

**§ 3003. Congressional approval of United States accession to the Convention**

**(a) Congressional approval**

The Congress approves the accession by the United States of America to the Convention.

**(b) Acceptance of final legal text of Convention by President**

The President may accept for the United States the final legal instruments embodying the Convention. The President shall submit a copy of each final instrument to the Congress on the date it becomes available.

**(c) Unspecified private remedies not created**

Neither the entry into force with respect to the United States of the Convention nor the enactment of this chapter may be construed as creating any private right of action or remedy for which provision is not explicitly made under this chapter or under other laws of the United States.

**(d) Termination**

The provisions of section 2135(a) of this title do not apply to the Convention.

(Pub. L. 100-418, title I, §1203, Aug. 23, 1988, 102 Stat. 1148.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this subtitle", meaning subtitle B (§§1201 to 1217) of title I of Pub. L. 100-418, which is classified principally to this chapter. For complete classification of this subtitle to the Code, see References in Text note set out under section 3001 of this title and Tables.

**§ 3004. Enactment of Harmonized Tariff Schedule**

**(a) Omitted**

**(b) Modifications to Harmonized Tariff Schedule**

At the earliest practicable date after August 23, 1988, the President shall—

(1) proclaim such modifications to the Harmonized Tariff Schedule as are consistent with the standards applied in converting the old Schedules into the format of the Convention, as reflected in such Publication No. 2030 and Supplement No. 1,<sup>1</sup> thereto, and as are necessary or appropriate to implement—

(A) the future outstanding staged rate reductions authorized by the Congress in—

(i) the Trade Act of 1974 (19 U.S.C. 2101 et seq.) and the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) to reflect the tariff reductions that resulted from the Tokyo Round of multilateral trade negotiations, and

(ii) the United States-Israel Free Trade Area Implementation Act of 1985 [19 U.S.C. 2112 note] to reflect the tariff reduction resulting from the United States-Israel Free Trade Area Agreement,

(B) the applicable provisions of—

- (i) statutes enacted,
- (ii) executive actions taken, and
- (iii) final judicial decisions rendered,

after January 1, 1988, and before January 1, 1989, and

<sup>1</sup> So in original.

(C) such technical rectifications as the President considers necessary; and

(2) take such action as the President considers necessary to bring trade agreements to which the United States is a party into conformity with the Harmonized Tariff Schedule.

**(c) Status of Harmonized Tariff Schedule**

(1) The following shall be considered to be statutory provisions of law for all purposes:

(A) The provisions of the Harmonized Tariff Schedule as enacted by this chapter.

(B) Each statutory amendment to the Harmonized Tariff Schedule.

(C) Each modification or change made to the Harmonized Tariff Schedule by the President under authority of law (including section 604 of the Trade Act of 1974 [19 U.S.C. 2483]).

(2) Neither the enactment of this chapter nor the subsequent enactment of any amendment to the Harmonized Tariff Schedule, unless such subsequent enactment otherwise provides, may be construed as limiting the authority of the President—

(A) to effect the import treatment necessary or appropriate to carry out, modify, withdraw, suspend, or terminate, in whole or in part, trade agreements; or

(B) to take such other actions through the modification, continuance, or imposition of any rate of duty or other import restriction as may be necessary or appropriate under the authority of the President.

(3) If a rate of duty established in column 1 by the President by proclamation or Executive order is higher than the existing rate of duty in column 2, the President may by proclamation or Executive order increase such existing rate to the higher rate.

(4) If a rate of duty is suspended or terminated by the President by proclamation or Executive order and the proclamation or Executive order does not specify the rate that is to apply in lieu of the suspended or terminated rate, the last rate of duty that applied prior to the suspended or terminated rate shall be the effective<sup>2</sup> rate of duty.

**(d) Interim informational use of Harmonized Tariff Schedule classifications**

Each—

(1) proclamation issued by the President;

(2) public notice issued by the Commission or other Federal agency; and

(3) finding, determination, order, recommendation, or other decision made by the Commission or other Federal agency;

during the period between August 23, 1988, and January 1, 1989, shall, if the proclamation, notice, or decision contains a reference to the tariff classification of any article, include, for informational purposes, a reference to the classification of that article under the Harmonized Tariff Schedule.

(Pub. L. 100-418, title I, §1204, Aug. 23, 1988, 102 Stat. 1148.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in text, is not set out in the Code. See Publication of Har-

<sup>2</sup> So in original. Probably should be "effective".

monized Tariff Schedule note set out under section 1202 of this title.

The Trade Act of 1974, referred to in subsec. (b)(1)(A)(i), 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.

The Trade Agreements Act of 1979, referred to in subsec. (b)(1)(A)(i), is Pub. L. 96-39, July 26, 1979, 93 Stat. 144, as amended. 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 United States-Israel Free Trade Area Implementation Act of 1985, referred to in subsec. (b)(1)(A)(ii), is Pub. L. 99-47, June 11, 1985, 99 Stat. 82, as amended, which amended sections 2112, 2462 to 2464, and 2518 of this title, and enacted and amended provisions set out as notes under section 2112 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2112 of this title and Tables.

This chapter, referred to in subsec. (c)(1)(A), (2), was in the original “this subtitle”, meaning subtitle B (§§1201 to 1217) of title I of Pub. L. 100-418, which is classified principally to this chapter. For complete classification of this subtitle to the Code, see References in Text note set out under section 3001 of this title and Tables.

#### CODIFICATION

Section is comprised of section 1204 of Pub. L. 100-418. Subsec. (a) of section 1204 of Pub. L. 100-418 amended title I of the Tariff Act of 1930, act June 17, 1930, ch. 497, title I, 46 Stat. 590. See note set out preceding section 1202 of this title.

#### EFFECTIVE DATE

Subsecs. (b) and (d) effective Aug. 23, 1988, and subsec. (c) effective Jan. 1, 1989, see section 1217(a), (b)(2) of Pub. L. 100-418, set out as a note under section 3001 of this title.

### § 3005. Commission review of, and recommendations regarding, Harmonized Tariff Schedule

#### (a) In general

The Commission shall keep the Harmonized Tariff Schedule under continuous review and periodically, at such time as amendments to the Convention are recommended by the Customs Cooperation Council for adoption, and as other circumstances warrant, shall recommend to the President such modifications in the Harmonized Tariff Schedule as the Commission considers necessary or appropriate—

- (1) to conform the Harmonized Tariff Schedule with amendments made to the Convention;
- (2) to promote the uniform application of the Convention and particularly the Annex thereto;
- (3) to ensure that the Harmonized Tariff Schedule is kept up-to-date in light of changes in technology or in patterns of international trade;
- (4) to alleviate unnecessary administrative burdens; and
- (5) to make technical rectifications.

#### (b) Agency and public views regarding recommendations

In formulating recommendations under subsection (a), the Commission shall solicit, and give consideration to, the views of interested Federal agencies and the public. For purposes of obtaining public views, the Commission—

- (1) shall give notice of the proposed recommendations and afford reasonable oppor-

tunity for interested parties to present their views in writing; and

- (2) may provide for a public hearing.

#### (c) Submission of recommendations

The Commission shall submit recommendations under this section to the President in the form of a report that shall include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also shall include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties.

#### (d) Requirements regarding recommendations

The Commission may not recommend any modification to the Harmonized Tariff Schedule unless the modification meets the following requirements:

- (1) The modification must—
  - (A) be consistent with the Convention or any amendment thereto recommended for adoption;
  - (B) be consistent with sound nomenclature principles; and
  - (C) ensure substantial rate neutrality.

(2) Any change to a rate of duty must be consequent to, or necessitated by, nomenclature modifications that are recommended under this section.

(3) The modification must not alter existing conditions of competition for the affected United States industry, labor, or trade.

(Pub. L. 100-418, title I, §1205, Aug. 23, 1988, 102 Stat. 1150.)

#### REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (a) and (d), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

#### COMMISSION REPORT ON OPERATION OF IMPLEMENTATION OF HARMONIZED TARIFF SCHEDULE

Pub. L. 100-418, title I, §1216, Aug. 23, 1988, 102 Stat. 1163, required Commission, in consultation with other appropriate Federal agencies, to prepare and submit to Congress and President a report regarding operation of subtitle B (§§1201-1217) of title I of Pub. L. 100-418, during the 12-month period commencing on effective date of Harmonized Tariff Schedule, Jan. 1, 1989, said report to be submitted to Congress and President before close of 6-month period beginning on day after last day of such 12-month period.

### § 3006. Presidential action on Commission recommendations

#### (a) In general

The President may proclaim modifications, based on the recommendations by the Commission under section 3005 of this title, to the Harmonized Tariff Schedule if the President determines that the modifications—

- (1) are in conformity with United States obligations under the Convention; and
- (2) do not run counter to the national economic interest of the United States.

#### (b) Lay-over period

(1) The President may proclaim a modification under subsection (a) only after the expiration of