

entered into pursuant to this chapter, section 1821 of this title, or section 1351 of this title shall not be affected by any termination, in whole or in part, of such agreement or by the withdrawal of the United States from such agreement and shall remain in effect after the date of such termination or withdrawal for 1 year, unless the President by proclamation provides that such rates shall be restored to the level at which they would be but for the agreement. Within 60 days after the date of any such termination or withdrawal, the President shall transmit to the Congress his recommendations as to the appropriate rates of duty for all articles which were affected by the termination or withdrawal or would have been so affected but for the preceding sentence.

**(f) Public hearings**

Before taking any action pursuant to subsection (b), (c), or (d), the President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard, unless he determines that such prior hearings will be contrary to the national interest because of the need for expeditious action, in which case he shall provide for a public hearing promptly after such action.

(Pub. L. 93-618, title I, §125, Jan. 3, 1975, 88 Stat. 1991.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), (e), 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.

The Tariff Schedules of the United States, referred to in subsec. (c), to be treated as a reference to the Harmonized Tariff Schedule pursuant to section 3012 of this title. The Harmonized Tariff Schedule is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

AUTHORITY TO INCREASE DUTIES ON IMPORTS OF CERTAIN TOBACCO AND TOBACCO PRODUCTS

Pub. L. 103-465, title IV, §421, Dec. 8, 1994, 108 Stat. 4964, provided that:

“(a) IN GENERAL.—In the application of section 125(c) of the Trade Act of 1974 (19 U.S.C. 2135) with respect to any item provided for in subheadings 2401.10.60, 2401.20.30, 2401.20.80, 2401.30.30, 2401.30.60, 2401.30.90, 2403.10.00, 2403.91.40, or 2403.99.00 of the HTS, ‘350’ shall be substituted for ‘20’ where it appears in such section.

“(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Dec. 8, 1994].”

TARIFF REDUCTIONS UNDER TRADE AGREEMENTS ACT OF 1979

Pub. L. 96-39, title V, §502(b), July 26, 1979, 93 Stat. 251, provided that: “For purposes of section 125 (19 U.S.C. 2135) of the Trade Act of 1974 the amendments made under sections 508, 511, 512, and 513 [amending items 135.41, 135.42, 750.26, 750.27, 750.28, 870.45, 905.10, and 905.11 of the Tariff Schedules of the United States. See Publication of Tariff Schedules note under section 1202 of this title] not including the rates of duty appearing in rate column numbered 2, if any, shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 [this chapter], of benefit to foreign countries or instrumentalities.”

Pub. L. 96-39, title VI, §601(b), July 26, 1979, 93 Stat. 268, provided that: “For purposes of section 125 of the

Trade Act of 1974 [this section], the amendments made under subsection (a), if any [amending the Tariff Schedules of the United States with regard to civil aircraft (see Publication of Tariff Schedules note under section 1202), and, amending section 1466 of this title], shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 [this chapter] of benefit to foreign countries or instrumentalities.”

Rates of duty proclaimed under section 855(a) of Pub. L. 96-39 (covering spirits, spiritous beverages, and beverage preparations) to be deemed, for purposes of this section, a trade agreement obligation which is of benefit to a foreign country or instrumentality, and, in the case of any item affected by such a proclamation, the last sentence of subsec. (c) of this section to be applied as if it authorized (in addition to any increase authorized therein) an increase up to the rate of duty for such item set forth in rate column numbered 1 of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States (see Publication of Tariff Schedules note under section 1202 of this title) as amended by section 852 of Pub. L. 96-39, see section 855(b) of Pub. L. 96-39.

REVIEW OF INTERNATIONAL TRADE IN ALCOHOLIC BEVERAGES

Pub. L. 96-39, title VIII, §854, July 26, 1979, 93 Stat. 294, provided that:

“(a) REVIEW.—The President shall review foreign tariff and nontariff barriers affecting United States exports of alcoholic beverages. Not later than January 1, 1982, the President shall report to the Congress the results of his review.

“(b) WITHDRAWAL OF CONCESSIONS.—If, as the result of his review under subsection (a), the President determines that a foreign country or instrumentality has not implemented concessions to the United States affecting alcoholic beverages which were negotiated in trade agreements entered into before January 3, 1980, under the authority of title I of the Trade Act of 1974 [this subchapter], the President shall withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality under section 125 of the Trade Act of 1974 (19 U.S.C. 2135).

“(c) FURTHER NEGOTIATIONS TO REMOVE BARRIERS.—If, as the result of his review under subsection (a), the President determines that foreign tariff or nontariff barriers are unduly burdening or restricting the United States exports of alcoholic beverages, he shall enter into negotiations under the Trade Act of 1974 [this chapter] to eliminate or reduce such barriers.”

**§ 2136. Reciprocal nondiscriminatory treatment**

**(a) Direct and indirect imports**

Except as otherwise provided in this chapter or in any other provision of law, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under this subchapter shall apply to products of all foreign countries, whether imported directly or indirectly.

**(b) Presidential determination of whether major industrial countries have made substantially equivalent concessions to the United States**

The President shall determine, after the conclusion of all negotiations entered into under this chapter or at the end of the 5-year period beginning on January 3, 1975, whichever is earlier, whether any major industrial country has failed to make concessions under trade agreements entered into under this chapter which provide competitive opportunities for the commerce of the United States in such country substantially equivalent to the competitive opportunities, provided by concessions made by the

United States under trade agreements entered into under this chapter, for the commerce of such country in the United States.

**(c) Major industrial countries**

For purposes of this section, “major industrial country” means Canada, the European Economic Community, the individual member countries of such Community, Japan, and any other foreign country designated by the President for purposes of this subsection.

(Pub. L. 93–618, title I, § 126, Jan. 3, 1975, 88 Stat. 1992; Pub. L. 105–362, title XIV, § 1401(b)(1), Nov. 10, 1998, 112 Stat. 3294.)

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.