

(if any) under section 2412(a) of this title with respect to the matter that is the subject of the proceeding, and relevant private sector advisory committees established under section 2155 of this title, and shall consider the views of representatives of appropriate interested private sector and nongovernmental organizations concerning the matter.

(b) Notice and public comment

In any proceeding described in subsection (a), the Trade Representative shall—

(1) promptly after requesting the establishment of a panel, or receiving a request from another WTO member country for the establishment of a panel, publish a notice in the Federal Register—

(A) identifying the initial parties to the dispute,

(B) setting forth the major issues raised by the country requesting the establishment of a panel and the legal basis of the complaint,

(C) identifying the specific measures, including any State or Federal law cited in the request for establishment of the panel, and

(D) seeking written comments from the public concerning the issues raised in the dispute; and

(2) take into account any advice received from appropriate congressional committees and relevant private sector advisory committees referred to in subsection (a), and written comments received pursuant to paragraph (1)(D), in preparing United States submissions to the panel or the Appellate Body.

(c) Access to documents

In each proceeding described in subsection (a), the Trade Representative shall—

(1) make written submissions by the United States referred to in subsection (b) available to the public promptly after they are submitted to the panel or Appellate Body, except that the Trade Representative is authorized to withhold from disclosure any information contained in such submissions identified by the provider of the information as proprietary information or information treated as confidential by a foreign government;

(2) request each other party to the dispute to permit the Trade Representative to make that party's written submissions to the panel or the Appellate Body available to the public; and

(3) make each report of the panel or the Appellate Body available to the public promptly after it is circulated to WTO members, and inform the public of such availability.

(d) Requests for nonconfidential summaries

In any dispute settlement proceeding conducted pursuant to the Dispute Settlement Understanding, the Trade Representative shall request each party to the dispute to provide nonconfidential summaries of its written submissions, if that party has not made its written submissions public, and shall make those summaries available to the public promptly after receiving them.

(e) Public file

The Trade Representative shall maintain a file accessible to the public on each dispute settle-

ment proceeding to which the United States is a party that is conducted pursuant to the Dispute Settlement Understanding. The file shall include all United States submissions in the proceeding and a listing of any submissions to the Trade Representative from the public with respect to the proceeding, as well as the report of the dispute settlement panel and the report of the Appellate Body.

(Pub. L. 103-465, title I, §127, Dec. 8, 1994, 108 Stat. 4835.)

Editorial Notes

CODIFICATION

Section is comprised of section 127 of Pub. L. 103-465. Subsec. (f) of section 127 of Pub. L. 103-465 amended section 2155 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), see section 130 of Pub. L. 103-465, set out as a note under section 3531 of this title.

§ 3538. Administrative action following WTO panel reports

(a) Action by United States International Trade Commission

(1) Advisory report

If a dispute settlement panel finds in an interim report under Article 15 of the Dispute Settlement Understanding, or the Appellate Body finds in a report under Article 17 of that Understanding, that an action by the International Trade Commission in connection with a particular proceeding is not in conformity with the obligations of the United States under the Antidumping Agreement, the Safeguards Agreement, or the Agreement on Subsidies and Countervailing Measures, the Trade Representative may request the Commission to issue an advisory report on whether title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.] or title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], as the case may be, permits the Commission to take steps in connection with the particular proceeding that would render its action not inconsistent with the findings of the panel or the Appellate Body concerning those obligations. The Trade Representative shall notify the congressional committees of such request.

(2) Time limits for report

The Commission shall transmit its report under paragraph (1) to the Trade Representative—

(A) in the case of an interim report described in paragraph (1), within 30 calendar days after the Trade Representative requests the report; and

(B) in the case of a report of the Appellate Body, within 21 calendar days after the Trade Representative requests the report.

(3) Consultations on request for Commission determination

If a majority of the Commissioners issues an affirmative report under paragraph (1), the

Trade Representative shall consult with the congressional committees concerning the matter.

(4) Commission determination

Notwithstanding any provision of the Tariff Act of 1930 [19 U.S.C. 1202 et seq.] or title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel or Appellate Body. The Commission shall issue its determination not later than 120 days after the request from the Trade Representative is made.

(5) Consultations on implementation of Commission determination

The Trade Representative shall consult with the congressional committees before the Commission's determination under paragraph (4) is implemented.

(6) Revocation of order

If, by virtue of the Commission's determination under paragraph (4), an antidumping or countervailing duty order with respect to some or all of the imports that are subject to the action of the Commission described in paragraph (1) is no longer supported by an affirmative Commission determination under title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.] or this subsection, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the antidumping or countervailing duty order in whole or in part.

(b) Action by administering authority

(1) Consultations with administering authority and congressional committees

Promptly after a report by a dispute settlement panel or the Appellate Body is issued that contains findings that an action by the administering authority in a proceeding under title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.] is not in conformity with the obligations of the United States under the Anti-dumping Agreement or the Agreement on Subsidies and Countervailing Measures, the Trade Representative shall consult with the administering authority and the congressional committees on the matter.

(2) Determination by administering authority

Notwithstanding any provision of the Tariff Act of 1930 [19 U.S.C. 1202 et seq.], the administering authority shall, within 180 days after receipt of a written request from the Trade Representative, issue a determination in connection with the particular proceeding that would render the administering authority's action described in paragraph (1) not inconsistent with the findings of the panel or the Appellate Body.

(3) Consultations before implementation

Before the administering authority implements any determination under paragraph (2),

the Trade Representative shall consult with the administering authority and the congressional committees with respect to such determination.

(4) Implementation of determination

The Trade Representative may, after consulting with the administering authority and the congressional committees under paragraph (3), direct the administering authority to implement, in whole or in part, the determination made under paragraph (2).

(c) Effects of determinations; notice of implementation

(1) Effects of determinations

Determinations concerning title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.] that are implemented under this section shall apply with respect to unliquidated entries of the subject merchandise (as defined in section 771 of that Act [19 U.S.C. 1677]) that are entered, or withdrawn from warehouse, for consumption on or after—

(A) in the case of a determination by the Commission under subsection (a)(4), the date on which the Trade Representative directs the administering authority under subsection (a)(6) to revoke an order pursuant to that determination, and

(B) in the case of a determination by the administering authority under subsection (b)(2), the date on which the Trade Representative directs the administering authority under subsection (b)(4) to implement that determination.

(2) Notice of implementation

(A) The administering authority shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.].

(B) The Trade Representative shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

(d) Opportunity for comment by interested parties

Prior to issuing a determination under this section, the administering authority or the Commission, as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.

(Pub. L. 103-465, title I, § 129, Dec. 8, 1994, 108 Stat. 4836.)

Editorial Notes

REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsecs. (a)(1), (4), (6), (b)(1), (2), and (c)(1), (2)(A), is act June 17, 1930, ch. 497, 46 Stat. 590, which is classified generally to chapter 4 (§1202 et seq.) of this title. 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.

The Trade Act of 1974, referred to in subsecs. (a)(1), (4) and (c)(2)(B), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978. Title II of the Act is classified generally to subchapter II (§2251 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

CODIFICATION

Section is comprised of section 129 of Pub. L. 103-465. Subsecs. (a)(7) and (e) of section 129 of Pub. L. 103-465 amended sections 2254 and 1516a, respectively, of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), see section 130 of Pub. L. 103-465, set out as a note under section 3531 of this title.

§ 3539. Fund for WTO dispute settlements

(a) Establishment of fund

There is established in the Treasury a fund for the payment of settlements under this section.

(b) Authority of USTR to pay settlements

Amounts in the fund established under subsection (a) shall be available, as provided in appropriations Acts, only for the payment by the United States Trade Representative of the amount of the total or partial settlement of any dispute pursuant to proceedings under the auspices of the World Trade Organization, if—

(1) in the case of a total or partial settlement in an amount of not more than \$10,000,000, the Trade Representative certifies to the Secretary of the Treasury that the settlement is in the best interests of the United States; and

(2) in the case of a total or partial settlement in an amount of more than \$10,000,000, the Trade Representative certifies to the Congress that the settlement is in the best interests of the United States.

(c) Appropriations

There are authorized to be appropriated to the fund established under subsection (a)—

(1) \$50,000,000; and

(2) amounts equivalent to amounts recovered by the United States pursuant to the settlement of disputes pursuant to proceedings under the auspices of the World Trade Organization.

Amounts appropriated to the fund are authorized to remain available until expended.

(d) Management of fund

Sections 9601 and 9602(b) of title 26 shall apply to the fund established under subsection (a) to the same extent as such provisions apply to trust funds established under subchapter A of chapter 98 of such title.

(Pub. L. 107-210, div. E, title L, §5201, Aug. 6, 2002, 116 Stat. 1047.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Trade Act of 2002, and not as part of the Uruguay Round Agreements Act which enacted this chapter.

PART D—RELATED PROVISIONS

§ 3551. Working party on worker rights

(a) In general

The President shall seek the establishment in the GATT 1947, and, upon entry into force of the WTO Agreement with respect to the United States, in the WTO, of a working party to examine the relationship of internationally recognized worker rights, as defined in section 2467(4) of this title, to the articles, objectives, and related instruments of the GATT 1947 and of the WTO, respectively.

(b) Objectives of working party

The objectives of the United States for the working party described in subsection (a) are to—

(1) explore the linkage between international trade and internationally recognized worker rights, as defined in section 2467(4) of this title, taking into account differences in the level of development among countries;

(2) examine the effects on international trade of the systematic denial of such rights;

(3) consider ways to address such effects; and

(4) develop methods to coordinate the work program of the working party with the International Labor Organization.

(c) Report to Congress

The President shall report to the Congress, not later than 1 year after December 8, 1994, on the progress made in establishing the working party under this section, and on United States objectives with respect to the working party's work program.

(Pub. L. 103-465, title I, §131, Dec. 8, 1994, 108 Stat. 4839; Pub. L. 104-188, title I, §1954(a)(6), Aug. 20, 1996, 110 Stat. 1928.)

Editorial Notes

AMENDMENTS

1996—Subsecs. (a), (b)(1). Pub. L. 104-188 substituted “‘2467(4)’” for “‘2462(a)(4)’”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104-188, set out as an Effective Date note under section 2461 of this title.

EFFECTIVE DATE

Pub. L. 103-465, title I, §138, Dec. 8, 1994, 108 Stat. 4842, provided that:

“(a) IN GENERAL.—Except as provided in section 136(d) [enacting provisions set out as a note under section 5001 of Title 26, Internal Revenue Code] and subsection (b) of this section, this subtitle [subtitle D (§§131-138) of title I of Pub. L. 103-465, enacting this part, amending sections 5001, 5002, 5005, 5007, 5061, 5131, 5132, 5134, and 7652 of Title 26, Internal Revenue Code, and enacting provisions set out as a note under section 5001 of Title 26] and the amendments made by this subtitle take effect on the date of the enactment of this Act [Dec. 8, 1994].

“(b) SECTIONS 132 AND 135.—Sections 132 and 135 [enacting sections 3552 and 3555 of this title] take effect on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995].”