments in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements; and

(4) the location of notices of the type required under article 719 of the NAFTA, or where the information contained in such notices can be obtained.

(Pub. L. 96-39, title IV, § 462, as added Pub. L. 103-182, title III, § 351(a), Dec. 8, 1993, 107 Stat. 2118.)