

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), 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

1998—Subsecs. (c), (d). Pub. L. 105-362 redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to recommendations to Congress for legislation following a Presidential determination that a major industrial country failed to grant equivalent concessions.

§ 2137. Reservation of articles for national security or other reasons

(a) National security considerations

No proclamation shall be made pursuant to the provisions of this chapter reducing or eliminating the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) Action taken under other laws

While there is in effect with respect to any article any action taken under section 2253 of this title, or section 1862 or 1981 of this title, the President shall reserve such article from negotiations under this subchapter (and from any action under section 2132(c) of this title) contemplating reduction or elimination of—

(A) any duty on such article,

(B) any import restriction imposed under such section, or

(C) any other import restriction, the removal of which will be likely to undermine the effect of the import restrictions referred to in subparagraph (B).

In addition, the President shall also so reserve any other article which he determines to be appropriate, taking into consideration information and advice available pursuant to and with respect to the matters covered by sections 2151, 2152, and 2153 of this title, where applicable.

(Pub. L. 93-618, title I, § 127(a), (b), Jan. 3, 1975, 88 Stat. 1993.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 127 of act Jan. 3, 1975. Subsec. (c) of such section was classified to section 1863 of this title, prior to its repeal by Pub. L. 100-418, title I, § 1501(b)(2), Aug. 23, 1988, 102 Stat. 1259, and subsec. (d) amended section 1862 of this title.

§ 2138. Omitted

CODIFICATION

Section, Pub. L. 93-618, title I, § 128, as added Pub. L. 98-573, title III, § 308(b)(1), Oct. 30, 1984, 98 Stat. 3013; amended Pub. L. 99-514, title XVIII, § 1887(b)(1), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-418, title I, §§ 1214(j)(1),

1215, Aug. 23, 1988, 102 Stat. 1158, 1163; Pub. L. 100-647, title IX, § 9001(a)(3), Nov. 10, 1988, 102 Stat. 3806, related to modification and continuance of treatment with respect to duties on high technology products, was omitted pursuant to subsec. (c) which provided that the President could exercise authority under this section only during the 5-year period beginning on Oct. 30, 1984.

PART 3—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

§ 2151. Advice from International Trade Commission

(a) Lists of articles which may be considered for action

(1) In connection with any proposed trade agreement under section 2133 of this title or subsection (a) or (b) of section 4202 of this title, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the “Commission”) with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given.

(2) In connection with any proposed trade agreement under section 4202(b) of this title, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

(b) Advice to President by Commission

Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 4202(a)(4)(A) of this title.

(c) Additional investigations and reports requested by President or Trade Representative

In addition, in order to assist the President in his determination whether to enter into any agreement under section 2133 of this title or section 4202(a) of this title, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States

Trade Representative on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

(d) Commission steps in preparing its advice to President

In preparing its advice to the President under this section, the Commission shall to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, consumers, services, intellectual property and investment, using to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(e) Public hearings

In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

(Pub. L. 93-618, title I, §131, Jan. 3, 1975, 88 Stat. 1994; Pub. L. 100-418, title I, §1111(a), Aug. 23, 1988, 102 Stat. 1135; Pub. L. 107-210, div. B, title XXI, §2110(a)(2), Aug. 6, 2002, 116 Stat. 1019; Pub. L. 114-26, title I, §110(a)(1), June 29, 2015, 129 Stat. 357.)

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-26, §110(a)(1)(A)(i), substituted “subsection (a) or (b) of section 4202 of this title” for “section 3803(a) or (b) of this title”.

Subsec. (a)(2). Pub. L. 114-26, §110(a)(1)(A)(ii), substituted “section 4202(b) of this title” for “section 3803(b) of this title”.

Subsec. (b). Pub. L. 114-26, §110(a)(1)(B), substituted “section 4202(a)(4)(A) of this title” for “section 3803(a)(3)(A) of this title”.

Subsec. (c). Pub. L. 114-26, §110(a)(1)(C), substituted “section 4202(a) of this title” for “section 3803 of this title”.

2002—Subsec. (a)(1). Pub. L. 107-210, §2110(a)(2)(A)(i), substituted “section 2133 of this title or section 3803(a)

or (b) of this title,” for “section 2133 of this title or section 2902(a) or (c) of this title.”.

Subsec. (a)(2). Pub. L. 107-210, §2110(a)(2)(A)(ii), substituted “section 3803(b) of this title” for “section 2902(b) or (c) of this title”.

Subsec. (b). Pub. L. 107-210, §2110(a)(2)(B), substituted “section 3803(a)(3)(A) of this title” for “section 2902(a)(3)(A) of this title”.

Subsec. (c). Pub. L. 107-210, §2110(a)(2)(C), substituted “section 3803 of this title,” for “section 2902 of this title.”.

1988—Pub. L. 100-418 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), lists of articles which could be considered for modification or continuance of duties, duty-free or excise treatment, or additional duties; in subsec. (b), advice to President following receipt of list by Commission; in subsec. (c), additional investigations and reports requested by President; in subsec. (d), Commission steps in preparing its advice to President; and in subsec. (e), public hearings.

DELEGATION OF AUTHORITY

For delegation of functions of President under div. B of Pub. L. 107-210, amending this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§2152. Advice from executive departments and other sources

Before any trade agreement is entered into under section 2133 of this title or section 4202 of this title, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 2171(c) of this title.

(Pub. L. 93-618, title I, §132, Jan. 3, 1975, 88 Stat. 1995; Pub. L. 100-418, title I, §1111(a), Aug. 23, 1988, 102 Stat. 1137; Pub. L. 107-210, div. B, title XXI, §2110(a)(3), Aug. 6, 2002, 116 Stat. 1020; Pub. L. 114-26, title I, §110(a)(2), June 29, 2015, 129 Stat. 357.)

REFERENCES IN TEXT

Reorganization Plan Number 3 of 1979, referred to in text, is set out as a note under section 2171 of this title.

Executive Order Number 12188, referred to in text, is set out as a note under section 2171 of this title.

AMENDMENTS

2015—Pub. L. 114-26 substituted “section 4202 of this title” for “section 3803 of this title”.

2002—Pub. L. 107-210 substituted “section 3803 of this title,” for “section 2902 of this title.”.

1988—Pub. L. 100-418 amended section generally. Prior to amendment, section read as follows: “Before any trade agreement is entered into under part 1 of this subchapter or section 2133 or 2134 of this title, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate.”

DELEGATION OF AUTHORITY

For delegation of functions of President under div. B of Pub. L. 107-210, amending this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.