

rights to export and operate overseas, thereby harming the economic interests of the United States.

“(2) The purpose of this section [enacting this section and this note] is to provide for the development of an overall strategy to ensure adequate and effective protection of intellectual property rights and fair and equitable market access for United States persons that rely on protection of intellectual property rights.”

## SUBCHAPTER II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

### PART 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

#### § 2251. Action to facilitate positive adjustment to import competition

##### (a) Presidential action

If the United States International Trade Commission (hereinafter referred to in this part as the “Commission”) determines under section 2252(b) of this title that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President, in accordance with this part, shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

##### (b) Positive adjustment to import competition

(1) For purposes of this part, a positive adjustment to import competition occurs when—

(A) the domestic industry—

(i) is able to compete successfully with imports after actions taken under section 2254 of this title terminate, or

(ii) the domestic industry experiences an orderly transfer of resources to other productive pursuits; and

(B) dislocated workers in the industry experience an orderly transition to productive pursuits.

(2) The domestic industry may be considered to have made a positive adjustment to import competition even though the industry is not of the same size and composition as the industry at the time the investigation was initiated under section 2252(b) of this title.

(Pub. L. 93-618, title II, § 201, Jan. 3, 1975, 88 Stat. 2011; Pub. L. 96-39, title I, § 106(b)(3), July 26, 1979, 93 Stat. 193; Pub. L. 98-573, title II, § 249, Oct. 30, 1984, 98 Stat. 2998; Pub. L. 100-418, title I, § 1401(a), Aug. 23, 1988, 102 Stat. 1225.)

#### Editorial Notes

##### AMENDMENTS

1988—Pub. L. 100-418, in amending section generally, substituted provisions relating to action to facilitate positive adjustment to import competition for provisions relating to investigation by International Trade Commission. See section 2252 of this title.

1984—Subsec. (b)(2)(B). Pub. L. 98-573, § 249(1)(A), substituted “inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and” for “inventory, and”.

Subsec. (b)(2)(D). Pub. L. 98-573, § 249(1)(B)–(D), added subpar. (D).

Subsec. (b)(7). Pub. L. 98-573, § 249(2), added par. (7).

1979—Subsec. (b)(6). Pub. L. 96-39 substituted “subtitles A and B of title VII or section 337 of the Tariff Act of 1930” for “the Antidumping Act, 1921, section 303 or 337 of the Tariff Act of 1930”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-418, title I, § 1401(c), Aug. 23, 1988, 102 Stat. 1241, provided that: “The amendments made by subsections (a) and (b) [enacting section 2254 of this title and amending sections 1330, 2133, 2251 to 2253, 2274, 2354, and 2703 of this title and provisions set out as a note under section 2112 of this title] shall take effect on the date of the enactment of this Act [Aug. 23, 1988] and shall apply with respect to investigations initiated under chapter 1 of title II of the Trade Act of 1974 [this part] on or after that date. Any petition filed under section 201 of such chapter [19 U.S.C. 2251] before such date of enactment, and with respect to which the United States International Trade Commission did not make a finding before such date with respect to serious injury or the threat thereof, may be withdrawn and refiled, without prejudice, by the petitioner under section 202(a) of such chapter [19 U.S.C. 2252(a)] (as amended by this section).”

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

##### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 107 of Pub. L. 96-39, set out as an Effective Date note under section 1671 of this title.

##### STUDY ON TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Pub. L. 107-210, div. A, title I, § 143, Aug. 6, 2002, 116 Stat. 953, required Secretary of Commerce, not later than 1 year after Aug. 6, 2002, to conduct a study and report to Congress on appropriateness and feasibility of a trade adjustment assistance program for fishermen.

##### TERM “INDUSTRY” TO INCLUDE PRODUCERS LOCATED IN UNITED STATES INSULAR POSSESSIONS

Pub. L. 98-67, title II, § 214(f), Aug. 5, 1983, 97 Stat. 393, provided that: “For purposes of chapter 1 of title II of the Trade Act of 1974 [this part], the term ‘industry’ shall include producers located in the United States insular possessions.”

#### Executive Documents

##### EX. ORD. NO. 11913. COLLECTION OF INFORMATION FOR IMPORT RELIEF AND ADJUSTMENT ASSISTANCE

Ex. Ord. No. 11913, Apr. 26, 1976, 41 F.R. 17721, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)), and as President of the United States of America, in order to reduce the reporting burden with respect to the collection of information pursuant to Title II of the Trade Act of 1974 (88 Stat. 2011, 19 U.S.C. 2251 et seq.) and consistent with Chapter 35 of Title 44 of the United States Code, it is hereby ordered as follows:

SECTION 1. Whenever the United States International Trade Commission, in connection with investigations pursuant to Section 201 of the Trade Act of 1974 (19 U.S.C. 2251), collects factual data from firms on their sales, production, employment, and financial experience, the Commission shall provide such information to the Secretaries of Commerce and Labor.

SEC. 2. The Secretaries of Commerce and Labor shall ensure that the factual data, received pursuant to Section 1, are used solely for the performance of their functions pursuant to Sections 264 and 224, respectively, of the Trade Act of 1974 (19 U.S.C. 2354 and 2274).

GERALD R. FORD.

**§ 2252. Investigations, determinations, and recommendations by Commission**

**(a) Petitions and adjustment plans**

(1) A petition requesting action under this part for the purpose of facilitating positive adjustment to import competition may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

(2) A petition under paragraph (1)—

(A) shall include a statement describing the specific purposes for which action is being sought, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition; and

(B) may—

(i) subject to subsection (d)(1)(C)(i), request provisional relief under subsection (d)(1); or

(ii) request provisional relief under subsection (d)(2).

(3) Whenever a petition is filed under paragraph (1), the Commission shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

(4) A petitioner under paragraph (1) may submit to the Commission and the United States Trade Representative (hereafter in this part referred to as the “Trade Representative”), either with the petition, or at any time within 120 days after the date of filing of the petition, a plan to facilitate positive adjustment to import competition.

(5)(A) Before submitting an adjustment plan under paragraph (4), the petitioner and other entities referred to in paragraph (1) that wish to participate may consult with the Trade Representative and the officers and employees of any Federal agency that is considered appropriate by the Trade Representative, for purposes of evaluating the adequacy of the proposals being considered for inclusion in the plan in relation to specific actions that may be taken under this part.

(B) A request for any consultation under subparagraph (A) must be made to the Trade Representative. Upon receiving such a request, the Trade Representative shall confer with the petitioner and provide such assistance, including publication of appropriate notice in the Federal Register, as may be practicable in obtaining other participants in the consultation. No consultation may occur under subparagraph (A) unless the Trade Representative, or his delegate, is in attendance.

(6)(A) In the course of any investigation under subsection (b) of this section, the Commission shall seek information (on a confidential basis, to the extent appropriate) on actions being

taken, or planned to be taken, or both, by firms and workers in the industry to make a positive adjustment to import competition.

(B) Regardless whether an adjustment plan is submitted under paragraph (4) by the petitioner, if the Commission makes an affirmative determination under subsection (b), any—

(i) firm in the domestic industry;

(ii) certified or recognized union or group of workers in the domestic industry;

(iii) State or local community;

(iv) trade association representing the domestic industry; or

(v) any other person or group of persons,

may, individually, submit to the Commission commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition.

(7) Nothing in paragraphs (5) and (6) may be construed to provide immunity under the antitrust laws.

(8) The procedures concerning the release of confidential business information set forth in section 332(g) of the Tariff Act of 1930 [19 U.S.C. 1332(g)] shall apply with respect to information received by the Commission in the course of investigations conducted under this part, part 1 of title III of the North American Free Trade Agreement Implementation Act, title II of the United States-Jordan Free Trade Area Implementation Act, title III of the United States-Chile Free Trade Agreement Implementation Act, title III of the United States-Singapore Free Trade Agreement Implementation Act, title III of the United States-Australia Free Trade Agreement Implementation Act, title III of the United States-Morocco Free Trade Agreement Implementation Act, title III of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act [19 U.S.C. 4051 et seq.], title III of the United States-Bahrain Free Trade Agreement Implementation Act, title III of the United States-Oman Free Trade Agreement Implementation Act, title III of the United States-Peru Trade Promotion Agreement Implementation Act, title III of the United States-Korea Free Trade Agreement Implementation Act, title III of the United States-Colombia Trade Promotion Agreement Implementation Act,<sup>1</sup> title III of the United States-Panama Trade Promotion Agreement Implementation Act, and subtitle C of title III of the United States-Mexico-Canada Agreement Implementation Act [19 U.S.C. 4571 et seq.]. The Commission may request that parties providing confidential business information furnish nonconfidential summaries thereof or, if such parties indicate that the information in the submission cannot be summarized, the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.

<sup>1</sup> So in original.