

a final rate of duty which is not less than 80 percent of the rate of duty proclaimed as the final stage under section 2111 of this title.

(4) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitations provided by paragraphs (1) and (2) of this subsection by not more than the lesser of—

- (A) the difference between such limitation and the next lower whole number, or
- (B) one-half of 1 percent ad valorem.

(d) Two-year period of authority

Agreements may be entered into under this section only during the 2-year period which immediately follows the close of the period during which agreements may be entered into under section 2111 of this title.

(Pub. L. 93-618, title I, §124, Jan. 3, 1975, 88 Stat. 1990.)

Editorial Notes

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.

§ 2135. Termination and withdrawal authority

(a) Grant of authority for termination or withdrawal at end of period specified in agreement

Every trade agreement entered into under this chapter shall be subject to termination, in whole or in part, or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than 3 years from the date on which the agreement becomes effective. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than 6 months’ notice.

(b) Authority to terminate proclamations at any time

The President may at any time terminate, in whole or in part, any proclamation made under this chapter.

(c) Increased duties or other import restrictions following withdrawal, suspension, or modification of obligations with respect to trade of foreign countries or instrumentalities

Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this chapter, section 1821 of this title, or section 1351 of this title, withdraws, suspends, or modifies any obligation with respect to the trade of any foreign country or instrumentality thereof, the President is authorized to proclaim increased duties or other import restrictions, to the extent, at such times, and for such periods as he deems necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States. No proclamation shall be made under this subsection increasing any exist-

ing duty to a rate more than 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States, as in effect on January 1, 1975, or 20 percent ad valorem above the rate existing on January 1, 1975, whichever is higher.

(d) Retaliatory authority

Whenever any foreign country or instrumentality withdraws, suspends, or modifies the application of trade agreement obligations of benefit to the United States without granting adequate compensation therefor, the President, in pursuance of rights granted to the United States under any trade agreement and to the extent necessary to protect United States economic interests (including United States balance of payments), may—

(1) withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality, and

(2) proclaim under subsection (c) such increased duties or other import restrictions as are appropriate to effect adequate compensation from such foreign country or instrumentality.

(e) Continuation of duties or other import restrictions after termination of or withdrawal from agreements

Duties or other import restrictions required or appropriate to carry out any trade agreement 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

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 elimi-