

AMENDMENTS

1996—Subsec. (c)(1), (2). Pub. L. 104-295 substituted “column 1 general” for “column 1-General”.

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.

SUBPART 2—RELIEF FROM IMPORTS FROM ALL COUNTRIES

§ 3371. NAFTA article impact in import relief cases under Trade Act of 1974

(a) In general

If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the International Trade Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 1330(d) of this title), the International Trade Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether—

(1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and

(2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.

(b) Factors

(1) Substantial import share

In determining whether imports from a NAFTA country, considered individually, account for a substantial share of total imports, such imports normally shall not be considered to account for a substantial share of total imports if that country is not among the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period.

(2) Application of “contribute importantly” standard

In determining whether imports from a NAFTA country or countries contribute importantly to the serious injury, or threat thereof, the International Trade Commission shall consider such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports of such country or countries. In applying the preceding sentence, imports from a NAFTA country or countries normally shall not be considered to contribute importantly to serious injury, or the threat thereof, if the growth rate of imports from such country or countries during the period in which an injurious increase in imports occurred is ap-

preciably lower than the growth rate of total imports from all sources over the same period.

(c) “Contribute importantly” defined

For purposes of this section and section 3372(a) of this title, the term “contribute importantly” refers to an important cause, but not necessarily the most important cause.

(Pub. L. 103-182, title III, §311, Dec. 8, 1993, 107 Stat. 2106.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (a), 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.

§ 3372. Presidential action regarding NAFTA imports

(a) In general

In determining whether to take action under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.] with respect to imports from a NAFTA country, the President shall determine whether—

(1) imports from such country, considered individually, account for a substantial share of total imports; or

(2) imports from a NAFTA country, considered individually, or in exceptional circumstances imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, found by the International Trade Commission.

(b) Exclusion of NAFTA imports

In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the President shall exclude from such action imports from a NAFTA country if the President makes a negative determination under subsection (a)(1) or (2) of this section with respect to imports from such country.

(c) Action after exclusion of NAFTA country imports

(1) In general

If the President, under subsection (b) of this section, excludes imports from a NAFTA country or countries from action under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.] but thereafter determines that a surge in imports from that country or countries is undermining the effectiveness of the action—

(A) the President may take appropriate action under such chapter 1 to include those imports in the action; and

(B) any entity that is representative of an industry for which such action is being taken may request the International Trade Commission to conduct an investigation of the surge in such imports.

(2) Investigation

Upon receiving a request under paragraph (1)(B), the International Trade Commission shall conduct an investigation to determine whether a surge in such imports undermines the effectiveness of the action. The Inter-