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§ 2501. Short title

This Act may be cited as the “Trade Agreements Act of 1979”.

(Pub. L. 96–39, §1(a), July 26, 1979, 93 Stat. 144.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–39, July 26, 1979, 93 Stat. 144, which enacted this chapter and sections 1516a, 1671 to 1671f, 1673 to 1673i, 1675, 1677 to 1677g, and 2413 to 2416 of this title, amended the Tariff Schedules, and sections 1303, 1311, 1315, 1332, 1336, 1337, 1351, 1401a, 1466, 1500, 1514 to 1516, 1872, 2033, 2112, 2119, 2131, 2155, 2192, 2194, 2211, 2251, 2253, 2411, 2412, 2432, 2434, 2435, 2462 to 2464, 2481, and 2486 of this title, section 5315 of Title 5, Government Organization and Employees, section 301 of Title 13, Census, sections 993, 5001 to 5008, 5043, 5061, 5064, 5066, 5116, 5171 to 5173, 5175 to 5178, 5180, 5181, 5201 to 5205, 5207, 5211 to 5215, 5221 to 5223, 5231, 5232, 5235, 5241, 5273, 5291, 5301, 5352, 5361 to 5363, 5365, 5381, 5391, 5551, 5601, 5604, 5610, 5612, 5615, 5663, 5681, 5682, and 5691 of Title 26, Internal Revenue Code, and sections 1541, 1582, 2632, and 2633, and 2637 of Title 28, Judiciary and Judicial Procedure, repealed sections 160 to 171 and 1402 of this title and sections 5009, 5021 to 5026, 5081 to 5084, 5174, 5233, 5234, 5251, 5252, 5364, and 5521 to 5523 of Title 26, enacted provisions set out as notes under sections 160, 1202, 1303, 1311, 1401a, 1516a, 1671, 2111, 2112, 2119, 2135, 2464, 2511, 2531, and 2581 of this title, section 301 of Title 13, and sections 1, 5001, 5061, 5171, and 5173 of Title 26, and amended provisions set out as notes in the Tariff Schedules and under section 2101 of this title. For complete classification of this Act to the Code, see Tables.

§ 2502. Congressional statement of purposes

The purposes of this Act are—

- (1) to approve and implement the trade agreements negotiated under the Trade Act of 1974 [19 U.S.C. 2101 et seq.];
- (2) to foster the growth and maintenance of an open world trading system;
- (3) to expand opportunities for the commerce of the United States in international trade; and
- (4) to improve the rules of international trade and to provide for the enforcement of such rules, and for other purposes.

(Pub. L. 96–39, §1(c), July 26, 1979, 93 Stat. 146.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1), is Pub. L. 96–39, July 26, 1979, 93 Stat. 144, known as the

Trade Agreements Act of 1979. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of this title and Tables.

The Trade Act of 1974, referred to in par. (1), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to chapter 12 (§2101 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

§ 2503. Approval of trade agreements

(a) Approval of agreements and statements of administrative action

In accordance with the provisions of sections 2112 and 2191 of this title, the Congress approves the trade agreements described in subsection (c) submitted to the Congress on June 19, 1979, and the statements of administrative action proposed to implement such trade agreements submitted to the Congress on that date.

(b) Acceptance of agreements by the President

(1) In general

The President may accept for the United States the final legal instruments or texts embodying each of the trade agreements approved by the Congress under subsection (a). The President shall submit a copy of each final instrument or text to the Congress on the date such text or instrument is available, together with a notification of any changes in the instruments or texts, including their annexes, if any, as accepted and the texts of such agreements as submitted to the Congress under subsection (a). Such final legal instruments or texts shall be deemed to be the agreements submitted to and approved by the Congress under subsection (a) if such changes are—

(A) only rectifications of a formal character or minor technical or clerical changes which do not affect the substance or meaning of the texts as submitted to the Congress on June 19, 1979, or

(B) changes in annexes to such agreements, and the President determines that the balance of United States rights and obligations under such agreements is maintained.

(2) Application of agreement between the United States and other countries

No agreement accepted by the President under paragraph (1) shall apply between the United States and any other country unless the President determines that such country—

(A) has accepted the obligations of the agreement with respect to the United States, and

(B) should not otherwise be denied the benefits of the agreement with respect to the United States because such country has not accorded adequate benefits, including substantially equal competitive opportunities for the commerce of the United States to the extent required under section 2136(c)<sup>1</sup> of this title, to the United States.

(3) Limitation on acceptance concerning major industrial countries

The President may not accept an agreement described in paragraph (1), (2), (3), (4), (5), (6),

<sup>1</sup> See References in Text note below.

(7), (9), (10), or (11) of subsection (c), unless he determines that each major industrial country (as defined in section 2136(d)<sup>1</sup> of this title) is also accepting the agreement. Notwithstanding the preceding sentence, the President may accept such an agreement, if he determines that only one major industrial country is not accepting that agreement and the acceptance of that agreement by that country is not essential to the effective operation of the agreement, and if—

(A) that country is not a major factor in trade in the products covered by that agreement,

(B) the President has authority to deny the benefits of the agreement to that country and has taken steps to deny the benefits of the agreement to that country, or

(C) a significant portion of United States trade would benefit from the agreement, notwithstanding such nonacceptance, and the President determines and reports to the Congress that it is in the national interest of the United States to accept the agreement.

For purposes of this paragraph, the acceptance of an agreement by the European Communities on behalf of its member countries shall also be treated as acceptance of that agreement by each member country, and acceptance of an agreement by all the member countries of the European Communities shall also be treated as acceptance of that agreement by the European Communities.

**(c) Trade agreements to which this Act applies**

The trade agreements to which subsection (a) applies are the following:

(1) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (relating to customs valuation).

(2) The Agreement on Government Procurement.

(3) The Agreement on Import Licensing Procedures.

(4) The Agreement on Technical Barriers to Trade (relating to product standards).

(5) The Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures).

(6) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(7) The International Dairy Arrangement.

(8) Certain bilateral agreements on cheese, other dairy products, and meat.

(9) The Arrangement Regarding Bovine Meat.

(10) The Agreement on Trade in Civil Aircraft.

(11) Texts Concerning a Framework for the Conduct of World Trade.

(12) Certain Bilateral Agreements to Eliminate the Wine-Gallon Method of Tax and Duty Assessment.

(13) Certain other agreements to be reflected in Schedule XX of the United States to the General Agreement on Tariffs and Trade, including Agreements—

(A) to Modify United States Watch Marking Requirements, and to Modify United

States Tariff Nomenclature and Rates of Duty for Watches,

(B) to Provide Duty-Free Treatment for Agricultural and Horticultural Machinery, Equipment, Implements, and Parts Thereof, and

(C) to Modify United States Tariff Nomenclature and Rates of Duty for Ceramic Tableware.

(14) The Agreement with the Hungarian People's Republic.

(Pub. L. 96-39, § 2, July 26, 1979, 93 Stat. 147.)

REFERENCES IN TEXT

Section 2136(c) of this title, referred to in subsec. (b)(2)(B), was repealed, and section 2136(d) of this title, referred to in subsec. (b)(3), which defined the term "major industrial country" was redesignated section 2136(c), by Pub. L. 105-362, title XIV, § 1401(b)(1), Nov. 10, 1998, 112 Stat. 3294.

This Act, referred to in subsec. (c), is Pub. L. 96-39, July 26, 1979, 93 Stat. 144, known as the Trade Agreements Act of 1979. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of this title and Tables.

APPROVAL AND IMPLEMENTATION OF PROTOCOL TO THE TRADE AGREEMENT RELATING TO CUSTOMS VALUATION

Pub. L. 96-490, § 1, Dec. 2, 1980, 94 Stat. 2556, provided that:

"(a) APPROVAL OF PROTOCOL.—In accordance with the provisions of sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves—

"(1) the trade agreement entitled 'Protocol to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade' (hereinafter in this Act [amending section 1401a of this title and enacting provision set out as a note under section 1401a of this title] referred to as the 'Protocol') submitted to the Congress on August 1, 1980; and

"(2) the statement of administrative action proposed to implement such trade agreement submitted to the Congress on that date.

"(b) ACCEPTANCE OF PROTOCOL BY THE PRESIDENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the President may accept the Protocol for the United States.

"(2) LIMITATION ON ACCEPTANCE OF PROTOCOL.—Paragraph (3) of section 2(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2503(b)(3)) (relating to the limitation on acceptance of trade agreements concerning major industrial countries) applies to the Protocol and for such purpose the Protocol shall be treated as a trade agreement that is referred to in such paragraph (3).

"(c) APPLICATION OF PROTOCOL.—Paragraph (2) of section 2(b) of such Act of 1979 (19 U.S.C. 2503(b)(2)) (relating to the application of agreements between the United States and other countries) applies to the Protocol and for such purpose the Protocol shall be treated as a trade agreement that is accepted by the President under paragraph (1) of such section 2(b).

"(d) RELATIONSHIP OF PROTOCOL TO UNITED STATES LAW.—Subsections (a), (b), (c), and (f) of section 3 of such Act of 1979 (19 U.S.C. 2504(a), (b), (c), and (f) [19 U.S.C. 2504(a), (b), (c), and (d)]) (relating to the priority of domestic law in case of conflict, implementing regulations, statutory changes to implement agreement amendments, and disclaimer regarding the creation of any private right of action or remedy) apply to the Protocol and for such purpose the Protocol shall be treated as a trade agreement approved by the Congress under section 2(a) of such Act of 1979, 19 U.S.C. 2503(a)."

[The Protocol was accepted for the United States on Dec. 30, 1980.]

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (b) of this section delegated to the United States Trade Rep-

representative, see section 1-103(b) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 990, set out as a note under section 2171 of this title.

DETERMINATION REGARDING THE MULTILATERAL TRADE NEGOTIATIONS

Memorandum of President of the United States, Dec. 14, 1979, 44 F.R. 74781, provided:

Memorandum for the Special Representative for Trade Negotiations

I have signed the enclosed document [set out below] concerning certain international trade agreements pursuant to the authority vested in me under the Constitution and laws of the United States, including the Trade Agreements Act of 1979 (Public Law 96-39, 93 Stat. 144) and section 301 of title 3 of the United States Code.

On my behalf, please transmit copies of this document to the Speaker of the House of Representatives and the President of the Senate.

This document shall be published in the Federal Register.

JIMMY CARTER.

PRESIDENTIAL DETERMINATION REGARDING THE ACCEPTANCE AND APPLICATION OF CERTAIN INTERNATIONAL TRADE AGREEMENTS

1. Pursuant to section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)), I, through my duly empowered representative, on April 12, 1979, entered into the international agreements negotiated in the Tokyo Round of Multilateral Trade Negotiations. These agreements were:

- (i) Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade;
- (ii) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade;
- (iii) Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade;
- (iv) Agreement on Government Procurement;
- (v) Agreement on Technical Barriers to Trade;
- (vi) Agreement on Import Licensing Procedures;
- (vii) Agreement on Trade in Civil Aircraft;
- (viii) International Dairy Arrangement; and
- (ix) Arrangement Regarding Bovine Meat.

These agreements are collectively referred to herein as the "MTN agreements".

2. In accordance with sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the MTN agreements were submitted to Congress for its approval. Section 2 of the Trade Agreements Act of 1979 (93 Stat. 147) [19 U.S.C. 2503] approves the MTN agreements and authorizes the President to accept each of the MTN agreements provided that the President determines that all, or all but one, of the major industrial countries (as defined in section 126(d) of the Trade Act of 1974 (19 U.S.C. 2136(d))) is also accepting the agreement. If the President determines that only one major industrial country is not accepting an agreement, the President may nevertheless accept such an agreement if he determines that the acceptance of that agreement by that country is not essential to the effective operation of the agreement, and if:

- (A) that country is not a major factor in trade in the products covered by that agreement;
- (B) the President has authority to deny the benefits of the agreement to that country and has taken steps to deny the benefits of the agreement to that country; or
- (C) a significant portion of United States trade would benefit from the agreement, notwithstanding such nonacceptance, and the President determines and reports to the Congress that it is in the national interest of the United States to accept the agreement.

3. Section 2 of the Trade Agreements Act of 1979 also provides that no agreement accepted by the President shall apply between the United States and any other country unless the President determines that such country:

(A) has accepted the obligations of the agreement with respect to the United States, and

(B) should not otherwise be denied the benefits of the agreement with respect to the United States because such country has not accorded adequate benefits, including substantially equal competitive opportunities for the commerce of the United States to the extent required under section 126(c) of the Trade Act of 1974 (19 U.S.C. 2136(c)), to the United States.

4. Section 701 of the Tariff Act of 1930, as amended effective January 1, 1980 (93 Stat. 151) [19 U.S.C. 1671], provides that the President must determine that certain conditions must be met before a country can be considered a "country under the Agreement" and, therefore, entitled to the injury determination provided for in section 703(a) and 705(b) of the Tariff Act of 1930 (93 Stat. 152 and 159) [19 U.S.C. 1671b(a) and 1671d(b)].

5. Section 601(a) of the Trade Agreements Act of 1979 (93 Stat. 267) authorizes the President to proclaim certain modifications in the Tariff Schedules of the United States if the President determines that the conditions under section 2(b) of the Trade Agreements Act of 1979 (93 Stat. 147) [19 U.S.C. 2503(b)] on acceptance of the Agreement on Trade in Civil Aircraft have been fulfilled.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of sections 2 and 601(a) of the Trade Agreements Act of 1979 (93 Stat. 147 and 267), herein referred to as "the Act", section 701 of the Tariff Act of 1930, as amended effective January 1, 1980 (93 Stat. 151) [19 U.S.C. 1671], and section 301 of title 3 of the United States Code do hereby

1. Determine that:

a. With respect to the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, the Agreement on Technical Barriers to Trade, the Agreement on Import Licensing Procedures, and the Agreement on Trade in Civil Aircraft,

(i) in accordance with section 2(b)(1) and (3) of the Act (93 Stat. 147) [19 U.S.C. 2503(b)(1), (3)], each major industrial country (as defined in section 126(d) of the Trade Act of 1974 (19 U.S.C. 2136(d))) is also accepting the agreement with the exception of Japan;

(ii) in accordance with section 2(b)(3) of the Act (93 Stat. 147), the acceptance of these agreements by Japan is not essential to the effective operation of the agreements for that period of time during which Japan is completing its Constitutional procedures to accept the agreements and in light of the stated intention of the Government of Japan to act in the interim in line with the agreements within its existing powers; and

(iii) in accordance with section 2(b)(3)(C) of the Act (93 Stat. 148), a significant portion of United States trade will benefit from these agreements, notwithstanding the anticipated short delay in acceptance by Japan, and it is in the national interest of the United States to accept these agreements.

b. The conditions in section 701(b)(3)(A), (B) and (C) of the Tariff Act of 1930, as amended effective January 1, 1980 (93 Stat. 151) [19 U.S.C. 1671(b)(3)(A), (B), (C)] will have been met with respect to Venezuela, Honduras, Nepal, North Yemen, El Salvador, Paraguay and Liberia.

c. With respect to the International Dairy Arrangement,

(i) in accordance with section 2(b)(1) and (3) of the Act (93 Stat. 147), each major industrial country (as defined in section 126(d)) [19 U.S.C. 2136(d)] is also accepting the agreement with the exception of Canada;

(ii) in accordance with section 2(b)(3) of the Act (93 Stat. 147), the acceptance of this agreement by Canada is not essential to the effective operation of the agreement; and

(iii) in accordance with section 2(b)(3)(A) of the Act, Canada is not a major factor in trade in the products covered by the agreement.

d. With respect to the Arrangement Regarding Bovine Meat, in accordance with section 2(b)(1) and (3) of the Act (93 Stat. 147), each major industrial country (as defined in section 126(d) of the Trade Act of 1974 (19 U.S.C. 2136(d)) is also accepting the agreement.

e. In accordance with section 601(a) of the Trade Agreements Act of 1979 (93 Stat. 267),

(i) the conditions under section 2(b) of that Act (93 Stat. 147) on acceptance of the Agreement on Trade in Civil Aircraft have been fulfilled;

(ii) the modifications provided for in section A of Annex II to Proclamation No. 4707 of December 11, 1979 [see note set out under section 2111 of this title], which were authorized by section 601(a) of the Trade Agreements Act of 1979 (93 Stat. 267), shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1980; and

(iii) the amendment to section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) provided for in section 601(a)(3) of the Trade Agreements Act of 1979 (93 Stat. 268) shall be effective with respect to entries made under section 466 on and after January 1, 1980.

2. Authorize the United States Special Representative for Trade Negotiations [now United States Trade Representative], or his designee, on behalf of the United States of America,

(a) to sign and accept the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, the Agreement on Technical Barriers to Trade, the Agreement on Import Licensing Procedures, the Agreement on Trade in Civil Aircraft, the International Dairy Arrangement and the Arrangement Regarding Bovine Meat;

(b) to sign the Agreement on Government Procurement subject to satisfactory completion of negotiations on entity coverage under the Agreement; and

(c) to sign the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade subject to acceptance.

3. [Revoked by Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 989.]

JIMMY CARTER.

#### **§ 2504. Relationship of trade agreements to United States law**

##### **(a) United States statutes to prevail in conflict**

No provision of any trade agreement approved by the Congress under section 2503(a) of this title, nor the application of any such provision to any person or circumstance, which is in conflict with any statute of the United States shall be given effect under the laws of the United States.

##### **(b) Implementing regulations**

Regulations necessary or appropriate to carry out actions proposed in any statement of proposed administrative action submitted to the Congress under section 2112 of this title to implement each agreement approved under section 2503(a) of this title shall be issued within 1 year after the date of the entry into force of such agreement with respect to the United States.

##### **(c) Changes in statutes to implement a requirement, amendment, or recommendation**

###### **(1) Presidential determination**

Whenever the President determines that it is necessary or appropriate to amend, repeal, or enact a statute of the United States in

order to implement any requirement of, amendment to, or recommendation under such an agreement, he shall submit to the Congress a draft of a bill to accomplish the amendment, repeal, or enactment and a statement of any administrative action proposed to implement the requirement, amendment, or recommendation. Not less than 30 days before submitting such a bill, the President shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and each committee of the House or Senate which has jurisdiction over legislation involving subject matters which would be affected by such amendment, repeal, or enactment. The consultation shall treat all matters relating to the implementation of such requirement, amendment, or recommendation, as provided in paragraphs (2) and (3).

##### **(2) Conditions for taking effect under United States law**

No such amendment shall enter into force with respect to the United States, and no such requirement, amendment, or recommendation shall be implemented under United States law, unless—

(A) the President, after consultation with the Congress under paragraph (1), notifies the House of Representatives and the Senate of his determination and publishes notice of that determination in the Federal Register,

(B) the President transmits a document to the House of Representatives and to the Senate containing a copy of the text of such requirement, amendment, or recommendation, together with—

(i) a draft of a bill to amend or repeal provisions of existing statutes or to create statutory authority and an explanation as to how the bill and any proposed administrative action affect existing law, and

(ii) a statement of how the requirement, amendment, or recommendation serves the interests of United States commerce and why the legislative and administrative action is necessary or appropriate to carry out the requirement, amendment, or recommendation, and

(C) the bill submitted by the President is enacted into law.

##### **(3) Recommendations as to application**

The President may make the same type of recommendations, in the same manner and subject to the same conditions, to the Congress with respect to the application of any such requirement, amendment, or recommendation as he may make, under section 2112(f) of this title, with respect to a trade agreement.

##### **(4) Congressional procedures applicable**

The bill submitted by the President shall be introduced in accordance with the provisions of subsection (c)(1) of section 2191 of this title, and the provisions of subsections (d), (e), (f), and (g) of such section shall apply to the consideration of the bill. For the purpose of applying section 2191 of this title to such bill—