

SUMMARY OF STATUTORY PROVISIONS RELATED TO IMPORT RELIEF

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Foreword

This brief summary of the various U.S. statutory provisions related to import relief has been prepared to provide the public with a concise reference source on the availability and types of import relief, the characteristics of the various types of import-related investigations, and the points of contact for instituting investigations or obtaining further information.

It should be noted that the material contained herein is intended only as an introductory guide and in all instances where the exact provisions of law are required, the referenced statutes should be consulted directly.

Copies of the U.S. International Trade Commission's Rules of Practice and Procedure, which set forth the procedures for the filing and conduct of Commission investigations, are available from the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436 (phone 202/523-0161).

Countervailing Duty Investigations

There are currently two separate provisions of law relating to countervailing duties--(1) subtitle A of title VII of the Tariff Act of 1930, as added by the Trade Agreements Act of 1979 (19 U.S.C. 1671), and (2) section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), as amended by the Trade Agreements Act of 1979. The provisions of subtitle A of title VII apply to imports from countries which have assumed the obligations (or substantially equivalent obligations) of the Multilateral Trade Negotiations agreement on subsidies and countervailing measures. 1/ Section 303 provisions apply to imports from all other countries.

Title VII, subtitle A ("Imposition of Countervailing Duties")

Under title VII, countervailing duties are imposed when the Department of Commerce determines that a country under the agreement on subsidies and countervailing measures or person or organization of that country is providing a subsidy with respect to a class or kind of merchandise imported into the United States, and the U.S. International Trade Commission determines that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise. 2/ Material injury is defined to be harm which is not inconsequential, immaterial, or unimportant.

Procedures.--Countervailing duty investigations can be initiated by the Department of Commerce or by petition. Within 20 days after a petition is filed, Commerce determines whether the petition alleges the elements necessary for relief (material injury to a domestic industry by reason of subsidized imports) and includes information reasonably available to the petitioner supporting the allegations. If the determination is affirmative, Commerce begins an investigation to determine whether subsidization exists. If the determination is negative, the proceedings end.

Within 45 days after a petition is filed or an investigation is initiated by Commerce, the Commission determines whether there is a reasonable indication that injury to a domestic industry exists by reason of subsidized imports. If the determination is negative, the proceedings end.

1/ The term "agreement on subsidies and countervailing measures" means the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), approved under sec. 2(a) of the Trade Agreements Act of 1979.

2/ "Countries under the agreement" include (1) countries which have signed the agreement; (2) those which have assumed the obligations of the agreement, but cannot sign because they have no diplomatic relations with the United States; and (3) those with which the United States has an unconditional most-favored-nation-agreement obligation that runs specifically to countervailing duties.

If the Commission's determination is affirmative, within 85 days after a petition is filed or an investigation is initiated, Commerce makes a preliminary determination, based on the best evidence available at the time, of whether there is a reasonable basis to believe or suspect that a subsidy exists. In extraordinarily complicated cases, this determination is made within 150 days.

If the preliminary determination is affirmative, Commerce (a) requires bonds or cash deposits to be posted for allegedly subsidized imports in an amount equal to the estimated net subsidy, and (b) continues its investigation. The Commission initiates an investigation to determine whether injury exists. If Commerce's preliminary determination is negative, the investigation simply continues.

Within 75 days after its preliminary determination, Commerce makes a final determination of whether a subsidy exists. If this determination is negative, the proceedings end.

If Commerce's final determination is affirmative (following an affirmative preliminary determination), the Commission makes a final determination of whether a domestic industry is being materially injured by reason of subsidized imports before the later of (1) the 120th day after Commerce makes its affirmative preliminary determination, or (2) the 45th day after Commerce makes its affirmative final determination. In a case where Commerce's preliminary determination is negative, the Commission's final determination on material injury is made within 75 days after Commerce's affirmative final determination on subsidy.

If the final determination of the Commission is affirmative, a countervailing duty order requiring imposition of countervailing duties is issued within 7 days of notification of the Commission's determination.

Suspension of investigations.--An investigation can be suspended prior to a final determination by Commerce on the issue of subsidization if (1) the government of the subsidizing country, or exporters accounting for substantially all of the imports of the merchandise under investigation, agree to eliminate the subsidy, to completely offset the net subsidy, or to cease exports of the merchandise to the United States, within 6 months after suspension of the investigation; or (2) extraordinary circumstances are present and the government or exporters described above agree to take action which will completely eliminate the injurious effect of the imports of the merchandise under investigation. However, if within 20 days of the date of publication of the notice of suspension, any party or a country involved in the countervailing duty investigation requests continuation, the suspended countervailing duty investigation must be continued.

The Commission, upon receipt of a review petition, shall determine whether the injurious effect of imports is eliminated completely by the agreement. If the Commission determines that the injurious effect is not eliminated, then the investigation must be resumed. If Commerce determines that an agreement which resulted in suspension of an investigation is being

violated, then the investigation is resumed or a countervailing duty order is issued. A countervailing duty order would be issued if an interested party had previously requested continuation of the suspended investigation, and the Commission and Commerce subsequently made affirmative final determinations.

Section 303 ("Countervailing Duties")

Section 303 of the Tariff Act of 1930 concerns the imposition of countervailing duties on imported merchandise manufactured in countries which are not under the General Agreement on Tariffs and Trade (GATT) agreement on subsidies and countervailing measures. If the Secretary of Commerce determines that a bounty or grant is being bestowed in such countries, a countervailing duty can be levied on dutiable articles without a Commission investigation and determination of material injury. In the case of an article which is free of duty, countervailing duties may be imposed under section 303 only if there is an affirmative determination by the Commission under the procedures, standards, and injury tests now applicable under title VII as described above. 1/

Additional information

Parts 201 and 207 of the Commission's Rules of Practice and Procedure (19 CFR Parts 201 and 207) set forth procedures for the conduct of Commission investigations concerning countervailing duties.

- For further information contact: 1) Office of Policy
Office of the Assistant Secretary
for Trade Administration
U.S. Department of Commerce
Washington, D.C. 20230
Phone: 202/377-4412
- 2) Secretary
U.S. International Trade Commission
701 E Street NW.
Washington, D.C. 20436
Phone: 202/523-0161

1/ Commission investigations on duty-free articles under sec. 303 are conducted only if required by international obligations of the United States, e.g., if the country concerned is a signatory of the GATT.

Antidumping Investigations

Subtitle B of title VII of the Tariff Act of 1930, as added by the Trade Agreements Act of 1979 (19 U.S.C. 1673), provides that antidumping duties will be imposed when the Department of Commerce determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States at less than fair value and the U.S. International Trade Commission determines that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise.

Procedures

Antidumping investigations can be initiated by Commerce or by petition. Within 20 days after a petition is filed, Commerce determines whether the petition alleges the elements necessary for relief (material injury to a domestic industry by reason of dumped imports) and includes information reasonably available to the petitioner supporting the allegation. If the determination is affirmative, Commerce initiates an investigation to determine whether dumping exists. If the determination is negative, the proceedings end.

Within 45 days after a petition is filed or an investigation is initiated by Commerce, the Commission determines whether there is a reasonable indication that injury to a domestic industry exists by reason of dumped imports. If the determination is negative, the proceedings end.

If the Commission's determination is affirmative, within 160 days after a petition is filed or an investigation is initiated, Commerce makes a preliminary determination, based on the best evidence available at the time, of whether there is a reasonable basis to believe or suspect that dumping exists. In extraordinarily complicated cases, this determination is made within 210 days.

If the preliminary determination is affirmative, Commerce (a) requires bonds or cash deposits to be posted for allegedly dumped imports in an amount equal to the estimated margin of dumping, and (b) continues its investigation. The Commission initiates an investigation to determine whether injury exists. If Commerce's preliminary determination is negative, the investigation simply continues.

Within 75 days (or 135 days upon request of exporters when the preliminary determination was affirmative or petitioners when the preliminary determination was negative) after its preliminary determination, Commerce makes a final determination of whether dumping exists. If this determination is negative, the proceedings end.

If Commerce's final determination is affirmative (following an affirmative preliminary determination), the Commission makes a final determination of whether a domestic industry is being materially injured by

reason of dumped imports before the later of (1) the 120th day after Commerce makes its affirmative preliminary determination, or (2) the 45th day after Commerce makes its affirmative final determination. In a case where Commerce's preliminary determination is negative, the Commission's final determination on material injury is made within 75 days after Commerce's final affirmative determination on dumping.

If the final determination of the Commission is affirmative, an antidumping duty order requiring imposition of antidumping duties is issued within 7 days of notification of the Commission's determination.

Suspension of investigations

An investigation can be suspended prior to a final determination by Commerce on the issue of dumping if (1) exporters accounting for substantially all of the imports of the merchandise under investigation agree to eliminate the dumping, or to cease exports of the merchandise to the United States within 6 months after suspension of the investigation; or (2) extraordinary circumstances are present and the exporters described above agree to revise prices so as to completely eliminate the injurious effect of the imports of the merchandise under investigation. However, if within 20 days of the date of publication of the notice of suspension, the exporters described above or any party involved in the investigation requests continuation, the suspended investigation must be continued.

The Commission, upon receipt of a review petition, shall determine whether the injurious effect of imports is eliminated completely by the agreement. If the Commission determines that the injurious effect is not eliminated, then the investigation must be resumed. If Commerce determines that an agreement which resulted in suspension of an investigation is being violated, then the investigation is resumed and an antidumping duty order is issued. An antidumping duty order would be issued if an interested party had previously requested continuation of the suspended investigation, and the Commission and Commerce subsequently made affirmative final determinations.

Additional information

Parts 201 and 207 of the Commission's Rules of Practice and Procedure (19 CFR Parts 201 and 207) set forth procedures for the conduct of Commission antidumping investigations.

For further information contact: 1) Office of Policy
Office of the Assistant Secretary
for Trade Administration
U.S. Department of Commerce
Washington, D.C. 20230
Phone: 202/377-4412

2) Secretary
U.S. International Trade Commission
701 E Street NW.
Washington, D.C. 20436
Phone: 202/523-0161

General Investigations of Trade and Tariff Matters

The Commission conducts investigations under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) for the purpose of providing trade information to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate. Investigations and reports under section 332 may be requested by the President, either of the said committees, or by either branch of the Congress. The Commission may also conduct such investigations on its own initiative. Generally, written submissions and participation in hearings by the public in the course of such investigations is sought. General rules concerning the submission of documents and participation in hearings are set forth in part 201 of the Commission's Rules of Practice and Procedure (19 CFR Part 201). There is no established procedure, as there is under other Commission investigative authorities, for the initiation of such investigations by public petition or other request.

Section 332 sets forth the Commission's basic authority to investigate--

- The administration and fiscal and industrial effects of the customs laws of this country;
- The relationship between the rates of duty on raw materials and finished or partly-finished products;
- The effects of ad valorem and specific duties and of compound (specific and ad valorem) duties;
- All questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law;
- The operation of the customs laws, including their relation to the Federal revenues and their effect upon the industries and labor of the country;
- The tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, and economic alliances;
- The effect of export bounties and preferential transportation rates;
- The volume of importations compared with domestic production and consumption; and
- Conditions, causes, and effects relating to competition of foreign industries with those of the United States.

This broad authority has served as the basis of numerous reports concerning international trade matters.

For further information contact: Secretary
 U.S. International Trade Commission
 701 E Street NW.
 Washington, D.C. 20436
 Phone: 202/523-0161

Investigations of Costs of Production

Section 336(a) of the Tariff Act of 1930 provides in part that (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) upon appropriate application of any interested party, the U.S. International Trade Commission shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article (19 U.S.C. 1336). 1/

Applications for an investigation may be filed by any firm, association of firms, or corporation engaged in the production of a domestic article, or by any duly authorized representative of the foregoing. Upon the receipt of an application properly filed, the Commission will make a preliminary inquiry for the purpose of determining whether there is good and sufficient reason for a full investigation. If such determination is in the affirmative, a full investigation is instituted. A public hearing is held in connection with each full investigation.

The Commission reports to the President the results of the investigation and its findings with respect to differences in the costs of production of the domestic articles and the like or similar foreign articles when produced in the principal competing country. The Commission specifies in its report the increase or decrease in the statutory rate of duty necessary to equalize the differences in costs of production (not to exceed 50 percent of the statutory rate).

The President may approve the rates of duty and changes in classification specified by the Commission, if in his judgment they are necessary to equalize differences in costs of production.

The Commission has conducted no investigations under section 336(a) of the Tariff Act of 1930 since 1962.

Parts 201 and 202 of the Commission's Rules of Practice and Procedure (19 CFR Parts 201 and 202) set forth procedures for the conduct of investigations under section 336(a).

For further information contact: Secretary
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1/ The provisions of sec. 336 of the Tariff Act may not be applied to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded under the Trade Agreements Act of 1934, the Trade Expansion Act of 1962, or the Trade Act of 1974.

Investigations of Alleged Unfair Practices in Import Trade

Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) declares unlawful unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is (1) to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or (2) to prevent the establishment of such an industry, or (3) to restrain or monopolize trade and commerce in the United States. The U.S. International Trade Commission is authorized to investigate allegations of such unfair practices and to make determinations as to the existence of such practices in violation of section 337.

Whenever, in the course of an investigation under section 337, the Commission has reason to believe that the matter before it is based solely on alleged acts and effects which are within the purview of the antidumping or countervailing duty provisions of law, then it must terminate or not institute, as appropriate, its investigation under section 337. If the investigation before the Commission is based in part on these provisions, and in part on other alleged facts, then it may institute or continue an investigation.

If a violation of section 337 is found, the Commission is required to direct that the foreign articles be excluded from entry into the United States, unless after considering the effect of certain public-interest factors it finds that they should not be excluded. In appropriate circumstances, the Commission may issue interim temporary orders if it determines that there is reason to believe that there is a violation of section 337. In the event of a temporary exclusion order, entry is to be permitted under bond. In lieu of issuing an exclusion or temporary exclusion order, the Commission may issue an appropriate cease and desist order to be served on the violating party or parties, unless after considering the effect of certain public-interest factors it finds that such orders should not be issued.

Any party found to have violated a Commission order could be subject to a civil penalty of up to the greater of \$10,000 per day or the domestic value of the articles entered or sold on such day in violation of the order.

Following determination of a violation of section 337 by the Commission, the President may, within 60 days after receiving notification of such determination, disapprove the Commission's determination, and the action in connection therewith has no force or effect. Parties adversely affected by a final Commission determination may appeal the determination to the U.S. Court of Customs and Patent Appeals.

All Commission investigations under section 337 are conducted on the record after publication of notice and with opportunity for a hearing in conformity with the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.). The Commission is required to conclude any such investigation and make its determination at the earliest practicable time, but not later than 1 year (18 months in more complicated cases) after the date of publication in the Federal Register of notice of such investigation. In the course of each such investigation, the Commission is required to consult with

and seek advice and information from the Department of Health, Education, and Welfare; the Department of Justice; the Federal Trade Commission; and other appropriate departments and agencies.

The majority of the section 337 complaints filed with the Commission have alleged importation of an article made in accord with the claims of a valid, unexpired U.S. patent as the unfair practice. Holders of U.S. process patents should note the protections afforded by section 337a of the Tariff Act (19 U.S.C. 1337a--not to be confused with sec. 337(a))--concerning process patents.

Parts 201, 210, 211 and 212 of the Commission's Rules of Practice and Procedure (19 CFR Parts 201, 210, 211 and 212) set forth procedures related to Commission investigations under section 337.

For further information contact: Secretary
U.S. International Trade Commission
701 E Street NW.
Washington, D.C. 20436
Phone: 202/523-0161

Investigations of Injury From Increased Imports

Industries

Under section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)), the Commission conducts investigations to determine whether 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. If the Commission makes an affirmative determination under section 201(b), it is required to (a) find the amount of the increase in, or imposition of, any duty or other import restriction which is necessary to prevent or remedy the injury, or (b) if it finds that adjustment assistance can effectively remedy the injury, recommend the provision of such assistance. A public hearing is required to be held in the course of all such investigations.

The Commission is required to conduct such investigations upon receiving a petition from an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry; at the request of the President or the United States Trade Representative; upon resolution of the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate; or upon its own motion. The Commission must report to the President the results of its investigation, including any findings and recommendations concerning relief, not later than 6 months after receiving the petition, request, or resolution or instituting the investigation on its own motion.

If the Commission makes an affirmative injury determination and recommends the provision of import relief (as opposed to adjustment assistance), the President must decide within 60 calendar days what, if any, relief is to be provided and so advise the Congress. The Commission may recommend only such relief as the President has authority to proclaim under section 203 of the Trade Act (i.e., higher tariffs, a tariff-rate quota system, quantitative restrictions, or some combination thereof ^{1/}). In determining what relief, if any, to provide, the President is required to take into account various factors, including the national economic interest. If the President takes action which is different from that recommended by the Commission, or if the President declines to take any action, Congress may, within 90 legislative days, pass a concurrent resolution, approved by a majority of those present and voting in each House, directing the President to proclaim the relief recommended by the Commission. Where the Commission recommends the provision of adjustment assistance as the form of relief, the President is to direct the Secretaries of Labor and Commerce to give expeditious consideration to petitions for such relief.

^{1/} The President may also negotiate orderly marketing agreements with the countries supplying the imports.

Relief is temporary and may be provided for up to 5 years, with the possibility of one extension of not more than 3 years. Tariffs may be increased to a level no more than 50 percent ad valorem above the presently existing rate (i.e., if the present rate is 10 percent, it may be increased to no more than 60 percent), and any quantitative restraint (quota) proclaimed by the President must permit the importation of a quantity or value of an article which is not less than that entered during the most recent period representative of imports of that article.

The Commission's rules concerning the filing of section 201 petitions and the conduct of investigations thereunder are set forth in part 201 and part 206, subparts A and B, of its Rules of Practice and Procedure (19 CFR Part 201 and Part 206 Subparts A and B).

Under section 203(i) of the Trade Act (19 U.S.C. 2253(i)), the Commission reports with respect to developments within an industry that has been granted import relief and advises the President of the probable economic effect of the extension, reduction, or termination of relief that has been granted. The President may continue, modify, or terminate the import relief previously granted.

Commission procedures regarding the conduct of investigations under section 203 are set forth in part 201 and part 206, subparts A and D, of the Commission's Rules of Practice and Procedure (19 CFR Part 201 and Part 206 Subparts A and D).

For further information contact: Secretary
U.S. International Trade Commission
701 E Street NW.
Washington, D.C. 20436
Phone: 202/523-0161

Workers

A group of workers or their certified or recognized union or other duly authorized representative may file a petition for adjustment assistance with the Secretary of Labor under section 221 of the Trade Act (19 U.S.C. 2271). Upon receipt of the petition, the Secretary publishes a notice in the Federal Register that a petition has been received and an investigation initiated.

Under the worker adjustment assistance provisions, workers in a firm qualify for trade adjustment benefits if the Secretary of Labor, within 60 days after the filing of a petition, finds that an absolute or relative increase in imports contributed importantly to the workers' unemployment and to a decrease in sales or production of the firm from which they have become separated.

The Trade Act provides for direct trade readjustment allowances to workers certified as eligible for adjustment assistance as well as for measures aimed at helping adversely affected workers find new employment, including job search, training, and relocation allowances. This program expires on September 30, 1982.

For further information contact: Office of Trade Adjustment Assistance
U.S. Department of Labor
Washington, D.C. 20210
Phone: 202/376-6795

Firms

Firms may file petitions for adjustment assistance with the Secretary of Commerce under section 251 of the Trade Act (19 U.S.C. 2341). Upon receipt of the petition, the Secretary publishes a notice in the Federal Register that a petition has been received and an investigation initiated. Firms which are found eligible for assistance are entitled to technical assistance and/or financial assistance in the form of loans and loan guarantees. The Secretary is required to reach a decision on a firm's adjustment assistance proposal no later than 60 days after receiving the firm's application.

The Secretary shall certify a firm as eligible to apply for adjustment assistance if it is determined that increases in imports have contributed importantly to the separation or threat of separation of a significant number of workers in the firm and that sales or production, or both, of such firm have decreased absolutely.

The program of adjustment assistance for firms expires on September 30, 1982.

For further information contact: Office of Trade Adjustment Assistance
U.S. Department of Commerce
Washington, D.C. 20230
Phone: 202/377-5005

Communities

Communities may file petitions for adjustment assistance with the Secretary of Commerce under section 271 of the Trade Act (19 U.S.C. 2371). Upon receipt of the petition, the Secretary publishes a notice in the Federal Register that a petition has been received and an investigation initiated.

The program of community adjustment assistance is intended to help restore the economic viability of areas adversely affected by increased imports. Communities will be certified as eligible to apply for adjustment assistance if the Secretary determines that a significant number or proportion of the workers employed within the "trade impacted area" defined by the Secretary of Commerce have been or are threatened to become totally or partially separated, that sales or production of a firm or firms within the

area have decreased absolutely, and that increased imports or the transfer of productive facilities to a foreign nation have contributed importantly to the unemployment or decline in sales or production. Eligible communities could receive a variety of developmental assistance including technical assistance and direct grants for the acquisition and development of land and improvements of public works and public services.

The Trade Act also contains several provisions designed to attract new investment to areas affected by trade. The Secretary of Commerce is authorized to make loans and loan guarantees to qualified applicants to acquire, construct, or modernize plant facilities or for such other purposes as the Secretary determines are likely to attract new investment and to create new, long-term employment opportunities within the area.

For further information contact: Office of Trade Adjustment Assistance
U.S. Department of Commerce
Washington, D.C. 20230
Phone: 202/377-5005

Investigations Regarding Enforcement of U.S. Rights Under Trade
Agreements and Response to Certain Foreign Trade Practices

Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411), as revised by title IX of the Trade Agreements Act of 1979, concerns the (1) enforcement of U.S. rights under trade agreements and (2) U.S. response to foreign violations of international trade rules or foreign trade practices which restrict or discriminate against U.S. commerce.

Under this provision the President, upon determining a foreign violation, shall take action as appropriate to enforce such U.S. rights or eliminate unfair foreign practices. Action under this provision may be applied to all countries or solely against the products or services of the foreign country involved. The President is permitted to suspend or withdraw trade-agreement concessions for the country involved or impose duties and other restrictions on imports of, and fees and restrictions on the services of, the country involved.

The President may take action on his own motion, or any interested person may file a petition with the United States Trade Representative (USTR) requesting the President to take action under section 301 and setting forth the allegations in support of the request. The USTR reviews the allegations in the petition and, not later than 45 days after the date on which he received the petition, determines whether to initiate an investigation. Title IX sets out various investigative and consultative requirements for the USTR prior to his making a recommendation to the President on what action, if any, the President should take with respect to the issues raised in the petition. The time allowed for a USTR recommendation varies with the nature of the alleged foreign violation. Before making a recommendation to the President, the USTR may request the views of the International Trade Commission regarding the probable impact on the U.S. economy of the taking of any action.

Not later than 21 days after the date on which he receives the recommendation of the USTR under section 304 with respect to a petition, the President determines what action, if any, he will take under this section, and publishes notice of his determination, including the reasons therefor, in the Federal Register.

Parts 201 and 205 of the Commission's Rules of Practice and Procedure (19 CFR Parts 201 and 205) set forth procedures for the conduct of Commission investigations regarding the enforcement of U.S. rights under trade agreements and response to certain foreign trade practices.

For further information contact: Chairman, Section 301 Committee
Office of the United States Trade
Representative
600 17th Street NW.
Washington, D.C. 20506
Phone: 202/395-3432

Investigations of Market Disruption by Imports From Communist Countries

Under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) the Commission conducts investigations to determine whether imports of an article produced in a Communist country are causing market disruption with respect to a domestically produced article. Section 406(e) states that market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry. The term "Communist country" means any country dominated or controlled by communism.

The Commission conducts such investigations at the request of the President or the United States Trade Representative, upon resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, on its own motion, or upon the filing of a petition by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. Most section 406 investigations are conducted on the basis of petitions filed by an entity representative of an industry. The Commission must complete its investigation within 3 months of the filing of a petition, receipt of a request or resolution, or institution of an investigation on its own motion. The Commission must hold a public hearing in the course of the investigation.

If the Commission finds that market disruption exists it must also recommend to the President relief that will remedy such market disruption. Such relief could involve an increase in, or imposition of, rates of duty or quantitative restrictions. The President has 60 days after receiving a Commission determination and relief recommendation to advise Congress as to what, if any, relief he will proclaim (except that the President has an additional 90 days to negotiate an orderly marketing agreement if he desires to provide relief in that form). Any relief proclaimed would be in accordance with the procedures and limitations set forth in sections 202 and 203 of the Trade Act of 1974 (19 U.S.C. 2252 and 2253). Relief would involve imports from only the subject Communist country or countries.

Section 406(c) authorizes the President, prior to a Commission determination, to take temporary emergency action with respect to imports from a Communist country or countries whenever he finds that there are reasonable grounds to believe that there is market disruption. When taking such action, the President must also request the Commission to conduct an investigation under section 406(a).

The Commission's rules concerning the filing of section 406 petitions and the conduct of investigations thereunder are set forth in part 201 and part 206, subparts A and C, of its Rules of Practice and Procedure (19 CFR Parts 201 and 206 Subparts A and C).

For further information contact: Secretary
 U.S. International Trade Commission
 701 E Street NW.
 Washington, D.C. 20436
 Phone: 202/523-0161

Investigations Under the Agricultural Adjustment Act

If, under the provisions of section 22 of the Agricultural Adjustment Act, (7 U.S.C. 624), the Secretary of Agriculture has reason to believe that any article is being or is practically certain to be imported into the United States in such quantities as to materially interfere with any program conducted by the U.S. Department of Agriculture (USDA), or reduce substantially the amount of any product processed in the United States from any agricultural commodity covered by a USDA program, he will so advise the President.

If the President agrees that there is reason for such belief, he will cause an immediate investigation to be made by the U.S. International Trade Commission with a report to him of its findings and recommendations. Following receipt of the Commission's report, the President may impose either an import quota or an appropriate import fee (not in excess of 50 percent ad valorem) to alleviate the difficulty. In any case where the Secretary of Agriculture determines and reports to the President that a condition exists requiring emergency treatment, however, the President may take immediate action under section 22 without awaiting the recommendations of the Commission, such action to continue in effect pending the report and recommendations of the Commission and action thereon by the President. Requests for investigations under section 22 are normally filed with the Secretary of Agriculture.

Parts 201 and 204 of the Commission's Rules of Practice and Procedure (19 CFR Parts 201 and 204) set forth procedures for the conduct of Commission investigations under the Agricultural Adjustment Act.

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