

calendar year in which such entering into force occurs—

(1) by substituting “the date that is 30 days after the date on which the Agreement enters into force with respect to the United States” for “January 3 of each calendar year” in subsections (c)(2)(B)(i) and (c)(3)(B)(i) of this section; and

(2) by substituting “the date that is 3 months after the date on which the Agreement enters into force with respect to the United States” for “March 31 of each calendar year” in subsection (c)(4)(A) of this section.

(f) Immunity

With the exception of acts described in section 777(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1677f(f)(3)), individuals serving on panels or committees convened pursuant to chapter 19, and individuals designated to assist the individuals serving on such panels or committees, shall be immune from suit and legal process relating to acts performed by such individuals in their official capacity and within the scope of their functions as such panelists or committee members or assistants to such panelists or committee members.

(g) Regulations

The administering authority under title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.], the International Trade Commission, and the Trade Representative may promulgate such regulations as are necessary or appropriate to carry out actions in order to implement their respective responsibilities under chapter 19. Initial regulations to carry out such functions shall be issued before the date on which the Agreement enters into force with respect to the United States.

(h) Report to Congress

At such time as the final candidate lists are submitted under subsection (c)(4)(A) of this section and the final forms of amendments are submitted under subsection (c)(4)(C)(iv) of this section, the Trade Representative shall submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives, and to the Committee on Finance and the Committee on the Judiciary of the Senate, a report regarding the efforts made to secure the participation of judges and former judges on binational panels, extraordinary challenge committees, and special committees established under chapter 19.

(Pub. L. 103–182, title IV, § 402, Dec. 8, 1993, 107 Stat. 2129; Pub. L. 104–295, § 21(c)(1), Oct. 11, 1996, 110 Stat. 3530.)

REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsec. (g), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended. Title VII of the Act is classified generally to subtitle IV (§1671 et seq.) of chapter 4 of this title. For complete classification of this Act to the Code, see section 1654 of this title and Tables.

AMENDMENTS

1996—Subsec. (d)(3). Pub. L. 104–295 substituted “subsection (c)(4) of this section” for “(c)(4)” in introductory provisions.

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.

§ 3433. Testimony and production of papers in extraordinary challenges

(a) Authority of extraordinary challenge committee to obtain information

If an extraordinary challenge committee (hereafter in this section referred to as the “committee”) is convened under paragraph 13 of article 1904, and the allegations before the committee include a matter referred to in paragraph 13(a)(i) of article 1904, for the purposes of carrying out its functions and duties under Annex 1904.13, the committee—

(1) shall have access to, and the right to copy, any document, paper, or record pertinent to the subject matter under consideration, in the possession of any individual, partnership, corporation, association, organization, or other entity;

(2) may summon witnesses, take testimony, and administer oaths;

(3) may require any individual, partnership, corporation, association, organization, or other entity to produce documents, books, or records relating to the matter in question; and

(4) may require any individual, partnership, corporation, association, organization, or other entity to furnish in writing, in such detail and in such form as the committee may prescribe, information in its possession pertaining to the matter.

Any member of the committee may sign subpoenas, and members of the committee, when authorized by the committee, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) Witnesses and evidence

The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subsection (a) of this section may be required from any place in the United States at any designated place of hearing. In the case of disobedience to a subpoena authorized under subsection (a) of this section, the committee may request the Attorney General of the United States to invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization, or other entity, issue an order requiring such individual or entity to appear before the committee, or to produce documentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Mandamus

Any court referred to in subsection (b) of this section shall have jurisdiction to issue writs of

mandamus commanding compliance with the provisions of this section or any order of the committee made in pursuance thereof.

(d) Depositions

The committee may order testimony to be taken by deposition at any stage of the committee review. Such deposition may be taken before any person designated by the committee and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization, or other entity may be compelled to appear and be deposed and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the committee, as provided in this section.

(Pub. L. 103-182, title IV, §403, Dec. 8, 1993, 107 Stat. 2136.)

§ 3434. Requests for review of determinations by competent investigating authorities of NAFTA countries

(a) Definitions

As used in this section:

(1) Competent investigating authority

The term “competent investigating authority” means the competent investigating authority, as defined in article 1911, of a NAFTA country.

(2) United States Secretary

The term “United States Secretary” means that officer of the United States referred to in article 1908.

(b) Requests for review by United States

In the case of a final determination of a competent investigating authority, requests by the United States for binational panel review of such determination under article 1904 shall be made by the United States Secretary.

(c) Requests for review by person

In the case of a final determination of a competent investigating authority, a person, within the meaning of paragraph 5 of article 1904, may request a binational panel review of such determination by filing such a request with the United States Secretary within the time limit provided for in paragraph 4 of article 1904. The receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904. The request for such panel review shall be without prejudice to any challenge before a binational panel of the basis for a particular request for review.

(d) Service of request for review

Whenever binational panel review of a final determination made by a competent investigating authority is requested under this section, the United States Secretary shall serve a copy of the request on all persons who would otherwise be entitled under the law of the importing country to commence proceedings for judicial review of the determination.

(Pub. L. 103-182, title IV, §404, Dec. 8, 1993, 107 Stat. 2137.)

§ 3435. Rules of procedure for panels and committees

(a) Rules of procedure for binational panels

The administering authority shall prescribe rules, negotiated in accordance with paragraph 14 of article 1904, governing, with respect to binational panel reviews—

- (1) requests for such reviews, complaints, other pleadings, and other papers;
- (2) the amendment, filing, and service of such pleadings and papers;
- (3) the joinder, suspension, and termination of such reviews; and
- (4) other appropriate procedural matters.

(b) Rules of procedure for extraordinary challenge committees

The administering authority shall prescribe rules, negotiated in accordance with paragraph 2 of Annex 1904.13, governing the procedures for reviews by extraordinary challenge committees.

(c) Rules of procedure for safeguarding panel review system

The administering authority shall prescribe rules, negotiated in accordance with Annex 1905.6, governing the procedures for special committees described in such Annex.

(d) Publication of rules

The rules prescribed under subsections (a), (b), and (c) of this section shall be published in the Federal Register.

(e) Administering authority

As used in this section, the term “administering authority” has the meaning given such term in section 1677(1) of this title.

(Pub. L. 103-182, title IV, §405, Dec. 8, 1993, 107 Stat. 2137.)

§ 3436. Subsidy negotiations

In the case of any trade agreement which may be entered into by the President with a NAFTA country, the negotiating objectives of the United States with respect to subsidies shall include—

- (1) achievement of increased discipline on domestic subsidies provided by a foreign government, including—
 - (A) the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations;
 - (B) the provision of goods or services at preferential rates;
 - (C) the granting of funds or forgiveness of debt to cover operating losses sustained by a specific industry; and
 - (D) the assumption of any costs or expenses of manufacture, production, or distribution;
- (2) achievement of increased discipline on export subsidies provided by a foreign government, particularly with respect to agricultural products; and
- (3) maintenance of effective remedies against subsidized imports, including, where appropriate, countervailing duties.