

(i) if—

(I) in the case of an investigation initiated under section 2412(a) of this title, the petitioner requests a delay, or

(II) in the case of an investigation initiated under section 2412(b)(1) of this title or to which section 2414(a)(3)(B) of this title applies, a delay is requested by a majority of the representatives of the domestic industry that would benefit from the action, or

(ii) if the Trade Representative determines that substantial progress is being made, or that a delay is necessary or desirable, to obtain United States rights or a satisfactory solution with respect to the acts, policies, or practices that are the subject of the action.

(B) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 2411 of this title with respect to any investigation to which section 2414(a)(3)(A)(ii) of this title applies.

(C) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 2411 of this title with respect to any investigation to which section 2414(a)(3)(B) of this title applies by more than 90 days.

(b) Alternative actions in certain cases of export targeting

(1) If the Trade Representative makes an affirmative determination under section 2414(a)(1)(A) of this title involving export targeting by a foreign country and determines to take no action under section 2411 of this title with respect to such affirmation determination, the Trade Representative—

(A) shall establish an advisory panel to recommend measures which will promote the competitiveness of the domestic industry affected by the export targeting,

(B) on the basis of the report of such panel submitted under paragraph (2)(B) and subject to the specific direction, if any, of the President, may take any administrative actions authorized under any other provision of law, and, if necessary, propose legislation to implement any other actions, that would restore or improve the international competitiveness of the domestic industry affected by the export targeting, and

(C) shall, by no later than the date that is 30 days after the date on which the report of such panel is submitted under paragraph (2)(B), submit a report to the Congress on the administrative actions taken, and legislative proposals made, under subparagraph (B) with respect to the domestic industry affected by the export targeting.

(2)(A) The advisory panels established under paragraph (1)(A) shall consist of individuals appointed by the Trade Representative who—

(i) earn their livelihood in the private sector of the economy, including individuals who represent management and labor in the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 2414(a)(1)(A) of this title, and

(ii) by education or experience, are qualified to serve on the advisory panel.

(B) By no later than the date that is 6 months after the date on which an advisory panel is established under paragraph (1)(A), the advisory panel shall submit to the Trade Representative and to the Congress a report on measures that the advisory panel recommends be taken by the United States to promote the competitiveness of the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 2414(a)(1)(A) of this title.

(Pub. L. 93-618, title III, §305, as added Pub. L. 96-39, title IX, §901, July 26, 1979, 93 Stat. 299; amended Pub. L. 98-573, title III, §304(g), Oct. 30, 1984, 98 Stat. 3006; Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1172; Pub. L. 108-429, title II, §2201(c), Dec. 3, 2004, 118 Stat. 2599.)

AMENDMENTS

2004—Subsec. (a)(2)(B). Pub. L. 108-429 substituted “section 2414(a)(3)(A)(ii)” for “section 2414(a)(3)(A)”.

1988—Pub. L. 100-418 amended section generally, substituting provisions relating to implementation of actions for provisions relating to requests for information. See section 2418 of this title.

1984—Subsec. (c). Pub. L. 98-573 added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no decision had been made under section 2414 of this title regarding the petition or investigation, see section 1301(c) of Pub. L. 100-418, set out as a note under section 2411 of this title.

§ 2416. Monitoring of foreign compliance

(a) In general

The Trade Representative shall monitor the implementation of each measure undertaken, or agreement that is entered into, by a foreign country to provide a satisfactory resolution of a matter subject to investigation under this subchapter or subject to dispute settlement proceedings to enforce the rights of the United States under a trade agreement providing for such proceedings.

(b) Action on the basis of monitoring

(1) In general

If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 2411(a) of this title. For purposes of section 2411 of this title, any such determination shall be treated as a determination made under section 2414(a)(1) of this title.

(2) WTO dispute settlement recommendations

(A) Failure to implement recommendation

If the measure or agreement referred to in subsection (a) concerns the implementation of a recommendation made pursuant to dis-

pute settlement proceedings under the World Trade Organization, and the Trade Representative considers that the foreign country has failed to implement it, the Trade Representative shall make the determination in paragraph (1) no later than 30 days after the expiration of the reasonable period of time provided for such implementation under paragraph 21 of the Understanding on Rules and Procedures Governing the Settlement of Disputes that is referred to in section 3511(d)(16) of this title.

(B) Revision of retaliation list and action

(i) In general

Except as provided in clause (ii), in the event that the United States initiates a retaliation list or takes any other action described in section 2411(c)(1)(A) or (B) of this title against the goods of a foreign country or countries because of the failure of such country or countries to implement the recommendation made pursuant to a dispute settlement proceeding under the World Trade Organization, the Trade Representative shall periodically revise the list or action to affect other goods of the country or countries that have failed to implement the recommendation.

(ii) Exception

The Trade Representative is not required to revise the retaliation list or the action described in clause (i) with respect to a country, if—

(I) the Trade Representative determines that implementation of a recommendation made pursuant to a dispute settlement proceeding described in clause (i) by the country is imminent; or

(II) the Trade Representative together with the petitioner involved in the initial investigation under this subchapter (or if no petition was filed, the affected United States industry) agree that it is unnecessary to revise the retaliation list.

(C) Schedule for revising list or action

The Trade Representative shall, 120 days after the date the retaliation list or other section 2411(a) action is first taken, and every 180 days thereafter, review the list or action taken and revise, in whole or in part, the list or action to affect other goods of the subject country or countries.

(D) Standards for revising list or action

In revising any list or action against a country or countries under this subsection, the Trade Representative shall act in a manner that is most likely to result in the country or countries implementing the recommendations adopted in the dispute settlement proceeding or in achieving a mutually satisfactory solution to the issue that gave rise to the dispute settlement proceeding. The Trade Representative shall consult with the petitioner, if any, involved in the initial investigation under this subchapter.

(E) Retaliation list

The term “retaliation list” means the list of products of a foreign country or countries

that have failed to comply with the report of the panel or Appellate Body of the WTO and with respect to which the Trade Representative is imposing duties above the level that would otherwise be imposed under the Harmonized Tariff Schedule of the United States.

(F) Requirement to include reciprocal goods on retaliation list

The Trade Representative shall include on the retaliation list, and on any revised lists, reciprocal goods of the industries affected by the failure of the foreign country or countries to implement the recommendation made pursuant to a dispute settlement proceeding under the World Trade Organization, except in cases where existing retaliation and its corresponding preliminary retaliation list do not already meet this requirement.

(c) Exercise of WTO authorization to suspend concessions or other obligations

If—

(1) action has terminated pursuant to section 2417(c) of this title,

(2) the petitioner or any representative of the domestic industry that would benefit from reinstatement of action has submitted to the Trade Representative a written request for reinstatement of action, and

(3) the Trade Representatives¹ has completed the requirements of subsection (d) and section 2417(c)(3) of this title,

the Trade Representative may at any time determine to take action under section 2411(c) of this title to exercise an authorization to suspend concessions or other obligations under Article 22 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (referred to in section 3511(d)(16) of this title).

(d) Consultations

Before making any determination under subsection (b) or (c), the Trade Representative shall—

(1) consult with the petitioner, if any, involved in the initial investigation under this subchapter and with representatives of the domestic industry concerned; and

(2) provide an opportunity for the presentation of views by interested persons.

(Pub. L. 93-618, title III, §306, as added Pub. L. 96-39, title IX, §901, July 26, 1979, 93 Stat. 299; amended Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1173; Pub. L. 103-465, title III, §314(e), Dec. 8, 1994, 108 Stat. 4941; Pub. L. 104-295, §20(c)(1), Oct. 11, 1996, 110 Stat. 3528; Pub. L. 106-200, title IV, §407, May 18, 2000, 114 Stat. 293; Pub. L. 114-125, title VI, §602(a), (b)(2), (3), Feb. 24, 2016, 130 Stat. 184.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(2)(E), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

¹ So in original. Probably should be “Representative”.

AMENDMENTS

2016—Subsec. (b). Pub. L. 114-125, §602(b)(2), substituted “Action on the basis of monitoring” for “Further action” in heading.

Subsec. (c). Pub. L. 114-125, §602(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 114-125, §602(a)(1), (b)(3), redesignated subsec. (c) as (d) and inserted “or (c)” after “subsection (b)” in introductory provisions.

2000—Subsec. (b)(2). Pub. L. 106-200 designated existing provisions as subpar. (A), inserted heading, and added subpars. (B) to (F).

1996—Subsec. (b)(1). Pub. L. 104-295 made technical amendment to Pub. L. 103-465. See 1994 Amendment note below.

1994—Subsecs. (a), (b). Pub. L. 103-465, as amended by Pub. L. 104-295, amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) read as follows:

“(a) IN GENERAL.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement of a kind described in clause (i), (ii), or (iii) of section 2411(a)(2)(B) of this title that is entered into under subsection (a) or (b) of section 2411 of this title, by a foreign country—

“(1) to enforce the rights of the United States under any trade agreement, or

“(2) to eliminate any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 2411 of this title.

“(b) FURTHER ACTION.—If, on the basis of the monitoring carried out under subsection (a) of this section, the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a) of this section, the Trade Representative shall determine what further action the Trade Representative shall take under section 2411(a) of this title. For purposes of section 2411 of this title, any such determination shall be treated as a determination made under section 2414(a)(1) of this title.”

1988—Pub. L. 100-418 amended section generally, substituting provisions relating to monitoring of foreign compliance for provisions relating to administration. See section 2419 of this title.

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 316(a) of Pub. L. 103-465, set out as an Effective Date note under section 3581 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to petitions filed, and investigations initiated, under section 2412 of this title on or after Aug. 23, 1988, and petitions filed, and investigations initiated, before Aug. 23, 1988, if by such date no decision had been made under section 2414 of this title regarding the petition or investigation, see section 1301(c) of Pub. L. 100-418, set out as a note under section 2411 of this title.

§ 2417. Modification and termination of actions**(a) In general**

(1) The Trade Representative may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 2411 of this title if—

(A) any of the conditions described in section 2411(a)(2) of this title exist,

(B) the burden or restriction on United States commerce of the denial rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased, or

(C) such action is being taken under section 2411(b) of this title and is no longer appropriate.

(2) Before taking any action under paragraph (1) to modify or terminate any action taken under section 2411 of this title, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

(b) Notice; report to Congress

The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 2411 of this title and the reasons therefor.

(c) Review of necessity

(1) If—

(A) a particular action has been taken under section 2411 of this title during any 4-year period, and

(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 2411 of this title, or if a request is submitted to the Trade Representative under section 2416(c)(2) of this title to reinstate action, the Trade Representative shall conduct a review of—

(A) the effectiveness in achieving the objectives of section 2411 of this title of—

(i) such action, and

(ii) other actions that could be taken (including actions against other products or services), and

(B) the effects of such actions on the United States economy, including consumers.

(Pub. L. 93-618, title III, §307, as added Pub. L. 100-418, title I, §1301(a), Aug. 23, 1988, 102 Stat. 1174; amended Pub. L. 114-125, title VI, §602(b)(4), Feb. 24, 2016, 130 Stat. 184.)

AMENDMENTS

2016—Subsec. (c)(3). Pub. L. 114-125 inserted “or if a request is submitted to the Trade Representative under section 2416(c)(2) of this title to reinstate action,” after “under section 2411 of this title,” in introductory provisions.

EFFECTIVE DATE

Section applicable to petitions filed, and investigations initiated, under section 2412 of this title on or