

These provisions related safeguard measures.

North American Free Trade Agreement Implementation Act

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

Subtitle A—Safeguards

PART 2—RELIEF FROM IMPORTS FROM ALL COUNTRIES

SEC. 311. NAFTA ARTICLE IMPACT IN IMPORT RELIEF CASES UNDER THE TRADE ACT OF 1974.

(a) IN GENERAL. — If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the International Trade Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the International Trade Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether —

(1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and

(2) imports of the article from a NAFTA country; considered individually or; in exceptional circumstances; imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.

(b) FACTORS. —

(1) SUBSTANTIAL IMPORT SHARE. — In determining whether imports from a NAFTA country, considered individually, account for a substantial share of total imports, such imports normally shall not be considered to account for a substantial share of total imports if that country is not among the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period.

(2) APPLICATION OF “CONTRIBUTE IMPORTANTLY” STANDARD. — In determining whether imports from a NAFTA country or countries contribute importantly to the serious injury, or threat thereof, the International Trade Commission shall consider such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports of such country or countries. In applying the preceding sentence, imports from a NAFTA country or countries normally shall not be considered to contribute importantly to serious injury, or the threat thereof, if the growth rate of imports from such country or countries during the period in which an injurious increase in imports occurred is

appreciably lower than the growth rate of total imports from all sources over the same period.

(c) DEFINITION. — For purposes of this section and section 312(a), the term “contribute importantly” refers to an important cause, but not necessarily the most important cause.

(19 U.S.C. 3371)

SEC. 312. PRESIDENTIAL ACTION REGARDING NAFTA IMPORTS.

(a) IN GENERAL.—In determining whether to take action under chapter 1 of title II of the Trade Act of 1974 with respect to imports from a NAFTA country, the President shall determine whether—

(1) imports from such country, considered individually, account for a substantial share of total imports; or

(2) imports from a NAFTA country, considered individually, or in exceptional circumstances imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, found by the International Trade Commission.

(b) EXCLUSION OF NAFTA IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall exclude from such action imports from a NAFTA country if the President makes a negative determination under subsection (a)(1) or (2) with respect to imports from such country.

(c) ACTION AFTER EXCLUSION OF NAFTA COUNTRY IMPORTS. —

(1) IN GENERAL. — If the President, under subsection (b), excludes imports from a NAFTA country or countries from action under chapter 1 of title II of the Trade Act of 1974 but thereafter determines that a surge in imports from that country or countries is undermining the effectiveness of the action—

(A) the President may take appropriate action under such chapter 1 to include those imports in the action; and

(B) any entity that is representative of an industry for which such action is being taken may request the International Trade Commission to conduct an investigation of the surge in such imports.

(2) INVESTIGATION.—Upon receiving a request under paragraph (1) (B), the International Trade Commission shall conduct an investigation to determine whether a surge in such imports undermines the effectiveness of the action. The International Trade Commission shall submit the findings of its investigation to the President no later than 30 days after the request is received by the International Trade Commission.

(3) DEFINITION.—For purposes of this subsection, the term “surge” means a significant increase in imports over the trend for a recent representative base

period.

(d) **CONDITION APPLICABLE TO QUANTITATIVE RESTRICTIONS.**—Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article, with allowance for reasonable growth.

(19 U.S.C. 3372)

PART 3—GENERAL PROVISIONS

SEC. 315. PROVISIONAL RELIEF.

[section amends Section 202(d) of the Trade Act of 1974]

SEC. 316. MONITORING.

For purposes of expediting an investigation concerning provisional relief under this subtitle or section 202 of the Trade Act of 1974 regarding—

(1) fresh or chilled tomatoes “provided for in subheading 0702.00.00 of the HTS; and

(2) fresh or chilled peppers, other than chili peppers provided for in subheading 0709.60.00 of the HTS;

the International Trade Commission, until January 1, 2009, shall monitor imports of such goods as if proper requests for such monitoring had been made under subsection (d)(1)(C)(i) of such section 202. At the request of the International Trade Commission, the Secretary of Agriculture and the Commissioner of Customs shall provide to the International Trade Commission information relevant to the monitoring carried out under this section.

(19 U.S.C. 3381)

(Amended by Oct. 11, 1996, P. L. 104-295, Sec. 21(b)(3), 110 Stat. 3529.)

SEC. 317. PROCEDURES CONCERNING THE CONDUCT OF INTERNATIONAL TRADE COMMISSION INVESTIGATIONS.

(a) **PROCEDURES AND RULES**—The International Trade Commission shall adopt such procedures and rules and regulations as are necessary to bring its procedures into conformity with chapter 8 of the Agreement.

(b) [subsection amends Section 202(a) of the Trade Act of 1974]

(19 U.S.C. 3382)