

Determination of President of the United States, No. 87-16, June 24, 1987, 52 F.R. 23931.

Determination of President of the United States, No. 87-15, June 23, 1987, 52 F.R. 23785.

Determination of President of the United States, No. 84-10, May 31, 1984, 49 F.R. 23025.

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TAJKISTAN.—Determination of President of the United States, No. 97-7, Nov. 26, 1996, 61 F.R. 63695.

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Proc. No. 6320, Aug. 2, 1991, 56 F.R. 37407.

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UZBEKISTAN.—Determination of President of the United States, No. 97-6, Nov. 26, 1996, 61 F.R. 63693.

VIETNAM.—Proc. No. 8096, Dec. 29, 2006, 72 F.R. 451.

Determination of President of the United States, No. 2005-11, Dec. 10, 2004, 69 F.R. 76587.

Proc. No. 7449, June 8, 2001, 66 F.R. 31375.

Determination of President of the United States, No. 2001-18, June 8, 2001, 66 F.R. 34353.

§ 2435. Commercial agreements

(a) Presidential authority

Subject to the provisions of subsections (b) and (c) of this section, the President may authorize the entry into force of bilateral commercial agreements providing nondiscriminatory treatment to the products of countries heretofore denied such treatment whenever he determines that such agreements with such countries will promote the purposes of this chapter and are in the national interest.

(b) Terms of agreements

Any such bilateral commercial agreement shall—

(1) be limited to an initial period specified in the agreement which shall be no more than 3 years from the date the agreement enters into force; except that it may be renewable for additional periods, each not to exceed 3 years; if—

(A) a satisfactory balance of concessions in trade and services has been maintained during the life of such agreement, and

(B) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to the bilateral agreement;

(2) provide that it is subject to suspension or termination at any time for national security reasons, or that the other provisions of such agreement shall not limit the rights of any party to take any action for the protection of its security interests;

(3) include safeguard arrangements (A) providing for prompt consultations whenever either actual or prospective imports cause or threaten to cause, or significantly contribute to, market disruption and (B) authorizing the imposition of such import restrictions as may be appropriate to prevent such market disruption;

(4) if the other party to the bilateral agreement is not a party to the Paris Convention for the Protection of Industrial Property, provide rights for United States nationals with respect to patents and trademarks in such country not less than the rights specified in such convention;

(5) if the other party to the bilateral agreement is not a party to the Universal Copyright Convention, provide rights for United States nationals with respect to copyrights in such country not less than the rights specified in such convention;

(6) in the case of an agreement entered into or renewed after January 3, 1975, provide arrangements for the protection of industrial rights and processes;

(7) provide arrangements for the settlement of commercial differences and disputes;

(8) in the case of an agreement entered into or renewed after January 3, 1975, provide arrangements for the promotion of trade, which may include arrangements for the establishment or expansion of trade and tourist promotion offices, for facilitation of activities of governmental commercial officers, participation in trade fairs and exhibits, and the sending of trade missions, and for facilitation of entry, establishment, and travel of commercial representatives;

(9) provide for consultations for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party; and

(10) provide such other arrangements of a commercial nature as will promote the purposes of this chapter.

(c) Congressional action

An agreement referred to in subsection (a) of this section, and a proclamation referred to in section 2434(a) of this title implementing such agreement, shall take effect only if a joint resolution described in section 2191(b)(3) of this title that approves of the agreement referred to in subsection (a) of this section is enacted into law.

(Pub. L. 93-618, title IV, §405, Jan. 3, 1975, 88 Stat. 2061; Pub. L. 96-39, title XI, §1106(f)(3), July 26, 1979, 93 Stat. 312; Pub. L. 101-382, title I, §132(b)(1), Aug. 20, 1990, 104 Stat. 645.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(10), was in the original “this Act”, meaning Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-382 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “An agreement referred to in subsection (a) of this section, and a proclamation referred to in section 2434(a) of this title implementing such agreement, shall take effect only if (1) approved by the Congress by the adoption of a concurrent resolution referred to in section 2191 of this title, or (2) in the case of an agreement entered into before January 3, 1975, and a proclamation implementing such agreement, a resolution of disapproval referred to in section 2192 of this title is not adopted during the 90-day period specified by section 2437(c)(2) of this title.”

1979—Subsec. (b)(8). Pub. L. 96-39 substituted “may include arrangements” for “may include those”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 26, 1979, see section 1114 of Pub. L. 96-39, set out as an Effective Date note under section 2581 of this title.

§ 2436. Market disruption

(a) Investigation by International Trade Commission; report; publication

(1) Upon the filing of a petition by an entity described in section 2252(a) of this title, upon 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, or on its own motion, the International Trade Commission (hereafter in this section referred to as the “Commission”) shall promptly make an investigation to determine, with respect to imports of an article which is the product of a Communist country, whether market disruption exists with respect to an article produced by a domestic industry.

(2) The provisions of subsections (a)(3), (b)(4),¹ and (c)(4) of section 2252 of this title shall apply with respect to investigations by the Commission under paragraph (1).

(3) The Commission shall report to the President its determination with respect to each investigation under paragraph (1) and the basis therefor and shall include in each report any dissenting or separate views. If the Commission finds, as a result of its investigation, that market disruption exists with respect to an article produced by a domestic industry, it shall find the amount of the increase in, or imposition of, any duty or other import restriction on such article which is necessary to prevent or remedy such market disruption and shall include such finding in its report to the President. The Commission shall furnish to the President a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.

(4) The report of the Commission of its determination with respect to an investigation under paragraph (1) shall be made at the earliest practicable time, but not later than 3 months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Commission shall also promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(b) Affirmative determination

With respect to any affirmative determination of the Commission under subsection (a) of this section—

(1) such determination shall be treated as an affirmative determination made under section 2251(b) of this title (as in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988); and

(2) sections 2252 and 2253 of this title (as in effect on the day before the date of the enactment of such Act of 1988), rather than the provisions of part 1 of subchapter II of this chapter as amended by section 1401 of such Act of 1988, shall apply with respect to the taking of subsequent action, if any, by the President in response to such affirmative determination;

except that—

(A) the President may take action under such sections 2252 and 2253 of this title only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made; and

(B) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.

(c) Products of Communist countries

If, at any time, the President finds that there are reasonable grounds to believe, with respect to imports of an article which is the product of a Communist country, that market disruption exists with respect to an article produced by a domestic industry, he shall request the Commission to initiate an investigation under subsection (a) of this section. If the President further finds that emergency action is necessary, he may take action under sections 2252 and 2253 of this title referred to in subsection (b) of this section as if an affirmative determination of the Commission had been made under subsection (a) of this section. Any action taken by the President under the preceding sentence shall cease to apply (1) if a negative determination is made by the Commission under subsection (a) of this section with respect to imports of such article, on the day on which the Commission’s report of such determination is submitted to the President, or (2) if an affirmative determination is made by the Commission under subsection (a) of this section with respect to imports of such article, on the day on which the action taken by the President pursuant to such determination becomes effective.

(d) Petitions to initiate consultations as provided for by safeguard arrangements

(1) A petition may be filed with the President by an entity described in section 2251(a)(1) of this title requesting the President to initiate consultations provided for by the safeguard arrangements of any agreement entered into under section 2435 of this title with respect to imports of an article which is the product of the country which is the other party to such agreement.

(2) If the President determines that there are reasonable grounds to believe, with respect to imports of such article, that market disruption exists with respect to an article produced by a domestic industry, he shall initiate consultations with such country with respect to such imports.

(e) Definitions; factors determining existence of market disruption

For purposes of this section—

(1) The term “Communist country” means any country dominated or controlled by communism.

¹ See References in Text note below.