

Public Law 98-120
98th Congress

An Act

To amend the International Coffee Agreement Act of 1980.

Oct. 12, 1983

[H.R. 3813]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*NEGOTIATING AUTHORITY INVOLVING THE INTERNATIONAL COFFEE
AGREEMENT, 1983International
Coffee
Agreement Act
of 1980,
amendment.

SECTION 1. The International Coffee Agreement Act of 1980 (19 U.S.C. 1356k, et seq.) is amended—

(1) by striking out “1976” in sections 2, 3, and 5 and inserting in lieu thereof “, 1983”, and

19 USC 1356k,
1356l, 1356n.

(2) by striking out “for such period prior to October 1, 1983 as the agreement remains in effect” in section 2, and inserting in lieu thereof “before October 1, 1986”.

19 USC 1356k.

REAUTHORIZATION OF PROGRAMS FOR WORKERS AND FIRMS

SEC. 2. (a) Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out “each of fiscal years 1982 and 1983” and inserting in lieu thereof “each of the fiscal years 1982 through 1985”.

(b) Section 285 of such Act is amended by striking out “September 30, 1983” and inserting in lieu thereof “September 30, 1985”.

19 USC note
prec. 2271.

“CONTRIBUTED IMPORTANTLY” TEST FOR GROUP ELIGIBILITY

SEC. 3. (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in paragraph (3), by striking out “were a substantial cause of such total or partial separation, or threat thereof, and of such decline” and inserting in lieu thereof “contributed importantly to such total or partial separation, or threat thereof, and to such decline”; and

(2) by amending the last sentence to read as follows: “For purposes of paragraph (3), the term ‘contributed importantly’ means a cause which is important, but not necessarily more important than any other cause.”.

“Contributed
importantly.”

(b) The amendments made by subsection (a) shall apply with respect to petitions for certification filed under section 221 of the Trade Act of 1974 on or after October 1, 1983.

19 USC 2272
note.

19 USC 2271.

PREFERENCE FOR FIRMS HAVING EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 4. (a) Section 255 of the Trade Act of 1974 (19 U.S.C. 2345) is amended by adding at the end thereof the following new subsection:

"Preference for Firms Having Employee Stock Ownership Plans

Director
guaranteed loan,
requirements.
19 USC 2341.

"(i)(1) When considering whether to grant a direct loan or to guarantee a loan to a corporation which is otherwise certified under section 251, the Secretary shall give preference to a corporation which agrees with respect to such loan to fulfill the following requirements—

"(A) 25 percent of the principal amount of the loan is paid by the lender to a qualified trust established under an employee stock ownership plan established and maintained by the recipient corporation, by a parent or subsidiary of such corporation, or by several corporations including the recipient corporation,

"(B) the employee stock ownership plan meets the requirements of this subsection, and

"(C) the agreement among the recipient corporation, the lender, and the qualified trust relating to the loan meets the requirements of this section.

Employee stock
ownership plan.

"(2) An employee stock ownership plan does not meet the requirements of this subsection unless the governing instrument of the plan provides that—

"(A) the amount of the loan paid under paragraph (1)(A) to the qualified trust will be used to purchase qualified employer securities,

"(B) the qualified trust will repay to the lender the amount of such loan, together with the interest thereon, out of amounts contributed to the trust by the recipient corporation, and

"(C) from time to time, as the qualified trust repays such amount, the trust will allocate qualified employer securities among the individual accounts of participants and their beneficiaries in accordance with the provisions of paragraph (4).

Recipient
corporation,
lender, and
qualified trust.
Agreement
requirements.

"(3) The agreement among the recipient corporation, the lender, and the qualified trust does not meet the requirements of this subsection unless—

"(A) it is unconditionally enforceable by any party against the others, jointly and severally,

"(B) it provides that the liability of the qualified trust to repay loan amounts paid to the qualified trust may not, at any time, exceed an amount equal to the amount of contributions required under paragraph (2)(B) which are actually received by such trust,

"(C) it provides that amounts received by the recipient corporation from the qualified trust for qualified employer securities purchased for the purpose of this subsection will be used exclusively by the recipient corporation for those purposes for which it may use that portion of the loan paid directly to it by the lender,

"(D) it provides that the recipient corporation may not reduce the amount of its equity capital during the one year period beginning on the date on which the qualified trust purchases qualified employer securities for purposes of this subsection, and

“(E) it provides that the recipient corporation will make contributions to the qualified trust of not less than such amounts as are necessary for such trust to meet its obligation to make repayments of principal and interest on the amount of the loan received by the trust without regard to whether such contributions are deductible by the corporation under section 404 of the Internal Revenue Code of 1954 and without regard to any other amounts the recipient corporation is obligated under law to contribute to or under the employee stock ownership plan.

26 USC 404.

“(4) At the close of each plan year, an employee stock ownership plan shall allocate to the accounts of participating employees that portion of the qualified employer securities the cost of which bears substantially the same ratio to the cost of all the qualified employer securities purchased under paragraph (2)(A) of this subsection as the amount of the loan principal and interest repaid by the qualified trust during that year bears to the total amount of the loan principal and interest payable by such trust during the term of such loan. Qualified employer securities allocated to the individual account of a participant during one plan year must bear substantially the same proportion to the amount of all such securities allocated to all participants in the plan as the amount of compensation paid to such participant bears to the total amount of compensation paid to all such participants during that year.

“(5) For purposes of this subsection, the term—

Definitions.

“(A) ‘employee stock ownership plan’ means a plan described in section 4975(e)(7) of the Internal Revenue Code of 1954,

26 USC 4975.

“(B) ‘qualified trust’ means a trust established under an employee stock ownership plan and meeting the requirements of title I of the Employee Retirement Income Security Act of 1974 and section 401 of the Internal Revenue Code of 1954,

29 USC 1001.

“(C) ‘qualified employer securities’ means common stock issued by the recipient corporation or by a parent or subsidiary of such corporation with voting power and dividend rights no less favorable than the voting power and dividend rights on other common stock issued by the issuing corporation and with voting power being exercised by the participants in the employee stock ownership plan after it is allocated to their plan accounts, and

26 USC 401.

"(D) 'equity capital' means, with respect to the recipient corporation, the sum of its money and other property (in an amount equal to the adjusted basis of such property but disregarding adjustments made on account of depreciation or amortization made during the period described in paragraph (3)(D)), less the amount of its indebtedness."

Effective date.
19 USC 2345
note.

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

Approved October 12, 1983.

LEGISLATIVE HISTORY—H.R. 3813 (S. 1847):

HOUSE REPORT No. 98-376 (Comm. on Ways and Means).

SENATE REPORT No. 98-250 accompanying S. 1847 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Sept. 27, considered and passed House.

Sept. 30, considered and passed Senate, amended, in lieu of S. 1847; House concurred in Senate amendment.