

(1) the number of firms in the domestic industry producing the like or directly competitive article which have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the orderly adjustment of such firms to the import competition may be facilitated through the use of existing programs.

(b) Report; publication

The report of the Secretary of the study under subsection (a) of this section shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 2252(f) of this title. Upon making its report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(c) Information to firms

Whenever the Commission makes an affirmative finding under section 2252(b) of this title that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall make available, to the extent feasible, full information to the firms in such industry about programs which may facilitate the orderly adjustment to import competition of such firms, and he shall provide assistance in the preparation and processing of petitions and applications of such firms for program benefits.

(Pub. L. 93-618, title II, §264, Jan. 3, 1975, 88 Stat. 2035; Pub. L. 100-418, title I, §1401(b)(1)(B), Aug. 23, 1988, 102 Stat. 1239.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418 substituted “section 2252” for “section 2251”.

Subsec. (b). Pub. L. 100-418 substituted “section 2252(f)” for “section 2251”.

Subsec. (c). Pub. L. 100-418 substituted “section 2252(b)” for “section 2251(b)”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§2251 et seq.) of this subchapter on or after that date, see section 1401(c) of Pub. L. 100-418, set out as a note under section 2251 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2355. Assistance to industry; authorization of appropriations

(a) Technical assistance

The Secretary may provide technical assistance, on such terms and conditions as the Secretary deems appropriate, for the establishment of industrywide programs for new product development, new process development, export development, or other uses consistent with the purposes of this part. Such technical assistance may be provided through existing agencies, private individuals, firms, universities and institu-

tions, and by grants, contracts, or cooperative agreements to associations, unions, or other nonprofit industry organizations in which a substantial number of firms or workers have been certified as eligible to apply for adjustment assistance under section 2273 or 2341 of this title.

(b) Expenditures

Expenditures for technical assistance under this section may be up to \$10,000,000 annually per industry and shall be made under such terms and conditions as the Secretary deems appropriate.

(Pub. L. 93-618, title II, §265, as added Pub. L. 97-35, title XXV, §2527, Aug. 13, 1981, 95 Stat. 893; amended Pub. L. 98-369, div. B, title VI, §2673, July 18, 1984, 98 Stat. 1172.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369, §2673(1), inserted “or workers” after “of firms” and inserted reference to section 2273 of this title.

Subsec. (b). Pub. L. 98-369, §2673(2), substituted “\$10,000,000” for “\$2,000,000”.

EFFECTIVE DATE

Section effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 2343 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

PART 4—ADJUSTMENT ASSISTANCE FOR COMMUNITIES

§§ 2371 to 2374. Omitted

CODIFICATION

Sections 2371 to 2374 were omitted as terminated Sept. 30, 1982, pursuant to section 285 of Pub. L. 93-618, as amended, set out as a Termination Date note preceding section 2271 of this title. Section 285 of Pub. L. 93-618 was amended generally by Pub. L. 107-210 and no longer contains provisions relating to the termination of this part.

Section 2371, Pub. L. 93-618, title II, §271, Jan. 3, 1975, 88 Stat. 2035, related to petitions and determinations.

Section 2372, Pub. L. 93-618, title II, §272, Jan. 3, 1975, 88 Stat. 2036, related to Trade Impacted Area Councils for Adjustment Assistance.

Section 2373, Pub. L. 93-618, title II, §273, Jan. 3, 1975, 88 Stat. 2037, related to program benefits.

Section 2374, Pub. L. 93-618, title II, §274, Jan. 3, 1975, 88 Stat. 2040, related to Community Adjustment Assistance Fund.

PART 5—MISCELLANEOUS PROVISIONS

§ 2391. GAO study and report

(a) Adjustment assistance programs

The Comptroller General of the United States shall conduct a study of the adjustment assistance programs established under parts 2, 3, and 4 of this subchapter and shall report the results of such study to the Congress no later than January 31, 1980. Such report shall include an evaluation of—

(1) the effectiveness of such programs in aiding workers, firms, and communities to adjust

to changed economic conditions resulting from changes in the patterns of international trade; and

(2) the coordination of the administration of such programs and other Government programs which provide unemployment compensation and relief to depressed areas.

(b) Assistance from Labor and Commerce Departments

In carrying out his responsibilities under this section, the Comptroller General shall, to the extent practical, avail himself of the assistance of the Departments of Labor and Commerce. The Secretaries of Labor and Commerce shall make available to the Comptroller General any assistance necessary for an effective evaluation of the adjustment assistance programs established under this subchapter.

(Pub. L. 93-618, title II, § 280, Jan. 3, 1975, 88 Stat. 2040.)

§ 2392. Adjustment Assistance Coordinating Committee

There is established the Adjustment Assistance Coordinating Committee to consist of a Deputy United States Trade Representative as Chairman, and the officials charged with adjustment assistance responsibilities of the Departments of Labor and Commerce and the Small Business Administration. It shall be the function of the Committee to coordinate the adjustment assistance policies, studies, and programs of the various agencies involved and to promote the efficient and effective delivery of adjustment assistance benefits.

(Pub. L. 93-618, title II, § 281, Jan. 3, 1975, 88 Stat. 2040; 1979 Reorg. Plan No. 3, § 1(c), eff. Jan. 2, 1980, 44 F.R. 69274, 93 Stat. 1381.)

CHANGE OF NAME

“Deputy United States Trade Representative” substituted in text for “Deputy Special Trade Representative”, meaning Deputy Special Representative for Trade Negotiations, pursuant to Reorg. Plan No. 3 of 1979, § 1(c), 44 F.R. 69274, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title. See, also, section 2171 of this title as amended by Pub. L. 97-456.

§ 2393. Trade monitoring system

The Secretary of Commerce and the Secretary of Labor shall establish and maintain a program to monitor imports of articles into the United States which will reflect changes in the volume of such imports, the relation of such imports to changes in domestic production, changes in employment within domestic industries producing articles like or directly competitive with such imports, and the extent to which such changes in production and employment are concentrated in specific geographic regions of the United States. A summary of the information gathered under this section shall be published regularly and provided to the Adjustment Assistance Coordinating Committee, the International Trade Commission, and to the Congress.

(Pub. L. 93-618, title II, § 282, Jan. 3, 1975, 88 Stat. 2040.)

§ 2394. Firms relocating in foreign countries

Before moving productive facilities from the United States to a foreign country, every firm should—

(1) provide notice of the move to its employees who are likely to be totally or partially separated as a result of the move at least 60 days before the date of such move, and

(2) provide notice of the move to the Secretary of Labor and the Secretary of Commerce on the same day it notifies employees under paragraph (1).

(b)¹ It is the sense of the Congress that every such firm should—

(1) apply for and use all adjustment assistance for which it is eligible under this subchapter,

(2) offer employment opportunities in the United States, if any exist, to its employees who are totally or partially separated workers as a result of the move, and

(3) assist in relocating employees to other locations in the United States where employment opportunities exist.

(Pub. L. 93-618, title II, § 283, Jan. 3, 1975, 88 Stat. 2041.)

§ 2395. Judicial review

(a) Petition for review; time and place of filing

A worker, group of workers, certified or recognized union, or authorized representative of such worker or group aggrieved by a final determination of the Secretary of Labor under section 2273 of this title, a firm or its representative or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 2341 of this title, an agricultural commodity producer (as defined in section 2401(2) of this title) aggrieved by a determination of the Secretary of Agriculture under section 2401b of this title, or a community or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 2371¹ of this title may, within sixty days after notice of such determination, commence a civil action in the United States Court of International Trade for review of such determination. The clerk of such court shall send a copy of the summons and the complaint in such action to the Secretary of Labor, the Secretary of Commerce, or the Secretary of Agriculture, as the case may be. Upon receiving a copy of such summons and complaint, such Secretary shall promptly certify and file in such court the record on which he based such determination.

(b) Findings of fact by Secretary; conclusiveness; new or modified findings

The findings of fact by the Secretary of Labor, the Secretary of Commerce, or the Secretary of Agriculture, as the case may be, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to such Secretary to take further evi-

¹ So in original. The first paragraph was not designated subsec. (a).

¹ See References in Text note below.

dence, and such Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Determination; review by Supreme Court

The Court of International Trade shall have jurisdiction to affirm the action of the Secretary of Labor, the Secretary of Commerce, or the Secretary of Agriculture, as the case may be, or to set such action aside, in whole or in part. The judgment of the Court of International Trade shall be subject to review by the United States Court of Appeals for the Federal Circuit as prescribed by the rules of such court. The judgment of the Court of Appeals for the Federal Circuit shall be subject to review by the Supreme Court of the United States upon certiorari as provided in section 1256¹ of title 28.

(Pub. L. 93-618, title II, §284, as added Pub. L. 96-417, title VI, §613(a), Oct. 10, 1980, 94 Stat. 1746; amended Pub. L. 97-164, title I, §163(a)(5), Apr. 2, 1982, 96 Stat. 49; Pub. L. 103-182, title V, §503(d), Dec. 8, 1993, 107 Stat. 2151; Pub. L. 107-210, div. A, title I, §§123(b)(4), 142(a), Aug. 6, 2002, 116 Stat. 944, 953; Pub. L. 108-429, title II, §2004(a)(11)(A), Dec. 3, 2004, 118 Stat. 2590.)

REFERENCES IN TEXT

Section 2371 of this title, referred to in subsec. (a), was omitted from the Code as terminated Sept. 30, 1982, pursuant to section 285 of Pub. L. 93-618, as amended, set out as a Termination Date note preceding section 2271 of this title.

Section 1256 of title 28, referred to in subsec. (c), was repealed by Pub. L. 97-164, title I, §123, Apr. 2, 1982, 96 Stat. 36.

AMENDMENTS

2004—Pub. L. 108-429, §2004(a)(11)(A), amended directory language of Pub. L. 107-210, §142(a)(1). See 2002 Amendment notes below.

2002—Subsec. (a), Pub. L. 107-210, §142(a)(1), as amended by Pub. L. 108-429, §2004(a)(11)(A), inserted “an agricultural commodity producer (as defined in section 2401(2) of this title) aggrieved by a determination of the Secretary of Agriculture under section 2401b of this title,” after “section 2341 of this title,” in first sentence and substituted “, the Secretary of Commerce, or the Secretary of Agriculture” for “or the Secretary of Commerce” in second sentence.

Pub. L. 107-210, §123(b)(4), struck out “or section 2331(c) of this title” after “section 2273 of this title”.

Subsecs. (b), (c). Pub. L. 107-210, §142(a)(1)(B), as amended by Pub. L. 108-429, §2004(a)(11)(A)(i), substituted “, the Secretary of Commerce, or the Secretary of Agriculture” for “or the Secretary of Commerce”.

1993—Subsec. (a). Pub. L. 103-182 inserted reference to section 2331(c) of this title.

1982—Subsec. (c). Pub. L. 97-164 substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 123(b)(4) of Pub. L. 107-210 applicable with respect to petitions filed under this part on or after the date that is 90 days after Aug. 6, 2002, except with respect to certain workers, see section 123(c) of Pub. L. 107-210, set out as an Effective Date of Appeal note under section 2331 of this title.

Amendment by section 142(a) of Pub. L. 107-210 effective on the date that is 180 days after Aug. 6, 2002, see

section 141(b) of Pub. L. 107-210, set out as an Effective Date note under section 2401 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 506(a) of Pub. L. 103-182, set out as a note under section 2271 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(3) of Pub. L. 96-417 set out as an Effective Date of 1980 Amendment note under section 251 of Title 28, Judiciary and Judicial Procedure.

§ 2396. Omitted

Section, Pub. L. 93-618, title II, §286, as added Pub. L. 100-418, title I, §1427(a), Aug. 23, 1988, 102 Stat. 1251, which established the Trade Adjustment Assistance Trust Fund, did not become effective pursuant to section 1430(c) of Pub. L. 100-418, as amended, set out as an Effective Date note under section 2397 of this title.

§ 2397. Omitted

Section, Pub. L. 93-618, title II, §287, as added Pub. L. 100-418, title I, §1428(b), Aug. 23, 1988, 102 Stat. 1255, which imposed an additional fee, did not become effective pursuant to section 1430(b) of Pub. L. 100-418, as amended, set out below.

EFFECTIVE DATE

Section 1430 of Pub. L. 100-418, as amended by Pub. L. 100-647, title IX, §9001(a)(21), Nov. 10, 1988, 102 Stat. 3808, provided that:

“(a) IN GENERAL.—Except as otherwise provided by this section, the amendments made by this part [part 3 (§§1421-1430) of subtitle D of title I of Pub. L. 100-418, enacting this section and sections 2318 and 2396 of this title, amending sections 2272, 2275, 2291 to 2293, 2295, 2296, 2311, 2317, 2341, and 2346 of this title, and amending provisions set out as a note preceding section 2271 of this title] shall take effect on the date of enactment of this Act [Aug. 23, 1988].

“(b) ADDITIONAL FEE.—

“(1) Except as otherwise provided in this subsection, the amendment made by section 1428(b) [enacting this section] shall apply (if at all) to any article entered, or withdrawn from warehouse for consumption, after the date that is 30 days after the earlier of—

“(A) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(A) [set out as a note below],

“(B) the date that is 2 years after the date of enactment of this Act [Aug. 23, 1988], or

“(C) the date of the enactment of a disapproval resolution that passes both Houses of the Congress within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act.

“(2) If the President determines on the date that is 2 years after the date of enactment of this Act that the fee imposed by the amendment made by section 1428(b) is not in the national economic interest, subparagraph (B) of paragraph (1) shall not be taken into account in applying the provisions of paragraph (1). [See Determination of President of the United States, No. 90-34, set out below.]

“(3) The amendment made by section 1428(b) shall apply (if at all) to the products of any foreign coun-

try described in section 1428(a)(1)(B) [set out as a note below] that are entered, or withdrawn from warehouse for consumption, after the later of—

“(A) the first date on which the fee imposed by such amendment applies with respect to products of foreign countries that are not described in section 1428(a)(1)(B), or

“(B) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(B) [set out as a note below] certifying the consent of such foreign country to the imposition of the fee.

“(c) TRUST FUND.—The amendments made by section 1427 [enacting section 2396 of this title] shall take effect on the first date on which the amendment made by section 1428(b) [enacting this section] applies with respect to any articles.

“(d) ELIGIBILITY OF WORKERS AND FIRMS.—The amendments made by sections 1421(b) and 1424(b) [amending sections 2272, 2296, and 2341 of this title] shall take effect on the date that is 1 year after the first date on which the amendment made by section 1428(b) [enacting this section] applies with respect to any articles.

“(e) NOTIFICATION REQUIREMENTS.—The amendments made by section 1422 [amending section 2275 of this title] shall take effect on the date that is 30 days after the date of enactment of this Act [Aug. 23, 1988].

“(f) TRAINING REQUIREMENT.—The amendments made by subsections (a), (b)(2), and (c)(2) of section 1423 and by paragraphs (2) and (3) of section 1424(c) [amending sections 2291 to 2293, 2296, and 2311 of this title] shall take effect on the date that is 90 days after the date of enactment of this Act [Aug. 23, 1988].

“(g) LIMITATION ON PERIOD FOR WHICH TRADE READJUSTMENT ALLOWANCES MAY BE MADE.—The amendment made by section 1425(a) [amending section 2293 of this title] shall not apply with respect to any total separation of a worker from adversely affected employment (within the meaning of section 247 of such Act [19 U.S.C. 2319]) that occurs before the date of enactment of this Act [Aug. 23, 1988] if the application of such amendment with respect to such total separation would reduce the period for which such worker would (but for such amendment) be allowed to receive trade readjustment allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 [19 U.S.C. 2291 et seq.]”

IMPOSITION OF SMALL UNIFORM FEE ON ALL IMPORTS

Section 1428(a) of Pub. L. 100-418 provided that:

“(1) The President shall—

“(A) undertake negotiations necessary to achieve changes in the General Agreement on Tariffs and Trade that would allow any country to impose a small uniform fee of not more than 0.15 percent on all imports to such country for the purpose of using the revenue from such fee to fund programs which directly assist adjustment to import competition, and

“(B) undertake negotiations with any foreign country that has entered into a free trade agreement with the United States under subtitle A [§§ 1101 to 1125, of title I of Pub. L. 100-418, see Tables for classification] or under section 102 of the Trade Act of 1974 [19 U.S.C. 2112] to obtain the consent of such country to the imposition of such a fee by the United States.

“(2) In the report that is submitted under section 163 of the Trade Act of 1974 [19 U.S.C. 2213] for 1989 and 1990, the President shall include a statement on the progress of negotiations conducted under paragraph (1).

“(3)(A) On the first day after the date of enactment of this Act [Aug. 23, 1988] on which the General Agreement on Tariffs and Trade allows any country to impose a fee described in paragraph (1), the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such allowance.

“(B) On the first day after the date of enactment of this Act on which any foreign country described in paragraph (1)(B) consents to the imposition of such a fee by the United States, the President shall submit to

the Congress, and publish in the Federal Register, a written statement certifying such consent.

“(4) If—

“(A) the President does not submit to the Congress the written statement described in paragraph (3)(A) before the date that is 2 years after the date of enactment of this Act [Aug. 23, 1988], and

“(B) the President determines on such date that the fee imposed by the amendment made by subsection (b) [enacting this section] is not in the national economic interest,

the President shall submit to the Congress, and publish in the Federal Register, written notice of such determination on such date. [See Determination of President of the United States, No. 90-34, set out below.]

“(5)(A) Any disapproval resolution that is introduced in the Senate or House of Representatives within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act [Aug. 23, 1988] shall, for purposes of section 152 of the Trade Act of 1974 (19 U.S.C. 2192), be treated as a joint resolution described in section 152(a)(1)(A) of such Act.

“(B) For purposes of this part [see Effective Date note above], the term ‘disapproval resolution’ means a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: ‘That the Congress disapproves of the determination made by the President under section 1428(a)(4)(A) of the Omnibus Trade and Competitiveness Act of 1988 [subsec. (a)(4)(A) of this note].’”

DETERMINATION THAT CERTAIN IMPORT FEES ARE NOT IN THE NATIONAL ECONOMIC INTEREST

Determination of President of the United States, No. 90-34, Aug. 23, 1990, 55 F.R. 34889, provided:

Pursuant to section 1428(a)(4)(B) of the Omnibus Trade and Competitiveness Act of 1988 [Pub. L. 100-418, set out above], I determine that it is not in the national economic interest to impose the fee described under subsection (b) of that section [enacting this section].

I hereby authorize and direct the United States Trade Representative to submit to the Congress and publish in the Federal Register written notice of this determination.

GEORGE BUSH.

PART 6—ADJUSTMENT ASSISTANCE FOR FARMERS

TERMINATION DATE

No adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2401. Definitions

In this part:

(1) Agricultural commodity

The term “agricultural commodity” means any agricultural commodity (including livestock) in its raw or natural state.

(2) Agricultural commodity producer

The term “agricultural commodity producer” has the same meaning as the term “person” as prescribed by regulations promulgated under section 1308(e) of title 7.

(3) Contributed importantly

(A) In general

The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.