

(1) in the case of any material subject to the provisions of section 2606 of this title, that the material has been listed by the Secretary in accordance with section 2604 of this title; and
 (2) in the case of any article subject to section 2607 of this title, that the article—

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this chapter, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

(Pub. L. 97-446, title III, §311, Jan. 12, 1983, 96 Stat. 2361.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in par. (2)(B), see section 315 of Pub. L. 97-446, set out as an Effective Date note under section 2601 of this title.

§ 2611. Certain material and articles exempt from this chapter

The provisions of this chapter shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to section 2459 of title 22; or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this chapter, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this chapter,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar

institution in the United States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

(Pub. L. 97-446, title III, §312, Jan. 12, 1983, 96 Stat. 2362.)

§ 2612. Regulations

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter.

(Pub. L. 97-446, title III, §313, Jan. 12, 1983, 96 Stat. 2363.)

§ 2613. Enforcement

In the customs territory of the United States, and in the Virgin Islands, the provisions of this chapter shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

(Pub. L. 97-446, title III, §314, Jan. 12, 1983, 96 Stat. 2363.)

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see Ex. Ord. No. 12555, Mar. 10, 1986, 51 F.R. 8475, set out as a note under section 2602 of this title.

CHAPTER 15—CARIBBEAN BASIN ECONOMIC RECOVERY

| | |
|---------------|---|
| Sec. 2701. | Authority to grant duty-free treatment. |
| 2702. | Beneficiary country. <ul style="list-style-type: none"> (a) Definitions; termination of designation. (b) Countries eligible for designation as beneficiary countries; conditions. (c) Factors determining designation. (d) Omitted. (e) Withdrawal or suspension of duty-free treatment to specific articles. (f) Reporting requirements. |
| 2703. | Eligible articles. <ul style="list-style-type: none"> (a) Growth, product, or manufacture of beneficiary countries. (b) Articles to which duty-free treatment does not apply. (c) Sugar and beef products; stable food production plan; suspension of duty-free treatment; monitoring. |

¹ So in original. Probably should be "United".

- Sec.
- (d) Tariff-rate quotas.
 - (e) Proclamations suspending duty-free treatment.
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 - (d) Programs and activities.
 - (e) Definitions.
 - (f) Fees for seminars and publications.
 - (g) Duration of grant.
 - (h) Report.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1202, 1677, 2492, 3203 of this title; title 20 section 226; title 26 section 936.

§ 2701. Authority to grant duty-free treatment

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this chapter.

(Pub. L. 98-67, title II, § 211, Aug. 5, 1983, 97 Stat. 384.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title” meaning title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-382, title II, § 201, Aug. 20, 1990, 104 Stat. 655, provided that: “This title [enacting section 226 of Title 20, Education, amending sections 1677, 2463, 2702, 2703, and 2706 of this title and section 936 of Title 26, Internal Revenue Code, enacting provisions set out as notes under this section and sections 1677, 2071, and 2703 of this title and section 936 of Title 26, and amending provisions set out as notes under section 2703 of this title] may be cited as the ‘Caribbean Basin Economic Recovery Expansion Act of 1990.’”

SHORT TITLE

Section 201 of title II of Pub. L. 98-67 provided that: “This title [enacting this chapter, amending section 1202 of this title and sections 274 and 7652 of Title 26, Internal Revenue Code, repealing section 2582 of this title, and enacting provisions set out as notes under sections 1319, 2251, and 2703 of this title, sections 274 and 7652 of Title 26, and section 1311 of Title 33, Navigation and Navigable Waters] may be cited as the ‘Caribbean Basin Economic Recovery Act.’”

CONGRESSIONAL FINDINGS

Pub. L. 101-382, title II, § 202, Aug. 20, 1990, 104 Stat. 655, provided that: “The Congress finds that—

“(1) a stable political and economic climate in the Caribbean region is necessary for the development of

the countries in that region and for the security and economic interests of the United States;

“(2) the Caribbean Basin Economic Recovery Act [this chapter] was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and

“(3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbean Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2703 of this title.

§ 2702. Beneficiary country

(a) Definitions; termination of designation

(1) For purposes of this chapter—

(A) The term “beneficiary country” means any country listed in subsection (b) of this section with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this chapter. Before the President designates any country as a beneficiary country for purposes of this chapter, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(B) The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(C) The term “HTS” means Harmonized Tariff Schedule of the United States.

(2) If the President has designated any country as a beneficiary country for purposes of this chapter, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least sixty days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(b) Countries eligible for designation as beneficiary countries; conditions

In designating countries as “beneficiary countries” under this chapter the President shall consider only the following countries and territories or successor political entities:

| | |
|---------------------|-------------------------------------|
| Anguilla | Jamaica |
| Antigua and Barbuda | Nicaragua |
| Bahamas, The | Panama |
| Barbados | Saint Lucia |
| Belize | Saint Vincent and the Grenadines |
| Costa Rica | Suriname |
| Dominica | Trinidad and Tobago |
| Dominican Republic | Cayman Islands |
| El Salvador | Montserrat |
| Grenada | Netherlands Antilles |
| Guatemala | Saint Christopher-Nevis |
| Guyana | Turks and Caicos Islands |
| Haiti | Virgin Islands, British |
| Honduras | |

In addition, the President shall not designate any country a beneficiary country under this chapter—

(1) if such country is a Communist country;
 (2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 per centum or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse

effect, and he reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 2462(a)(4) of this title) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) Factors determining designation

In determining whether to designate any country a beneficiary country under this chapter, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of this title);

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to promote its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.¹

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the

¹ So in original. The period probably should be a semicolon.

broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent; and

(11) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this chapter.

(d) Omitted

(e) Withdrawal or suspension of duty-free treatment to specific articles

(1) The President may, after the requirements of subsection (a)(2) of this section and paragraph (2) have been met—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this chapter to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b) of this section.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) Reporting requirements

On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this chapter, including the results of a general review of beneficiary countries based on the considerations described in subsections (b) and (c) of this section.

(Pub. L. 98-67, title II, §212, Aug. 5, 1983, 97 Stat. 384; Pub. L. 99-570, title IX, §9002(b), Oct. 27, 1986, 100 Stat. 3207-166; Pub. L. 100-418, title I, §§1214(q)(1), 1909(c), Aug. 23, 1988, 102 Stat. 1159, 1318; Pub. L. 101-382, title II, §§213, 214, Aug. 20, 1990, 104 Stat. 656; Pub. L. 103-465, title VI, §621(a)(2), Dec. 8, 1994, 108 Stat. 4992.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c) and (f), was in the original “this title”, meaning title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(1)(C), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

This Act, referred to in provisions following subsec. (b)(6), probably should be “this title” meaning title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, which is clas-

sified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 2701 of this title and Tables.

This chapter, referred to in subsec. (e)(1)(B), was in the original “this subtitle”, meaning subtitle A (§§211-218) of title II of Pub. L. 98-67 which enacted this chapter, amended section 1202 of this title, repealed section 2582 of this title, and enacted provisions set out as notes under sections 1202, 1319, 2251, and 2703 of this title and section 1311 of Title 33, Navigation and Navigable Waters. For complete classification of subtitle A to the Code, see Tables.

CODIFICATION

Subsec. (d) of this section amended general headnote 3(a) of the Tariff Schedules of the United States. The Tariff Schedules were replaced by the Harmonized Tariff Schedule of the United States. See References in Text note above.

AMENDMENTS

1994—Subsec. (c)(4). Pub. L. 103-465 substituted “WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of this title)” for “General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2503(a) of this title”.

1990—Subsec. (b). Pub. L. 101-382, §213(1)-(4), added par. (7) and in concluding provisions substituted “(5), and (7)” for “and (5)”.

Subsec. (c)(8). Pub. L. 101-382, §213(5), amended par. (8) generally. Prior to amendment, par. (8) read as follows: “the degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively;”.

Subsec. (f). Pub. L. 101-382, §214, added subsec. (f). 1988—Subsec. (a)(1)(C). Pub. L. 100-418, §1214(q)(1), substituted “HTS” and “Harmonized Tariff Schedule of the United States” for “TSUS” and “Tariff Schedules of the United States”, respectively.

Subsec. (e). Pub. L. 100-418, §1909(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The President shall, after complying with the requirements of subsection (a)(2) of this section, withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b) of this section.”

1986—Subsec. (b)(6), (7). Pub. L. 99-570 redesignated par. (7) as (6) and struck out former par. (6) which provided that the President shall not designate a country as a beneficiary country under this chapter if the country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances produced, processed, or transported in the country from entering the United States unlawfully.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 621(b) of Pub. L. 103-465, set out as a note under section 1677k of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1214(q)(1) of Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

CARIBBEAN BASIN INITIATIVE

Section 1909(a), (b) of Pub. L. 100-418 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) Caribbean and Central American countries historically have had close economic, political, and cultural ties to the United States;

“(2) promoting economic and political stability in the Caribbean and Central America is in the national security interests of the United States;

“(3) the economic and political stability of the nations of the Caribbean and Central America can be strengthened significantly by the attraction of foreign and domestic investment specifically devoted to employment generation; and

“(4) the diversification of the economies and expansion of exports, particularly those of a non-traditional nature, of the nations of the Caribbean and Central America is linked directly to fair access to the markets of the United States.

“(b) INTENT OF THE CONGRESS.—The Congress hereby expresses its intention to ensure that—

“(1) the trade elements of the Caribbean Basin Initiative be strengthened in a manner consistent with the promotion of economic and political stability in the Caribbean and Central America;

“(2) to the extent that Congress imposes changes that are intended to improve the competitive environment for United States industry and workers, such changes do not unduly affect the unilateral duty-free trade system available to the beneficiary countries designated under the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.]; and

“(3) generic changes in the trade laws of the United States do not discriminate against imports from designated beneficiary countries in relation to imports from other United States trading partners.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1202, 2191, 2194, 2411, 2703, 2707 of this title; title 26 sections 274, 936.

§ 2703. Eligible articles

(a) Growth, product, or manufacture of beneficiary countries

(1) Unless otherwise excluded from eligibility by this chapter, and subject to section 423 of the Tax Reform Act of 1986, the duty-free treatment provided under this chapter shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus (ii) the direct costs of processing operations performed in a beneficiary country or countries is not less than 35 per centum of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term “beneficiary country” includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 per centum of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this

chapter, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase “direct costs of processing operations” includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen’s salaries, commissions or expenses.

(4) Notwithstanding section 1311 of this title, the products of a beneficiary country which are imported directly from any beneficiary country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).

(5) The duty-free treatment provided under this chapter shall apply to an article (other than an article listed in subsection (b) of this section) which is the growth, product, or manufacture of the Commonwealth of Puerto Rico if—

(A) the article is imported directly from the beneficiary country into the customs territory of the United States,

(B) the article was by any means advanced in value or improved in condition in a beneficiary country, and

(C) if any materials are added to the article in a beneficiary country, such materials are a product of a beneficiary country or the United States.

(b) Articles to which duty-free treatment does not apply

The duty-free treatment provided under this chapter shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear not designated at the time of the effective date of this chapter [Aug. 5, 1983]

as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.];

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

(6) articles to which reduced rates of duty apply under subsection (h) of this section.

(c) Sugar and beef products; stable food production plan; suspension of duty-free treatment; monitoring

(1) As used in this subsection—

(A) The term “sugar and beef products” means—

(i) sugars, sirups, and molasses provided for in subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States, and

(ii) articles of beef or veal, however provided for in chapters 2 and 16 of the Harmonized Tariff Schedule of the United States.

(B) The term “Plan” means a stable food production plan that consists of measures and proposals designed to ensure that the present level of food production in, and the nutritional level of the population of, a beneficiary country will not be adversely affected by changes in land use and land ownership that will result if increased production of sugar and beef products is undertaken in response to the duty-free treatment extended under this chapter to such products. A Plan must specify such facts regarding, and such proposed actions by, a beneficiary country as the President deems necessary for purposes of carrying out this subsection, including but not limited to—

(i) the current levels of food production and nutritional health of the population;

(ii) current level of production and export of sugar and beef products;

(iii) expected increases in production and export of sugar and beef products as a result of the duty-free access to the United States market provided under this chapter;

(iv) measures to be taken to ensure that the expanded production of those products because of such duty-free access will not occur at the expense of stable food production; and

(v) proposals for a system to monitor the impact of such duty-free access on stable food production and land use and land ownership patterns.

(2) Duty-free treatment extended under this chapter to sugar and beef products that are the product of a beneficiary country shall be suspended by the President under this subsection if—

(A) the beneficiary country, within the ninety-day period beginning on the date of its designation as such a country under section 2702 of this title, does not submit a Plan to the President for evaluation;

(B) on the basis of his evaluation, the President determines that the Plan of a beneficiary country does not meet the criteria set forth in paragraph (1)(B); or

(C) as a result of the monitoring of the operation of the Plan under paragraph (5), the President determines that a beneficiary country is not making a good faith effort to implement its Plan, or that the measures and proposals in the Plan, although being implemented, are not achieving their purposes.

(3) Before the President suspends duty-free treatment by reason of paragraph (2)(A), (B), or (C) to the sugar and beef products of a beneficiary country, he must offer to enter into consultation with the beneficiary country for purposes of formulating appropriate remedial action which may be taken by that country to avoid such suspension. If the beneficiary country thereafter enters into consultation within a reasonable time and undertakes to formulate remedial action in good faith, the President shall withhold the suspension of duty-free treatment on the condition that the remedial action agreed upon be appropriately implemented by that country.

(4) The President shall monitor on a biennial basis the operation of the Plans implemented by beneficiary countries, and shall submit a written report to Congress by March 15 following the close of each biennium, that—

(A) specifies the extent to which each Plan, and remedial actions, if any, agreed upon under paragraph (4), have been implemented; and

(B) evaluates the results of such implementation.

(5) The President shall terminate any suspension of duty-free treatment imposed under this subsection if he determines that the beneficiary country has taken appropriate action to remedy the factors on which the suspension was based.

(d) Tariff-rate quotas

No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this chapter.

(e) Proclamations suspending duty-free treatment

(1) The President may by proclamation suspend the duty-free treatment provided by this chapter with respect to any eligible article and may proclaim a duty rate for such article if such action is provided under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.] or section 1862 of this title.

(2) In any report by the International Trade Commission to the President under section 202(f) of the Trade Act of 1974 [19 U.S.C. 2252(f)] regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this chapter, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of subsections¹ section 203 of the Trade Act of 1974 [19 U.S.C. 2253(a), (c)], the suspension of the duty-free treatment provided by this chapter shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 [19 U.S.C. 2253] unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974 [19 U.S.C. 2252(b)], determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this chapter.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 [19 U.S.C. 2253] that is in effect when duty-free treatment pursuant to section 2701² of this title is proclaimed shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed pursuant to section 2701 of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 203 of the Trade Act of 1974 [19 U.S.C. 2253].

(f) Petitions to International Trade Commission

(1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 [19 U.S.C. 2251] regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within fourteen days after the filing of a petition under paragraph (1) of this subsection—

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within seven days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue

a proclamation withdrawing the duty-free treatment provided by this chapter or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974 [19 U.S.C. 2253],

(B) on the day a determination by the President not to take action¹ under section 203 of such Act [19 U.S.C. 2253] not to take action¹ becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; and

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(g) Fees not affected by proclamation

No proclamation issued pursuant to this chapter shall affect fees imposed pursuant to section 624 of title 7.

(h) Duty reduction for certain leather-related products

(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.].

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first one-fifth of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any

¹ So in original.

² See References in Text note below.

article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(Pub. L. 98-67, title II, §213, Aug. 5, 1983, 97 Stat. 387; Pub. L. 98-573, title II, §235, Oct. 30, 1984, 98 Stat. 2992; Pub. L. 99-514, title IV, §423(f)(2), title XVIII, §1890, Oct. 22, 1986, 100 Stat. 2232, 2926; Pub. L. 100-418, title I, §§1214(q)(2), 1401(b)(2), Aug. 23, 1988, 102 Stat. 1159, 1239; Pub. L. 100-647, title IX, §9001(a)(14), Nov. 10, 1988, 102 Stat. 3808; Pub. L. 101-382, title II, §§212, 215(a), Aug. 20, 1990, 104 Stat. 655, 657; Pub. L. 103-465, title IV, §404(e)(1), Dec. 8, 1994, 108 Stat. 4961.)

REFERENCES IN TEXT

Section 423 of the Tax Reform Act of 1986, referred to in subsec. (a)(1), is section 423 of Pub. L. 99-514, title IV, Oct. 22, 1986, 100 Stat. 2230, which amended this section and General Headnote 3(a)(i) of the Tariff Schedules of the United States formerly set out under section 1202 of this title, and enacted provisions set out as a note below.

The Trade Act of 1974, referred to in subsecs. (b)(2), (e)(1), and (h)(1)(B), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Trade Act of 1974 is classified generally to part 1 (§2251 et seq.) of subchapter II of chapter 12 of this title. Title V of the Trade Act of 1974 is classified generally to subchapter V (§2461 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

The Harmonized Tariff Schedule of the United States, referred to in subsecs. (b)(4) and (c)(1)(A), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

Section 2701 of this title, referred to in subsec. (e)(5)(A), was in the original “section 101 of this title” which has been translated as the probable intent of Congress as meaning section 211 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-465 amended subsec. (d) generally, substituting present provisions for provisions which established price support program protection for certain agricultural products from beneficiary countries.

1990—Subsec. (a)(5). Pub. L. 101-382, §215(a), added par. (5).

Subsec. (b)(2). Pub. L. 101-382, §212(b)(1), struck out “, handbags, luggage, flat goods, work gloves, and leather wearing apparel” after “footwear”.

Subsec. (b)(6). Pub. L. 101-382, §212(b)(2)-(4), added par. (6).

Subsec. (h). Pub. L. 101-382, §212(a), added subsec. (h). 1988—Subsec. (b)(4). Pub. L. 100-418, §1214(q)(2)(A)(i), substituted “headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States” for “part 10 of schedule 4 of the TSUS”.

Subsec. (b)(5). Pub. L. 100-418, §1214(q)(2)(A)(ii), substituted “HTS” for “TSUS”.

Subsec. (c)(1)(A)(i). Pub. L. 100-418, §1214(q)(2)(B)(i), substituted “subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Har-

monized Tariff Schedule of the United States” for “items 155.20 and 155.30 of the TSUS”.

Subsec. (c)(1)(A)(ii). Pub. L. 100-418, §1214(q)(2)(B)(ii), substituted “chapters 2 and 16 of the Harmonized Tariff Schedule of the United States” for “subpart B of part 2 of schedule 1 of the TSUS”.

Subsec. (d). Pub. L. 100-418, §1214(q)(2)(C), substituted “subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States” for “items 155.20 and 155.30 of the TSUS”.

Subsec. (e)(1). Pub. L. 100-418, §1401(b)(2)(A), substituted “provided under chapter 1 of title II” for “proclaimed pursuant to section 203”.

Subsec. (e)(2). Pub. L. 100-418, §1401(b)(2)(B), substituted “section 202(f)” for “section 201(d)(1)”.

Subsec. (e)(3). Pub. L. 100-418, §1401(b)(2)(C), substituted “section 203” for “(a) and (c) of section 203”.

Subsec. (e)(4). Pub. L. 100-418, §1401(b)(2)(D), substituted “taken under section 203” for “made under subsections (a) and (c) of section 203”, “under section 202(b) of the Trade Act of 1974” for “under section 201(b) of the Trade Act of 1974”, and “under such section” for “under section 201(b) of such Act”.

Subsec. (e)(5)(A). Pub. L. 100-418, §1401(b)(2)(E)(i), substituted “action taken under section 203” for “proclamation issued pursuant to section 203”.

Subsec. (e)(5)(B). Pub. L. 100-418, §1401(b)(2)(E)(ii), substituted “to any such action” for “to import relief”, “such action” for “such import relief”, and “section 203” for “subsections (h) and (i) of section 203”.

Subsec. (f)(4)(A). Pub. L. 100-418, §1401(b)(2)(F)(i), substituted “taking of action under section 203” for “proclamation of import relief pursuant to section 202(a)(1)”.

Subsec. (f)(4)(B). Pub. L. 100-418, §1401(b)(2)(F)(ii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “on the day the President makes a determination pursuant to section 203(b)(2) of such Act [19 U.S.C. 2253(b)(2)] not to impose import relief.”

Subsec. (f)(5)(A). Pub. L. 100-418, §1214(q)(2)(D)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “live plants provided for in subpart A of part 6 of schedule 1 of the TSUS”.

Subsec. (f)(5)(B). Pub. L. 100-418, §1214(q)(2)(D)(ii), substituted “headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS” for “items 135.10 through 138.46 of the TSUS”.

Subsec. (f)(5)(C). Pub. L. 100-418, §1214(q)(2)(D)(iv), as amended by Pub. L. 100-647, §9001(a)(14), redesignated subpar. (D) as (C) and substituted “subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; and” for “items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS”.

Pub. L. 100-418, §1214(q)(2)(D)(iii), struck out subpar. (C) “fresh mushrooms provided for in item 144.10 of the TSUS”.

Subsec. (f)(5)(D). Pub. L. 100-418, §1214(q)(2)(D)(vi), as amended by Pub. L. 100-647, §9001(a)(14)(C), redesignated subpar. (F) as (D) and substituted “subheading 2009.11.00, 2009.19.40, 2009.30.20, and 2009.30.60 of the HTS” for “item 165.35 of the TSUS”. Former subpar. (D) redesignated (C).

Subsec. (f)(5)(E). Pub. L. 100-418, §1214(q)(2)(D)(v), struck out subpar. (E) “fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and”.

Subsec. (f)(5)(F). Pub. L. 100-418, §1214(q)(2)(D)(vi), as amended by Pub. L. 100-647, §9001(a)(14)(C), redesignated subpar. (F) as (D).

1986—Subsec. (a)(1). Pub. L. 99-514, §423(f)(2), inserted “and subject to section 423 of the Tax Reform Act of 1986.”

Subsec. (a)(3), (4). Pub. L. 99-514, §1890(1), redesignated par. (3) relating to products of a beneficiary country imported directly into Puerto Rico as (4), realigned the margins, and substituted “any beneficiary” for “such”.

Subsec. (f)(5)(B). Pub. L. 99-514, §1890(2), substituted “138.46” for “138.42”.

1984—Subsec. (a)(3). Pub. L. 98-573 added par. (3) relating to products of a beneficiary country imported directly from such country into Puerto Rico.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995], except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 215(b) of Pub. L. 101-382 provided that:

“(1) The amendment made by subsection (a) [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

“(2) Notwithstanding section 514 of the Tariff Act of 1930 [19 U.S.C. 1514] or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry, or withdrawal from warehouse—

“(A) which was made after August 5, 1983, and before October 1, 1990, and with respect to which liquidation has not occurred before October 1, 1990, and

“(B) with respect to which there would have been no duty, or a lesser duty, if the amendment made by subsection (a) applied, shall be liquidated as though such amendment applied to such entry or withdrawal.”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

Amendment by section 1214(q)(2) of Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

Amendment by section 1401(b)(2) of Pub. L. 100-418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§2251 et seq.) of subchapter II of chapter 12 of this title on or after that date, see section 1401(c) of Pub. L. 100-418, set out as a note under section 2251 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 423(g) of Pub. L. 99-514 provided that:

“(1) The provisions of, and the amendments made by, this section (other than subsection (e)) [amending this section and General Headnote 3(a)(i) of the Tariff Schedules of the United States formerly set out under section 1202 of this title and enacting provisions set out as a note below] shall apply to articles entered—

“(A) after December 31, 1986, and

“(B) before the expiration of the effective period of item 901.50 of the Appendix to the Tariff Schedules of the United States [not classified to the Code].

“(2) The provisions of subsection (e) [set out as a note below] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

ETHYL ALCOHOL AND MIXTURES THEREOF FOR FUEL USE

Section 423(a)–(c), (e) of Pub. L. 99-514, as amended by Pub. L. 100-418, title I, §1910(a), Aug. 23, 1988, 102 Stat. 1319; Pub. L. 101-221, §7(a), Dec. 12, 1989, 103 Stat. 1890, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), no ethyl alcohol or a mixture thereof may be considered—

“(1) for purposes of general headnote 3(a) of the Tariff Schedules of the United States [formerly set out under section 1202 of this title], to be—

“(A) the growth or product of an insular possession of the United States,

“(B) manufactured or produced in an insular possession from materials which are the growth, product, or manufacture of any such possession, or

“(C) otherwise eligible for exemption from duty under such headnote as the growth or product of an insular possession; or

“(2) for purposes of section 213 of the Caribbean Basin Economic Recovery Act [19 U.S.C. 2703], to be—

“(A) an article that is wholly the growth, product, or manufacture of a beneficiary country,

“(B) a new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country,

“(C) a material produced in a beneficiary country, or

“(D) otherwise eligible for duty-free treatment under such Act [19 U.S.C. 2701 et seq.] as the growth, product, or manufacture of a beneficiary country;

unless the ethyl alcohol or mixture thereof is an indigenous product of that insular possession or beneficiary country.

“(b) EXCEPTION.—

“(1) Subject to the limitation in paragraph (2), subsection (a) shall not apply to ethyl alcohol that is imported into the United States during calendar years 1987, 1988, and 1989 and produced in—

“(A) an azeotropic distillation facility located in a beneficiary country, if that facility was established before, and in operation on, July 1, 1987,

“(B) an azeotropic distillation facility—

“(i) at least 50 percent of the total value of the equipment and components of which were—

“(I) produced in the United States, and

“(II) owned by a corporation at least 50 percent of the total value of the outstanding shares of stock of which were owned by a United States person (or persons) on or before January 1, 1986, and

“(ii) substantially all of the equipment and components of which were, on or before January 1, 1986—

“(I) located in the United States under the possession or control of such corporation,

“(II) ready for shipment to, and installation in, a beneficiary country or an insular possession of the United States, and

“(iii) which—

“(I) has on the date of enactment of this Act [Oct. 22, 1986], or

“(II) will have at the time such facility is placed in service (based on estimates made before the date of enactment of this Act),

a stated capacity to produce not more than 42,000,000 gallons of such product per year, or

“(C) a distillation facility operated by a corporation which, before the date of enactment of the Omnibus Trade Act of 1987 [probably means the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, which was approved Aug. 23, 1988]—

“(i) has completed engineering and design of a full-scale fermentation facility in the United States Virgin Islands, and

“(ii) has obtained authorization from authorities of the United States Virgin Islands to operate a full-scale fermentation facility.

“(2) The exception provided under paragraph (1) shall cease to apply during each of calendar years 1987, 1988, and 1989 to ethyl alcohol produced in a facility described in subparagraph (A), (B), or (C) of paragraph (1) after 20,000,000 gallons of ethyl alcohol produced in that facility are entered into the United States during that year.

“(c) DEFINITIONS.—For purposes of this section [amending this section and General Headnote 3(a)(i) of the Tariff Schedules of the United States formerly set out under section 1202 of this title and enacting provisions set out as notes under this section]—

“(1) The term ‘ethyl alcohol or a mixture thereof’ means (except for purposes of subsection (e)) ethyl alcohol or any mixture thereof described in item 901.50 of the Appendix to the Tariff Schedules of the United States [not classified to the Code].

“(2) Ethyl alcohol or a mixture thereof that is produced by a process of full fermentation in an insular possession or beneficiary country shall be treated as being an indigenous product of that possession or country.

“(3)(A) Ethyl alcohol and mixtures thereof that are only dehydrated within an insular possession or beneficiary country (hereinafter in this paragraph referred to as ‘dehydrated alcohol and mixtures’) shall be treated as being indigenous products of that possession or country only if the alcohol or mixture, when entered, meets the applicable local feedstock requirement.

“(B) The local feedstock requirement with respect to any calendar year is—

“(i) 0 percent with respect to the base quantity of dehydrated alcohol and mixtures that is entered;

“(ii) 30 percent with respect to the 35,000,000 gallons of dehydrated alcohol and mixtures next entered after the base quantity; and

“(iii) 50 percent with respect to all dehydrated alcohol and mixtures entered after the amount specified in clause (ii) is entered.

“(C) For purposes of this paragraph:

“(i) The term ‘base quantity’ means, with respect to dehydrated alcohol and mixtures entered during any calendar year, the greater of—

“(I) 60,000,000 gallons; or

“(II) an amount (expressed in gallons) equal to 7 percent of the United States domestic market for ethyl alcohol, as determined by the United States International Trade Commission, during the 12-month period ending on the preceding September 30;

that is first entered during that calendar year.

“(ii) The term ‘local feedstock’ means hydrous ethyl alcohol which is wholly produced or manufactured in any insular possession or beneficiary country.

“(iii) The term ‘local feedstock requirement’ means the minimum percent, by volume, of local feedstock that must be included in dehydrated alcohol and mixtures.

“(4) The term ‘beneficiary country’ has the meaning given to such term under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

“(5) The term ‘United States person’ has the meaning given to such term by section 7701(a)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 7701(a)(3)].

“(6) The term ‘entered’ means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

“(e) DRAWBACKS.—

“(1) For purposes of subsections (b) and (j)(2) of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313), as amended by section 1888(2) of this Act, any ethyl alcohol (provided for in item 427.88 of the Tariff Schedules of the United States [not classified to the Code]) or mixture containing such ethyl alcohol (provided for in part 1, 2, or 10 of schedule 4 of such Schedules) which is subject to the additional duty imposed by item 901.50 of the Appendix to such Schedules may be treated as being fungible with, or of being of the same kind and quality as, any other imported ethyl alcohol (provided for in item 427.88 of such Schedules) or mixture containing such ethyl alcohol (provided for in part 1, 2, or 10 of schedule 4 of such Schedules) only if such other imported ethyl alcohol or mixture thereof is also subject to such additional duty.

“(2) Paragraph (1) shall not apply with respect to ethyl alcohol (provided for in item 427.88 of the Tariff

Schedules of the United States) or mixture containing such ethyl [ethyl] alcohol (provided for in part 1, 2, or 10 of schedule 4 of such Schedules) that is exempt from the additional duty imposed by item 901.50 of the Appendix to such Schedules by reason of—

“(A) subsection (b), or

“(B) any agreement entered into under section 102(b) of the Trade Act of 1974 [19 U.S.C. 2112(b)].”

[Section 7(b) of Pub. L. 101-221, as amended by Pub. L. 101-382, title II, §225, Aug. 20, 1990, 104 Stat. 660, provided that: “The amendments made by subsection (a) [amending section 423 of Pub. L. 99-514, set out above] shall apply with respect to calendar years after 1989.”]

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

DUTY-FREE TREATMENT OF IMPORTED RUM; COMPENSATION MEASURES; PRESIDENTIAL AUTHORITY; REPORT TO CONGRESS

Section 214(c) of Pub. L. 98-67, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “If the sum of the amounts of taxes covered into the treasuries of Puerto Rico or the United States Virgin Islands pursuant to section 7652(c) of the Internal Revenue Code of 1986 [26 U.S.C. 7652(c)] is reduced below the amount that would have been covered over if the imported rum had been produced in Puerto Rico or the United States Virgin Islands, then the President shall consider compensation measures and, in this regard, may withdraw the duty-free treatment on rum provided by this title [this chapter]. The President shall submit a report to the Congress on the measures he takes.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1444-2; title 26 section 7652.

§ 2704. International Trade Commission reports on impact of Caribbean Basin Economic Recovery Program

(a) Reporting requirement

The United States International Trade Commission (hereinafter in this section referred to as the “Commission”) shall prepare, and submit to the Congress and to the President, a report regarding the economic impact of this Act on United States industries and consumers during—

(1) the twenty-four-month period beginning with August 5, 1983; and

(2) each calendar year occurring thereafter until duty-free treatment under this chapter is terminated under section 2706(b)¹ of this title.

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) Requisite areas of Commission assessment

(1) Each report required under subsection (a) of this section shall include, but not be limited to, an assessment by the Commission regarding—

¹ See References in Text note below.

(A) the actual effect, during the period covered by the report, of this Act on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and

(B) the probable future effect which this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act terminate.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this Act, 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; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this Act.

(c) Time of submission of reports; public participation

(1) Each report required under subsection (a) of this section shall be submitted to the Congress and to the President before the close of the nine-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

(Pub. L. 98-67, title II, §215, Aug. 5, 1983, 97 Stat. 393.)

REFERENCES IN TEXT

This Act, referred to in subssecs. (a) and (b), probably should be “this title” meaning title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 2701 of this title and Tables.

Section 2706(b) of this title, referred to in subsec. (a)(2), was in the original “section 216(b)” which is classified to section 2705 of this title, but was translated as meaning section 218(b) as the probable intent of Congress. Section 2706(b) was repealed by Pub. L. 101-382, title II, §211, Aug. 20, 1990, 104 Stat. 655.

§ 2705. Impact study by Secretary of Labor

The Secretary of Labor, in consultation¹ with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact which the implementation of the provisions of this chapter have with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

(Pub. L. 98-67, title II, §216, Aug. 5, 1983, 97 Stat. 394.)

¹ So in original. Probably should be “consultation”.

§ 2706. Effective date

(a) This chapter shall take effect on August 5, 1983.

(b) Repealed. Pub. L. 101-382, title II, §211, Aug. 20, 1990, 104 Stat. 655.

(Pub. L. 98-67, title II, §218, Aug. 5, 1983, 97 Stat. 395; Pub. L. 101-382, title II, §211, Aug. 20, 1990, 104 Stat. 655.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this subtitle” meaning subtitle A (§§211-218) of title II of Pub. L. 98-67 which enacted this chapter, amended section 1202 of this title, repealed section 2582 of this title, and enacted provisions set out as notes under sections 1202, 1319, 2251, and 2703 of this title and section 1311 of Title 33, Navigation and Navigable Waters. For complete classification of subtitle A to the Code, see Tables.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-382 struck out subsec. (b) which related to termination of duty-free treatment. Notwithstanding directory language repealing “section 218 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2706(b))”, amendment was executed by repealing subsec. (b) to reflect the probable intent of Congress in view of catchline for section 211 of Pub. L. 101-382 which read “Repeal of termination date on duty-free treatment under the Act”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2704 of this title.

§ 2707. Center for the Study of Western Hemispheric Trade

(a) Establishment

The Commissioner of Customs, after consultation with appropriate officials in the State of Texas, is authorized and directed to make grants to an institution (or a consortium of such institutions) to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the “Center”). The Commissioner of Customs shall make the first grant not later than December 1, 1994, and the Center shall be established not later than February 1, 1995.

(b) Scope of Center

The Center shall be a year-round program operated by an institution located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine—

(1) the impact of the NAFTA on the economies in, and trade within, the Western Hemisphere,¹

(2) the negotiation of any future free trade agreements, including possible accessions to the NAFTA; and

(3) adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

(c) Consultation; selection criteria

The Commissioner of Customs shall consult with appropriate officials of the State of Texas

¹ So in original. The comma probably should be a semicolon.

and private sector authorities with respect to selecting, planning, and establishing the Center. In selecting the appropriate institution, the Commissioner of Customs shall give consideration to—

(1) the institution's ability to carry out the programs and activities described in this section; and

(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

(d) Programs and activities

The Center shall conduct the following activities:

(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere, including the impact of the NAFTA on individual economies and the desirability and feasibility of possible accessions to the NAFTA by such countries.

(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

(6) Implement academic exchange programs and other cooperative research and instructional agreements with the complementary North/South Center at the University of Miami at Coral Gables.

(e) Definitions

For purposes of this section—

(1) NAFTA

The term "NAFTA" means the North American Free Trade Agreement.

(2) Western Hemisphere countries

The terms "Western Hemisphere countries", "countries in the Western Hemisphere", and "Western Hemisphere" mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 2702 of this title), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(f) Fees for seminars and publications

Notwithstanding any other provision of law, a grant made under this section may provide that

the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.

(g) Duration of grant

The Commissioner of Customs is directed to make grants to any institution or institutions selected as the Center for fiscal years 1994, 1995, 1996, and 1997.

(h) Report

The Commissioner of Customs shall, no later than July 1, 1994, and annually thereafter for years for which grants are made, submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The first report shall include—

(1) a statement identifying the institution or institutions selected as the Center,

(2) the reasons for selecting the institution or institutions as the Center, and

(3) the plan of such institution or institutions for operating the Center.

Each subsequent report shall include information with respect to the operations of the Center, the collaboration of the Center with, and dissemination of information to, Government policymakers and the business community with respect to the study of Western Hemispheric trade by the Center, and the plan and efforts of the Center to continue operations after grants under this section have expired.

(Pub. L. 98-67, title II, §219, as added Pub. L. 103-182, title V, §515(a), Dec. 8, 1993, 107 Stat. 2158.)

AUTHORIZATION OF APPROPRIATIONS

Section 515(b) of Pub. L. 103-182 provided that: "There are authorized to be appropriated \$10,000,000 for fiscal year 1994, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of section 219 of the Caribbean Basin Economic Recovery Act [19 U.S.C. 2707] (as added by subsection (a))."

CHAPTER 16—WINE TRADE

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§ 2801. Congressional findings and purposes

(a) Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility enjoyed by foreign wines to the United States market while the United States wine industry faces restrictive