

tions of the United States under the Agreement may be filed with the International Trade Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The International Trade Commission shall transmit a copy of any petition filed under this subsection to the Trade Representative.

(2) Provisional relief

An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 2252(a) of this title.

(3) Critical circumstances

An allegation that critical circumstances exist must be included in the petition or made on or before the 90th day after the date on which the investigation is initiated under subsection (b) of this section.

(b) Investigation and determination

Upon the filing of a petition under subsection (a) of this section, the International Trade Commission, unless subsection (d) of this section applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Canadian article or a Mexican article, as the case may be, is being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of—

- (1) serious injury; or
- (2) except in the case of a Canadian article, a threat of serious injury;

to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) Applicable provisions

The provisions of—

- (1) paragraphs (1)(B), (3)¹ (except subparagraph (A)), and (4)¹ of subsection (b);
- (2) subsection (c); and
- (3) subsection (d),

of section 2252 of this title apply with respect to any investigation initiated under subsection (b) of this section.

(d) Articles exempt from investigation

No investigation may be initiated under this section with respect to—

- (1) any Canadian article or Mexican article if import relief has been provided under this subpart with respect to that article; or
- (2) any textile or apparel article set out in Appendix 1.1 of Annex 300-B of the Agreement.

(Pub. L. 103-182, title III, §302, Dec. 8, 1993, 107 Stat. 2100.)

REFERENCES IN TEXT

Paragraphs (3) and (4) of subsection (b) of section 2252 of this title, referred to in subsec. (c)(1), were repealed and a new paragraph (3) was added by Pub. L. 103-465, title III, §301(c), Dec. 8, 1994, 108 Stat. 4932.

¹ See References in Text note below.

§ 3353. International Trade Commission action on petition

(a) Determination

By no later than 120 days after the date on which an investigation is initiated under section 3352(b) of this title with respect to a petition, the International Trade Commission shall—

- (1) make the determination required under that section; and
- (2) if the determination referred to in paragraph (1) is affirmative and an allegation regarding critical circumstances was made under section 3352(a) of this title, make a determination regarding that allegation.

(b) Additional finding and recommendation if determination affirmative

If the determination made by the International Trade Commission under subsection (a) of this section with respect to imports of an article is affirmative, the International Trade Commission shall find, and recommend to the President in the report required under subsection (c) of this section, the amount of import relief that is necessary to remedy or, except in the case of imports of a Canadian article, prevent the injury found by the International Trade Commission in the determination. The import relief recommended by the International Trade Commission under this subsection shall be limited to that described in section 3354(c) of this title.

(c) Report to President

No later than the date that is 30 days after the date on which a determination is made under subsection (a) of this section with respect to an investigation, the International Trade Commission shall submit to the President a report that shall include—

- (1) a statement of the basis for the determination;
- (2) dissenting and separate views; and
- (3) any finding made under subsection (b) of this section regarding import relief.

(d) Public notice

Upon submitting a report to the President under subsection (c) of this section, the International Trade Commission shall promptly make public such report (with the exception of information which the International Trade Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(e) Applicable provisions

For purposes of this subpart, the provisions of paragraphs (1), (2), and (3) of section 1330(d) of this title shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 2252 of this title.

(Pub. L. 103-182, title III, §303, Dec. 8, 1993, 107 Stat. 2101.)

§ 3354. Provision of relief

(a) In general

No later than the date that is 30 days after the date on which the President receives the report

of the International Trade Commission containing an affirmative determination of the International Trade Commission under section 3353(a) of this title, the President, subject to subsection (b) of this section, shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or, except in the case of imports of a Canadian article, prevent the injury found by the International Trade Commission.

(b) Exception

The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) Nature of relief

The import relief (including provisional relief) that the President is authorized to provide under this subpart is as follows:

(1) In the case of imports of a Canadian article—

(A) the suspension of any further reduction provided for under Annex 401.2 of the United States-Canada Free-Trade Agreement in the duty imposed on such article;

(B) an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided, or

(ii) the column 1 general rate of duty imposed on like articles on December 31, 1988; or

(C) in the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the column 1 general rate of duty imposed on the article for the corresponding season occurring immediately before January 1, 1989.

(2) In the case of imports of a Mexican article—

(A) the suspension of any further reduction provided for under the United States Schedule to Annex 302.2 of the Agreement in the duty imposed on such article;

(B) an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided, or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force; or

(C) in the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the column 1 general rate of duty imposed under the HTS on the article for the corresponding season immediately occurring before the date on which the Agreement enters into force.

(d) Period of relief

The import relief that the President is authorized to provide under this section may not ex-

ceed 3 years, except that, if a Canadian article or Mexican article which is the subject of the action—

(1) is provided for in an item for which the transition period of tariff elimination set out in the United States Schedule to Annex 302.2 of the Agreement is greater than 10 years; and

(2) the President determines that the affected industry has undertaken adjustment and requires an extension of the period of the import relief;

the President, after obtaining the advice of the International Trade Commission, may extend the period of the import relief for not more than 1 year, if the duty applied during the initial period of the relief is substantially reduced at the beginning of the extension period.

(e) Rate on Mexican articles after termination of import relief

When import relief under this subpart is terminated with respect to a Mexican article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which termination occurs shall be the rate that, according to the United States Schedule to Annex 302.2 of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the initiation of the import relief action under section 3352 of this title; and

(2) the tariff treatment for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the rate of duty conforming to the applicable rate set out in the United States Schedule to Annex 302.2; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the United States Schedule to Annex 302.2 for the elimination of the tariff.

(Pub. L. 103-182, title III, §304, Dec. 8, 1993, 107 Stat. 2102.)

NORTH AMERICAN FREE TRADE AGREEMENT: ENTRY INTO FORCE

The North American Free Trade Agreement entered into force on Jan. 1, 1994, see note set out under section 3311 of this title.

§ 3355. Termination of relief authority

(a) General rule

Except as provided in subsection (b) of this section, no import relief may be provided under this subpart—

(1) in the case of a Canadian article, after December 31, 1998; or

(2) in the case of a Mexican article, after the date that is 10 years after the date on which the Agreement enters into force;

unless the article against which the action is taken is an item for which the transition period for tariff elimination set out in the United States Schedule to Annex 302.2 of the Agreement is greater than 10 years, in which case the period during which relief may be granted shall be the period of staged tariff elimination for that article.