

try described in section 1428(a)(1)(B) [set out as a note below] that are entered, or withdrawn from warehouse for consumption, after the later of—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

(B) Determination of contributed importantly

The determination of whether imports of articles like or directly competitive with an agricultural commodity with respect to which a petition under this part was filed contributed importantly to a decline in the price of the agricultural commodity shall be made by the Secretary.

(4) Duly authorized representative

The term “duly authorized representative” means an association of agricultural commodity producers.

(5) National average price

The term “national average price” means the national average price paid to an agricultural commodity producer for an agricultural commodity in a marketing year as determined by the Secretary.

(6) Secretary

The term “Secretary” means the Secretary of Agriculture.

(Pub. L. 93-618, title II, §291, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 946; amended Pub. L. 109-280, title XIV, §1635(f)(4), Aug. 17, 2006, 120 Stat. 1171.)

AMENDMENTS

2006—Par. (2). Pub. L. 109-280 substituted “1308(e)” for “1308(5)”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

EFFECTIVE DATE

Pub. L. 107-210, div. A, title I, §141(b), Aug. 6, 2002, 116 Stat. 953, as amended by Pub. L. 108-429, title II, §2004(a)(10), Dec. 3, 2004, 118 Stat. 2590, provided that: “The amendments made by this subtitle [subtitle C [§§141 to 143] of title I of Pub. L. 107-210, enacting this part and amending section 2395 of this title] shall take effect on the date that is 180 days after the date of enactment of this Act [Aug. 6, 2002].”

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.

§ 2401a. Petitions; group eligibility**(a) In general**

A petition for a certification of eligibility to apply for adjustment assistance under this part may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) Hearings

If the petitioner, or any other person found by the Secretary to have a substantial interest in

the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) of this section a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

(c) Group eligibility requirements

The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this part if the Secretary determines—

(1) that the national average price for the agricultural commodity, or a class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such agricultural commodity, or such class of goods, for the 5 marketing years preceding the most recent marketing year; and

(2) that increases in imports of articles like or directly competitive with the agricultural commodity, or class of goods within the agricultural commodity, produced by the group contributed importantly to the decline in price described in paragraph (1).

(d) Special rule for qualified subsequent years

A group of agricultural commodity producers certified as eligible under section 2401b of this title shall be eligible to apply for assistance under this part in any qualified year after the year the group is first certified, if the Secretary determines that—

(1) the national average price for the agricultural commodity, or class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is equal to or less than the price determined under subsection (c)(1) of this section; and

(2) the requirements of subsection (c)(2) of this section are met.

(e) Determination of qualified year and commodity

In this part:

(1) Qualified year

The term “qualified year”, with respect to a group of agricultural commodity producers certified as eligible under section 2401b of this title, means each consecutive year after the year in which the group is certified and in which the Secretary makes the determination under subsection (c) or (d) of this section, as the case may be.

(2) Classes of goods within a commodity

In any case in which there are separate classes of goods within an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 2401e of this title.

(Pub. L. 93-618, title II, §292, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 947.)

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.

§ 2401b. Determinations by Secretary of Agriculture

(a) In general

As soon as practicable after the date on which a petition is filed under section 2401a of this title, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 2401a(c) or (d) of this title, as the case may be, and shall, if the group meets the requirements, issue a certification of eligibility to apply for assistance under this part covering agricultural commodity producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this part begins.

(b) Notice

Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary's reasons for making the determination.

(c) Termination of certification

Whenever the Secretary determines, with respect to any certification of eligibility under this part, that the decline in price for the agricultural commodity covered by the certification is no longer attributable to the conditions described in section 2401a of this title, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary's reasons for making such determination.

(Pub. L. 93-618, title II, §293, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 948.)

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.

§ 2401c. Study by Secretary of Agriculture when International Trade Commission begins investigation

(a) In general

Whenever the International Trade Commission (in this part referred to as the "Commission") begins an investigation under section 2252 of this title with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

(1) the number of agricultural commodity producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this part, and

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

(b) Report

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

(Pub. L. 93-618, title II, §294, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 949.)

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.

§ 2401d. Benefit information to agricultural commodity producers

(a) In general

The Secretary shall provide full information to agricultural commodity producers about the benefit allowances, training, and other employment services available under this subchapter and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this subchapter.

(b) Notice of benefits

(1) In general

The Secretary shall mail written notice of the benefits available under this part to each agricultural commodity producer that the Secretary has reason to believe is covered by a certification made under this part.

(2) Other notice

The Secretary shall publish notice of the benefits available under this part to agricultural commodity producers that are covered by each certification made under this part in newspapers of general circulation in the areas in which such producers reside.

(3) Other Federal assistance

The Secretary shall also provide information concerning procedures for applying for and receiving all other Federal assistance and services available to workers facing economic distress.

(Pub. L. 93-618, title II, §295, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 949.)

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.

§ 2401e. Qualifying requirements for agricultural commodity producers

(a) In general

(1) Requirements

Payment of a¹ adjustment assistance under this part shall be made to an adversely affected agricultural commodity producer covered by a certification under this part who files an application for such assistance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 2401b of this title, if the following conditions are met:

(A) The producer submits to the Secretary sufficient information to establish the amount of agricultural commodity covered by the application filed under this subsection that was produced by the producer in the most recent year.

(B) The producer certifies that the producer has not received cash benefits under any provision of this subchapter other than this part.

(C) The producer's net farm income (as determined by the Secretary) for the most recent year is less than the producer's net farm income for the latest year in which no adjustment assistance was received by the producer under this part.

(D) The producer certifies that the producer has met with an Extension Service employee or agent to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity, including—

(i) information regarding the feasibility and desirability of substituting 1 or more alternative commodities for the adversely affected agricultural commodity; and

(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity by the producer, including yield and marketing improvements.

(2) Limitations

(A) Adjusted gross income

(i) In general

Notwithstanding any other provision of this part, an agricultural commodity producer shall not be eligible for assistance under this part in any year in which the average adjusted gross income of the producer exceeds the level set forth in section 1308-3a of title 7.

(ii) Certification

To comply with the limitation under subparagraph (A),² an individual or entity shall provide to the Secretary—

(I) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the producer does not exceed the level set forth in section 1308-3a of title 7; or

(II) information and documentation regarding the adjusted gross income of the producer through other procedures established by the Secretary.

(B) Counter-cyclical payments

The total amount of payments made to an agricultural producer under this part during any crop year may not exceed the limitation on counter-cyclical payments set forth in section 1308(c) of title 7.

(C) Definitions

In this subsection:

(i) Adjusted gross income

The term “adjusted gross income” means adjusted gross income of an agricultural commodity producer—

(I) as defined in section 62 of title 26 and implemented in accordance with procedures established by the Secretary; and

(II) that is earned directly or indirectly from all agricultural and non-agricultural sources of an individual or entity for a fiscal or corresponding crop year.

(ii) Average adjusted gross income

(I) In general

The term “average adjusted gross income” means the average adjusted gross income of a producer for each of the 3 preceding taxable years.

(II) Effective adjusted gross income

In the case of a producer that does not have an adjusted gross income for each of the 3 preceding taxable years, the Secretary shall establish rules that provide the producer with an effective adjusted gross income for the applicable year.

(b) Amount of cash benefits

(1) In general

Subject to the provisions of section 2401g of this title, an adversely affected agricultural commodity producer described in subsection (a) of this section shall be entitled to adjustment assistance under this part in an amount equal to the product of—

(A) one-half of the difference between—

(i) an amount equal to 80 percent of the average of the national average price of the agricultural commodity covered by the application described in subsection (a) of this section for the 5 marketing years preceding the most recent marketing year, and

(ii) the national average price of the agricultural commodity for the most recent marketing year, and

(B) the amount of the agricultural commodity produced by the agricultural commodity producer in the most recent marketing year.

¹ So in original. Probably should be “an”.

² So in original. Probably should be a reference to clause (i).

(2) Special rule for subsequent qualified years

The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1), except that the average national price of the agricultural commodity shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

(c) Maximum amount of cash assistance

The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed \$10,000.

(d) Limitations on other assistance

An agricultural commodity producer entitled to receive a cash benefit under this part—

(1) shall not be eligible for any other cash benefit under this subchapter, and

(2) shall be entitled to employment services and training benefits under division II of subpart B of part 2 of this subchapter.

(Pub. L. 93-618, title II, §296, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 949; amended Pub. L. 108-429, title II, §2004(a)(9), Dec. 3, 2004, 118 Stat. 2590.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-429, §2004(a)(9)(A)(i), substituted “adjustment assistance under this part” for “trade adjustment allowance” and “such assistance” for “such allowance” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 108-429, §2004(a)(9)(A)(ii), made technical amendment to reference in original act which appears in text as reference to this subsection.

Subsec. (b)(2). Pub. L. 108-429, §2004(a)(9)(B), substituted “paragraph (1), except” for “paragraph (1) except”.

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.

§ 2401f. Fraud and recovery of overpayments**(a) In general****(1) Repayment**

If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this part to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

(A) the payment was made without fault on the part of such person; and

(B) requiring such repayment would be contrary to equity and good conscience.

(2) Recovery of overpayment

Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this part.

(b) False statement

A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this part—

(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this part to which the person was not entitled.

(c) Notice and determination

Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) of this section by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

(d) Payment to Treasury

Any amount recovered under this section shall be returned to the Treasury of the United States.

(e) Penalties

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this part shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

(Pub. L. 93-618, title II, §297, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 952.)

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.

§ 2401g. Authorization of appropriations**(a) In general**

There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed \$90,000,000 for each of the fiscal years 2003 through 2007 to carry out the purposes of this part, and there are authorized to be appropriated and there are appropriated to the Department of Agriculture to carry out this part \$9,000,000 for the 3-month period beginning on October 1, 2007.

(b) Proportionate reduction

If in any year the amount appropriated under this part is insufficient to meet the requirements for adjustment assistance payable under this part, the amount of assistance payable under this part shall be reduced proportionately.

(Pub. L. 93-618, title II, §298, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116

Stat. 952; amended Pub. L. 110-89, §1(c), Sept. 28, 2007, 121 Stat. 982.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-89 inserted before period at end “, and there are authorized to be appropriated and there are appropriated to the Department of Agriculture to carry out this part \$9,000,000 for the 3-month period beginning on October 1, 2007”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-89 effective Oct. 1, 2007, see section 1(e) of Pub. L. 110-89, set out as a note under section 2317 of this title.

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.

SUBCHAPTER III—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

§ 2411. Actions by United States Trade Representative

(a) Mandatory action

(1) If the United States Trade Representative determines under section 2414(a)(1) of this title that—

(A) the rights of the United States under any trade agreement are being denied; or

(B) an act, policy, or practice of a foreign country—

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

(ii) is unjustifiable and burdens or restricts United States commerce;

the Trade Representative shall take action authorized in subsection (c) of this section, subject to the specific direction, if any, of the President regarding any such action, and shall take all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to enforce such rights or to obtain the elimination of such act, policy, or practice. Actions may be taken that are within the power of the President with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country.

(2) The Trade Representative is not required to take action under paragraph (1) in any case in which—

(A) the Dispute Settlement Body (as defined in section 3531(5) of this title) has adopted a report, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that—

(i) the rights of the United States under a trade agreement are not being denied, or

(ii) the act, policy, or practice—

(I) is not a violation of, or inconsistent with, the rights of the United States, or

(II) does not deny, nullify, or impair benefits to the United States under any trade agreement; or

(B) the Trade Representative finds that—

(i) the foreign country is taking satisfactory measures to grant the rights of the United States under a trade agreement,

(ii) the foreign country has—

(I) agreed to eliminate or phase out the act, policy, or practice, or

(II) agreed to an imminent solution to the burden or restriction on United States commerce that is satisfactory to the Trade Representative,

(iii) it is impossible for the foreign country to achieve the results described in clause (i) or (ii), as appropriate, but the foreign country agrees to provide to the United States compensatory trade benefits that are satisfactory to the Trade Representative,

(iv) in extraordinary cases, where the taking of action under this subsection would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of the provisions of this subchapter, or

(v) the taking of action under this subsection would cause serious harm to the national security of the United States.

(3) Any action taken under paragraph (1) to eliminate an act, policy, or practice shall be devised so as to affect goods or services of the foreign country in an amount that is equivalent in value to the burden or restriction being imposed by that country on United States commerce.

(b) Discretionary action

If the Trade Representative determines under section 2414(a)(1) of this title that—

(1) an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce, and

(2) action by the United States is appropriate, the Trade Representative shall take all appropriate and feasible action authorized under subsection (c) of this section, subject to the specific direction, if any, of the President regarding any such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to obtain the elimination of that act, policy, or practice. Actions may be taken that are within the power of the President with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country.

(c) Scope of authority

(1) For purposes of carrying out the provisions of subsection (a) or (b) of this section, the Trade Representative is authorized to—

(A) suspend, withdraw, or prevent the application of, benefits of trade agreement concessions to carry out a trade agreement with the foreign country referred to in such subsection;

(B) impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country for such time as the Trade Representative determines appropriate;