

## 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-

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)<sup>1</sup> 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)<sup>1</sup> of title 7.

**(B) Omitted**

**(2) Consultations on imports**

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

<sup>1</sup> See References in Text note below.