

(C) The Commission, in determining whether market disruption exists, shall consider, among other factors—

(i) the volume of imports of the merchandise which is the subject of the investigation;

(ii) the effect of imports of the merchandise on prices in the United States for like or directly competitive articles;

(iii) the impact of imports of such merchandise on domestic producers of like or directly competitive articles; and

(iv) evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns.

(Pub. L. 93-618, title IV, § 406, Jan. 3, 1975, 88 Stat. 2062; 1979 Reorg. Plan No. 3, § 1(b)(1), eff. Jan. 2, 1980, 44 F.R. 69273, 93 Stat. 1381; Pub. L. 100-418, title I, § 1411(a), (b), Aug. 23, 1988, 102 Stat. 1241, 1242; Pub. L. 106-36, title I, § 1001(a)(6), June 25, 1999, 113 Stat. 130.)

REFERENCES IN TEXT

Subsection (b)(4) of section 2252 of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 103-465, title III, § 301(c), Dec. 8, 1994, 108 Stat. 4932. See section 2252(b)(3) of this title.

The date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, referred to in subsec. (b), is the date of enactment of Pub. L. 100-418, which was approved Aug. 23, 1988.

Section 1401 of such Act of 1988, referred to in subsec. (b)(2), is section 1401 of Pub. L. 100-418, known as the Omnibus Trade and Competitiveness Act of 1988, which enacted section 2254 of this title, amended sections 1330, 2133, 2251 to 2253, 2274, 2354, and 2703 of this title, enacted a provision set out as a note under section 2251 of this title, and amended a provision set out as a note under section 2112 of this title.

AMENDMENTS

1999—Subsec. (e)(2)(B), (C). Pub. L. 106-36 realigned margins.

1988—Subsec. (a)(1). Pub. L. 100-418, § 1411(b)(1), substituted “section 2252(a)” for “section 2251(a)(1)”.

Subsec. (a)(2). Pub. L. 100-418, § 1411(b)(2), substituted “subsections (a)(3), (b)(4), and (c)(4) of section 2252” for “subsections (a)(2), (b)(3), and (c) of section 2251”.

Subsec. (b). Pub. L. 100-418, § 1411(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For purposes of sections 2252 and 2253 of this title, an affirmative determination of the Commission under subsection (a) of this section shall be treated as an affirmative determination under section 2251(b) of this title, except that—

“(1) the President may take action under 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

“(2) 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.”

Subsec. (c). Pub. L. 100-418, § 1411(a)(2), inserted “referred to in subsection (b)” after “sections 2252 and 2253 of this title”.

Subsec. (e)(2). Pub. L. 100-418, § 1411(a)(3), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

CHANGE OF NAME

“United States Trade Representative” substituted for “Special Representative for Trade Negotiations” in subsec. (a)(1), pursuant to Reorg. Plan No. 3 of 1979, § 1(b)(1), 44 F.R. 69273, 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.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-418, title I, § 1411(c), Aug. 23, 1988, 102 Stat. 1242, provided that: “The amendments made by subsections (a) and (b) [amending this section] apply with respect to investigations initiated under section 406(a) of the Trade Act of 1974 [19 U.S.C. 2436(a)] on or after the date of the enactment of this Act [Aug. 23, 1988].”

§ 2437. Procedure for Congressional approval or disapproval of extension of nondiscriminatory treatment and Presidential reports

(a) Transmission of nondiscriminatory treatment documents to Congress

Whenever the President issues a proclamation under section 2434 of this title extending nondiscriminatory treatment to the products of any foreign country, he shall promptly transmit to the House of Representatives and to the Senate a document setting forth the proclamation and the agreement the proclamation proposes to implement, together with his reasons therefor.

(b) Transmission of freedom of emigration documents to Congress

The President shall transmit to the House of Representatives and the Senate a document containing the initial report submitted by him under section 2432(b) or 2439(b) of this title with respect to a nonmarket economy country. On or before December 31 of each year, the President shall transmit to the House of Representatives and the Senate, a document containing the report required by section 2432(b) or 2439(b) of this title as the case may be, to be submitted on or before such December 31.

(c) Effective date of proclamations and agreements; disapproval of reports

(1) In the case of a document referred to in subsection (a), the proclamation set forth in the document may become effective and the agreement set forth in the document may enter into force and effect only if a joint resolution described in section 2191(b)(3) of this title that approves of the extension of nondiscriminatory treatment to the products of the country concerned is enacted into law.

(2) In the case of a document referred to in subsection (b) which contains a report submitted by the President under section 2432(b) or 2439(b) of this title with respect to a nonmarket economy country, if, before the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, a joint resolution described in section 2192(a)(1)(B) of this title is enacted into law that disapproves of the report submitted by the President with respect to such country, then, beginning with the day after the end of the 60-day period beginning with the date of the enactment of such resolution of disapproval, (A) nondiscriminatory treatment shall not be in force with respect to the products of such country, and the products of such country shall be dutiable at the rates set forth in rate column numbered 2 of the Harmonized Tariff Schedule of the United States, (B) such coun-

try may not participate in any program of the Government of the United States which extends credit or credit guarantees or investment guarantees, and (C) no commercial agreement may thereafter be concluded with such country under this subchapter. If the President vetoes the joint resolution, the joint resolution shall be treated as enacted into law before the end of the 90-day period under this paragraph if both Houses of Congress vote to override such veto on or before the later of the last day of such 90-day period or the last day of the 15-day period (excluding any day described in section 2194(b) of this title) beginning on the date the Congress receives the veto message from the President.

(Pub. L. 93-618, title IV, § 407, Jan. 3, 1975, 88 Stat. 2063; Pub. L. 100-418, title I, § 1214(j)(4), Aug. 23, 1988, 102 Stat. 1158; Pub. L. 101-382, title I, § 132(b)(3), (c)(1), Aug. 20, 1990, 104 Stat. 646.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (c)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

AMENDMENTS

1990—Subsec. (c)(1). Pub. L. 101-382, § 132(b)(3)(A), added par. (1) and struck out former par. (1) which read as follows: “In the case of a document referred to in subsection (a) of this section (other than a document to which paragraph (2) applies), the proclamation set forth therein may become effective and the agreement set forth therein may enter into force and effect only if the House of Representatives and the Senate adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution of approval (under the procedures set forth in section 2191 of this title) of the extension of nondiscriminatory treatment to the products of the country concerned.”

Subsec. (c)(2). Pub. L. 101-382 struck out par. (2) and redesignated par. (3) as (2), and substituted “a joint resolution described in section 2192(a)(1)(B) of this title is enacted into law that disapproves” for “either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 2192 of this title)” and “the end of the 60-day period beginning with the date of the enactment” for “the date of the adoption” and inserted at end “If the President vetoes the joint resolution, the joint resolution shall be treated as enacted into law before the end of the 90-day period under this paragraph if both Houses of Congress vote to override such veto on or before the later of the last day of such 90-day period or the last day of the 15-day period (excluding any day described in section 2194(b) of this title) beginning on the date the Congress receives the veto message from the President.” Former par. (2) related to effective date of proclamation extending nondiscriminatory treatment to products of a foreign country and of agreement proclamation proposed to implement and related to resolution of disapproval of such extension as to certain countries.

Subsec. (c)(3). Pub. L. 101-382, § 132(b)(3)(B), redesignated par. (3) as (2).

1988—Subsec. (c)(3). Pub. L. 100-418 substituted “Harmonized Tariff Schedule of the United States” for “Tariff Schedules of the United States”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

§ 2438. Payment by Czechoslovakia of amounts owed United States citizens and nationals

(a) Renegotiation of 1974 agreement

The arrangement initialed on July 5, 1974, with respect to the settlement of the claims of citizens and nationals of the United States against the Government of Czechoslovakia shall be renegotiated and shall be submitted to the Congress as part of any agreement entered into under this subchapter with Czechoslovakia.

(b) Provisional retention of gold

The United States shall not release any gold belonging to Czechoslovakia and controlled directly or indirectly by the United States pursuant to the provisions of the Paris Reparations Agreement of January 24, 1946, or otherwise, until such agreement has been approved by the Congress.

(Pub. L. 93-618, title IV, § 408, Jan. 3, 1975, 88 Stat. 2064.)

§ 2439. Freedom to emigrate to join a very close relative in United States

(a) Sanctions for emigration restrictions

To assure the continued dedication of the United States to the fundamental human rights and welfare of its own citizens, and notwithstanding any other provision of law, on or after January 3, 1975, no nonmarket economy country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to join permanently through emigration, a very close relative in the United State,¹ such as a spouse, parent, child, brother, or sister;

(2) imposes more than a nominal tax on the visas or other documents required for emigration described in paragraph (1); or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate as described in paragraph (1),

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) Report to Congress concerning emigration policies

After January 3, 1975, (A) a nonmarket economy country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (B) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the na-

¹ So in original.