

member concerned within 60 days, the Trade Representative shall promptly publish notice in the Federal Register of any proposed action to prevent or remedy the trade diversion, and provide an opportunity for interested persons to present views and evidence on whether the proposed action is in the public interest.

(g) Recommendation to the President

Within 20 days after the end of consultations pursuant to subsection (e) of this section, the Trade Representative shall make a recommendation to the President on what action, if any, should be taken to prevent or remedy the trade diversion or threat thereof.

(h) Presidential action

Within 20 days after receipt of the recommendation from the Trade Representative, the President shall determine what action to take to prevent or remedy the trade diversion or threat thereof.

(i) Duration of action

Action taken under subsection (h) of this section shall be terminated not later than 30 days after expiration of the action taken by the WTO member or members involved against imports from the People's Republic of China.

(j) Review of circumstances

The Commission shall review the continued need for action taken under subsection (h) of this section if the WTO member or members involved notify the Committee on Safeguards of the WTO of any modification in the action taken by them against the People's Republic of China pursuant to consultation referred to in subsection (a) of this section. The Commission shall, not later than 60 days after such notification, determine whether a significant diversion of trade continues to exist and report its determination to the President. The President shall determine, within 15 days after receiving the Commission's report, whether to modify, withdraw, or keep in place the action taken under subsection (h) of this section.

(Pub. L. 93-618, title IV, §422, as added Pub. L. 106-286, div. A, title I, §103(a)(3), Oct. 10, 2000, 114 Stat. 887; amended Pub. L. 108-429, title II, §2004(d)(4), Dec. 3, 2004, 118 Stat. 2592.)

AMENDMENTS

2004—Subsec. (j). Pub. L. 108-429 struck out par. (1) designation before “The Commission shall review”.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2451b. Regulations; termination of provision

(a) To carry out restrictions and monitoring

The President shall by regulation provide for the efficient and fair administration of any restriction proclaimed pursuant to the¹ part and

to provide for effective monitoring of imports under section 2451a(a) of this title.

(b) To carry out agreements

To carry out an agreement concluded pursuant to consultations under section 2451(j) or 2451a(e)(2) of this title, the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement.

(c) Termination date

This part and any regulations issued under this part shall cease to be effective 12 years after the date of entry into force of the Protocol of Accession of the People's Republic of China to the WTO.

(Pub. L. 93-618, title IV, §423, as added Pub. L. 106-286, div. A, title I, §103(a)(3), Oct. 10, 2000, 114 Stat. 890.)

REFERENCES IN TEXT

The date of entry into force of the Protocol of Accession of the People's Republic of China to the WTO, referred to in subsec. (c), is Dec. 11, 2001.

CODIFICATION

Part, referred to in subsecs. (a) and (c), was in the original “subtitle” which was translated as reading “chapter”, meaning chapter 2 of title IV of Pub. L. 93-618, as added, which enacted this part, to reflect the probable intent of Congress, because title IV of Pub. L. 93-618 contains no subtitles.

SUBCHAPTER V—GENERALIZED SYSTEM OF PREFERENCES

§ 2461. Authority to extend preferences

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this subchapter. In taking any such action, the President shall have due regard for—

- (1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;
- (2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;
- (3) the anticipated impact of such action on United States producers of like or directly competitive products; and
- (4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

(Pub. L. 93-618, title V, §501, as added Pub. L. 104-188, title I, §1952(a), Aug. 20, 1996, 110 Stat. 1917.)

PRIOR PROVISIONS

A prior section 2461, Pub. L. 93-618, title V, §501, Jan. 3, 1975, 88 Stat. 2066; Pub. L. 98-573, title V, §502, Oct. 30, 1984, 98 Stat. 3018, related to authority to extend preferences, prior to the general amendment of this subchapter by Pub. L. 104-188.

EFFECTIVE DATE

Pub. L. 104-188, title I, §1953, Aug. 20, 1996, 110 Stat. 1926, provided that:

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

“(a) IN GENERAL.—The amendments made by this subtitle [subtitle J (§§ 1951–1954) of title I of Pub. L. 104–188, enacting this subchapter, amending sections 2702, 3011, 3202, 3331, and 3551 of this title, section 1444–2 of Title 7, Agriculture, section 4711 of Title 15, Commerce and Trade, sections 262p–4p and 2191a of Title 22, Foreign Relations and Intercourse, and section 871 of Title 26, Internal Revenue Code, and enacting provisions set out as a note under section 2101 of this title] apply to articles entered on or after October 1, 1996.

“(b) RETROACTIVE APPLICATION.—

“(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 [19 U.S.C. 1514] or any other provision of law and subject to subsection (c)—

“(A) any article that was entered—

“(i) after July 31, 1995, and

“(ii) before January 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 [this subchapter] would have applied if the entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and

“(B) any article that was entered—

“(i) after December 31, 1995, and

“(ii) before October 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 [this subchapter] (as amended by this subtitle) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

“(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.

“(3) ENTRY.—As used in this subsection, the term ‘entry’ includes a withdrawal from warehouse for consumption.

“(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act [Aug. 20, 1996], that contains sufficient information to enable the Customs Service—

“(1) to locate the entry; or

“(2) to reconstruct the entry if it cannot be located.”

§ 2462. Designation of beneficiary developing countries

(a) Authority to designate countries

(1) Beneficiary developing countries

The President is authorized to designate countries as beneficiary developing countries for purposes of this subchapter.

(2) Least-developed beneficiary developing countries

The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this subchapter, based on the considerations in section 2461 of this title and subsection (c) of this section.

(b) Countries ineligible for designation

(1) Specific countries

The following countries may not be designated as beneficiary developing countries for purposes of this subchapter:

- (A) Australia.
- (B) Canada.
- (C) European Union member states.
- (D) Iceland.
- (E) Japan.

(F) Monaco.

(G) New Zealand.

(H) Norway.

(I) Switzerland.

(2) Other bases for ineligibility

The President shall not designate any country a beneficiary developing country under this subchapter if any of the following applies:

(A) Such country is a Communist country, unless—

(i) the products of such country receive nondiscriminatory treatment,

(ii) such country is a WTO Member (as such term is defined in section 3501(10) of this title) and a member of the International Monetary Fund, and

(iii) such country is not dominated or controlled by international communism.

(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

(ii) to cause serious disruption of the world economy.

(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

(D)(i) Such country—

(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

(ii) This clause applies if the President determines that—

(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

(II) good faith negotiations to provide prompt, adequate, and effective compensa-