

to any subsequent direction by the President in a particular matter.

SEC. 2. *Consultations and Advice.* In developing the annual reports required by part I and part II of this order, the Trade Representative shall consult with executive agencies and seek information and advice from U.S. businesses in the United States and in the countries involved in the practices under consideration.

WILLIAM J. CLINTON.

SUBCHAPTER IV—TRADE RELATIONS WITH COUNTRIES NOT RECEIVING NON-DISCRIMINATORY TREATMENT

PART 1—TRADE RELATIONS WITH CERTAIN COUNTRIES

§ 2431. Exception of products of certain countries or areas

Except as otherwise provided in this subchapter, the President shall continue to deny nondiscriminatory treatment to the products of any country, the products of which were not eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

(Pub. L. 93-618, title IV, § 401, Jan. 3, 1975, 88 Stat. 2056.)

Editorial Notes

REFERENCES IN TEXT

The Tariff Schedules of the United States, referred to in text, 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

REPORT ON EFFECT OF SUBCHAPTER; RECOMMENDATIONS

Pub. L. 95-501, title VI, § 604, Oct. 21, 1978, 92 Stat. 1692, which provided that within six months after Oct. 21, 1978, the Secretary of Agriculture submit to Congress a report detailing the effect on United States agriculture of this subchapter, including a recommendation as to whether the provisions of this subchapter should be repealed or amended, was omitted in the general revision of Pub. L. 95-501 by Pub. L. 101-624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668. See chapter 87 (§ 5601 et seq.) of Title 7, Agriculture.

§ 2432. Freedom of emigration in East-West trade

(a) Actions of nonmarket economy countries making them ineligible for normal trade relations, programs of credits, credit guarantees, or investment guarantees, or commercial agreements

To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after January 3, 1975, products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (normal trade relations), such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to emigrate;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice,

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) Presidential determination and report to Congress that nation is not violating freedom of emigration

After January 3, 1975, (A) products of a nonmarket economy country may be eligible to receive nondiscriminatory treatment (normal trade relations), (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (C) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter so long as such treatment is received, such credits or guarantees are extended, or such agreement is in effect.

(c) Waiver authority of President

(1) During the 18-month period beginning on January 3, 1975, the President is authorized to waive by Executive order the application of subsections (a) and (b) with respect to any country, if he reports to the Congress that—

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(2) During any period subsequent to the 18-month period referred to in paragraph (1), the President is authorized to waive by Executive order the application of subsections (a) and (b) with respect to any country, if the waiver authority granted by this subsection continues to apply to such country pursuant to subsection (d), and if he reports to the Congress that—

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(3) A waiver with respect to any country shall terminate on the day after the waiver authority

granted by this subsection ceases to be effective with respect to such country pursuant to subsection (d). The President may, at any time, terminate by Executive order any waiver granted under this subsection.

(d) Extension of waiver authority

(1) If the President determines that the further extension of the waiver authority granted under subsection (c) will substantially promote the objectives of this section, he may recommend further extensions of such authority for successive 12-month periods. Any such recommendations shall—

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

If the President recommends the further extension of such authority, such authority shall continue in effect until the end of the 12-month period following the end of the previous 12-month extension with respect to any country (except for any country with respect to which such authority has not been extended under this subsection), unless a joint resolution described in section 2193(a) of this title is enacted into law pursuant to the provisions of paragraph (2).

(2)(A) The requirements of this paragraph are met if the joint resolution is enacted under the procedures set forth in section 2193 of this title, and—

(i) the Congress adopts and transmits the joint resolution to the President before the end of the 60-day period beginning on the date the waiver authority would expire but for an extension under paragraph (1), and

(ii) if the President vetoes the joint resolution, each House of Congress votes to override such veto on or before the later of the last day of the 60-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 2194(b) of this title) beginning on the date the Congress receives the veto message from the President.

(B) If a joint resolution is enacted into law under the provisions of this paragraph, the waiver authority applicable to any country with respect to which the joint resolution disapproves of the extension of such authority shall cease to be effective as of the day after the 60-day period beginning on the date of the enactment of the joint resolution.

(C) A joint resolution to which this subsection and section 2193 of this title apply may be introduced at any time on or after the date the President transmits to the Congress the document described in paragraph (1)(B).

(e) Countries not covered

This section shall not apply to any country the products of which are eligible for the rates

set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

(Pub. L. 93-618, title IV, §402, Jan. 3, 1975, 88 Stat. 2056; Pub. L. 96-39, title XI, §1106(f)(1), July 26, 1979, 93 Stat. 312; Pub. L. 101-382, title I, §132(a)(1), (2), Aug. 20, 1990, 104 Stat. 643, 644; Pub. L. 105-206, title V, §5003(b)(2)(A), July 22, 1998, 112 Stat. 789.)

Editorial Notes

REFERENCES IN TEXT

The Tariff Schedules of the United States, referred to in subsec. (e), to be treated as a reference to the Harmonized Tariff Schedule, see Pub. L. 100-418, title I, §1212, Aug. 23, 1988, 102 Stat. 1155, classified 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.

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105-206 substituted “(normal trade relations)” for “(most-favored-nation treatment)”.

1990—Subsec. (d)(1). Pub. L. 101-382, §132(a)(1), (2)(A), (B), redesignated par. (5) as (1), and substituted “If the President determines that the further extension of the waiver authority granted under subsection (c) will” for “If the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any country for the 12-month period referred to in such paragraphs, and the President determines that the further extension of such authority will” in introductory provisions, substituted “, unless a joint resolution described in section 2193(a) of this title is enacted into law pursuant to the provisions of paragraph (2).” for “, unless before the end of the 60-day period following such previous 12-month extension, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 2193 of this title, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority with respect to such country.” in concluding provisions, and struck out former par. (1) which read as follows: “If the President determines that the extension of the waiver authority granted by subsection (c)(1) will substantially promote the objectives of this section, he may recommend to the Congress that such authority be extended for a period of 12 months. Any such recommendation shall—

“(A) be made not later than 30 days before the expiration of such authority;

“(B) be made in the document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

“(C) include, for each country with respect to which a waiver granted under subsection (c)(1) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.”

Subsec. (d)(2). Pub. L. 101-382, §132(a)(2)(A), (C), added par. (2) and struck out former par. (2) which authorized extension of waiver authority for 12-month period upon recommendation of President and adoption of concur-

rent resolution approving extension of authority and not excluding country, and provided procedures if such resolution was not adopted.

Subsec. (d)(3), (4). Pub. L. 101-382, § 132(a)(2)(A), struck out par. (3) which authorized extension of waiver authority upon recommendation of President for 60 days, and for 12 months if before end of 60-day period concurrent resolution was adopted approving extension of authority and failing to exclude particular country, and provided procedures if such resolution was not adopted, and struck out par. (4) which authorized extension of waiver authority for 12 months upon recommendation of President if Congress failed to adopt concurrent resolution approving extension under par. (3) and also failed to adopt, in 45-day period following 60-day period, concurrent resolution disapproving extension generally or with respect to particular country.

Subsec. (d)(5). Pub. L. 101-382, § 132(a)(2)(B), redesignated par. (5) as (1).

1979—Subsec. (c)(1). Pub. L. 96-39 substituted “subsections (a) and (b)” for “subsection (a) and (b)” in provisions preceding subpar. (A).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-382, title I, § 132(d), Aug. 20, 1990, 104 Stat. 647, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 2191 to 2194, 2435, and 2437 of this title] take effect on the date of the enactment of this Act [Aug. 20, 1990].

“(2) EXTENSION OF WAIVER AUTHORITY.—

“(A) The amendments made by subsections (a) and (c)(4) and (5) [amending this section and sections 2192 and 2193 of this title] apply with respect to recommendations made under section 402(d) of the Trade Act of 1974 [subsec. (d) of this section] by the President after May 23, 1990.

“(B) Solely for purposes of applying the applicable provisions of the Trade Act of 1974 [this chapter] with respect to the recommendations made by the President to the House of Representatives and the Senate under subsection (d) of section 402 of the Trade Act of 1974 after May 23, 1990, and on or before the date of the enactment of this Act—

“(i) in paragraph (2)(A)(i) of subsection (d) of such section 402 (as amended by subsection (a)), the date on which the waiver authority granted under subsection (c) of such section 402 would expire but for an extension under paragraph (1) of such subsection (d) is the date of the enactment of this Act;

“(ii) paragraph (2)(A)(ii) of subsection (d) of such section 402 (as amended by subsection (a)) shall be treated as reading as follows:

“(i) if the President vetoes the joint resolution, each House of Congress votes to override such veto on or before the last day of the 60-day period referred to in clause (i).”;

“(iii) if the waiver authority granted under such subsection (c) is extended after application of clauses (i) and (ii), the expiration date for such authority is July 3, 1991; and

“(iv) only joint resolutions described in section 153(a) of the Trade Act of 1974 [section 2193(a) of this title] (as amended by subsection (a)) that are introduced in the House of Representatives or the Senate on or after the date of the enactment of this Act may be considered by either body.”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 26, 1979, see section 1114 of Pub. L. 96-39, set out as an Effective Date note under section 2581 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under subsec. (d)(1) of this section delegated to Secretary of State by section

1(a)(i) of Ex. Ord. No. 13346, July 8, 2004, 69 F.R. 41905, set out as a note under section 301 of Title 3, The President.

For delegation of congressional reporting functions of President under subsec. (b) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.

WAIVER OF SUBSECTIONS (a) AND (b) BY EXECUTIVE ORDER

The following Executive orders waived the application of subsections (a) and (b) of this section for the countries listed:

Ex. Ord. No. 11854, Apr. 24, 1975, 40 F.R. 18391.—Socialist Republic of Romania.

Ex. Ord. No. 12051, Apr. 7, 1978, 43 F.R. 15131.—Hungarian People's Republic.

Ex. Ord. No. 12167, Oct. 23, 1979, 44 F.R. 61167.—People's Republic of China.

Ex. Ord. No. 12702, Feb. 20, 1990, 55 F.R. 6231.—Czechoslovakia.

Ex. Ord. No. 12726, Aug. 15, 1990, 55 F.R. 33637.—German Democratic Republic.

Ex. Ord. No. 12740, Dec. 29, 1990, 56 F.R. 355.—Soviet Union.

Ex. Ord. No. 12745, Jan. 22, 1991, 56 F.R. 2835.—Bulgaria.

Ex. Ord. No. 12746, Jan. 23, 1991, 56 F.R. 2837.—Mongolia.

Ex. Ord. No. 12772, Aug. 17, 1991, 56 F.R. 41621.—Romania.

Ex. Ord. No. 12798, Apr. 6, 1992, 57 F.R. 12175.—Armenia.

Ex. Ord. No. 12802, Apr. 16, 1992, 57 F.R. 14321.—Republic of Byelorussia, Republic of Kyrgyzstan, and Russian Federation.

Ex. Ord. No. 12809, June 3, 1992, 57 F.R. 23925.—Albania, Azerbaijan, Georgia, Kazakhstan, Moldova, Ukraine, and Uzbekistan.

Ex. Ord. No. 12811, June 24, 1992, 57 F.R. 28585.—Tajikistan and Turkmenistan.

Ex. Ord. No. 13079, Apr. 7, 1998, 63 F.R. 17309.—Vietnam.

Ex. Ord. No. 13220, July 2, 2001, 66 F.R. 35527.—Republic of Belarus.

Ex. Ord. No. 13314, Aug. 8, 2003, 68 F.R. 48249.—Turkmenistan.

Ex. Ord. No. 13437, June 28, 2007, 72 F.R. 36339.—Turkmenistan.

Ex. Ord. No. 13510, July 1, 2009, 74 F.R. 32047.—Republic of Belarus.

PRESIDENTIAL DETERMINATIONS RELATING TO WAIVERS

The following Presidential Determinations related to waivers or continuation of waivers for the countries listed:

Determination No. 81-8, June 2, 1981, 46 F.R. 30797.—Hungarian People's Republic, People's Republic of China, and Socialist Republic of Romania.

Determination No. 83-7, June 3, 1983, 48 F.R. 26585.—Hungarian People's Republic, People's Republic of China, and Socialist Republic of Romania.

Determination No. 84-9, May 31, 1984, 49 F.R. 24107.—Hungarian People's Republic, People's Republic of China, and Socialist Republic of Romania.

Determination No. 86-10, June 3, 1986, 51 F.R. 22057.—Hungarian People's Republic, People's Republic of China, and Socialist Republic of Romania.

Determination No. 87-14, June 2, 1987, 52 F.R. 22431.—Hungarian People's Republic, People's Republic of China, and Socialist Republic of Romania.

Determination No. 88-18, June 3, 1988, 53 F.R. 21407.—Hungarian People's Republic and People's Republic of China.

Determination No. 89-14, May 31, 1989, 54 F.R. 26943.—Hungarian People's Republic and People's Republic of China.

Determination No. 90-10, Feb. 20, 1990, 55 F.R. 8899.—Czechoslovakia.

Determination No. 90-21, May 24, 1990, 55 F.R. 23183.—People's Republic of China.

Determination No. 90-22, June 3, 1990, 55 F.R. 42831.—Czech and Slovak Federal Republic.

Determination No. 90-30, Aug. 15, 1990, 55 F.R. 35421.—German Democratic Republic.

Determination No. 91-11, Dec. 29, 1990, 56 F.R. 1561.—Soviet Union.

Determination No. 91-18, Jan. 22, 1991, 56 F.R. 4169.—Bulgaria.

Determination No. 91-19, Jan. 23, 1991, 56 F.R. 4171.—Mongolia.

Determination No. 91-36, May 29, 1991, 56 F.R. 26757.—People's Republic of China.

Determination No. 91-39, June 3, 1991, 56 F.R. 27187.—Republic of Bulgaria, Czech and Slovak Federal Republic, Soviet Union, and Mongolian People's Republic.

Determination No. 91-48, Aug. 17, 1991, 56 F.R. 43861.—Romania.

Determination No. 92-3, Oct. 16, 1991, 56 F.R. 55203.—Czech and Slovak Federal Republic.

Determination No. 92-20, Apr. 3, 1992, 57 F.R. 13623.—Armenia, Belarus, Kyrgyzstan, and Russia.

Determination No. 92-25, May 6, 1992, 57 F.R. 22147.—Azerbaijan, Georgia, Kazakhstan, Moldova, Ukraine, and Uzbekistan.

Determination No. 92-26, May 20, 1992, 57 F.R. 48711.—Albania.

Determination No. 92-29, June 2, 1992, 57 F.R. 24539.—People's Republic of China.

Determination No. 92-30, June 3, 1992, 57 F.R. 24929.—Albania, Armenia, Azerbaijan, Bulgaria, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Romania, Russia, Ukraine, and Uzbekistan.

Determination No. 92-31, June 3, 1992, 57 F.R. 24931.—Tajikistan and Turkmenistan.

Determination No. 93-23, May 28, 1993, 58 F.R. 31329.—People's Republic of China.

Determination No. 93-25, June 2, 1993, 58 F.R. 33005.—Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Determination No. 94-26, June 2, 1994, 59 F.R. 31103.—People's Republic of China.

Determination No. 94-27, June 2, 1994, 59 F.R. 31105.—Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Determination No. 95-23, June 2, 1995, 60 F.R. 31047.—People's Republic of China.

Determination No. 95-24, June 2, 1995, 60 F.R. 31049.—Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Determination No. 96-29, May 31, 1996, 61 F.R. 29455.—People's Republic of China.

Determination No. 96-30, June 3, 1996, 61 F.R. 29457.—Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Determination No. 97-25, May 29, 1997, 62 F.R. 31313.—People's Republic of China.

Determination No. 97-28, June 3, 1997, 62 F.R. 32019.—Albania, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

Determination No. 98-17, Mar. 9, 1998, 63 F.R. 14329.—Vietnam.

Determination No. 98-26, June 3, 1998, 63 F.R. 32705.—People's Republic of China.

Determination No. 98-27, June 3, 1998, 63 F.R. 32707.—Vietnam.

Determination No. 98-28, June 3, 1998, 63 F.R. 32709.—Republic of Belarus.

Determination No. 99-26, June 3, 1999, 64 F.R. 31109.—Republic of Belarus.

Determination No. 99-27, June 3, 1999, 64 F.R. 31111.—Vietnam.

Determination No. 99-28, June 3, 1999, 64 F.R. 31113.—People's Republic of China.

Determination No. 2000-21, June 2, 2000, 65 F.R. 36309.—Vietnam.

Determination No. 2000-22, June 2, 2000, 65 F.R. 36311.—Republic of Belarus.

Determination No. 2000-23, June 2, 2000, 65 F.R. 36313.—People's Republic of China.

Determination No. 2001-16, June 1, 2001, 66 F.R. 30631.—People's Republic of China.

Determination No. 2001-17, June 1, 2001, 66 F.R. 30633.—Vietnam.

Determination No. 2001-20, July 2, 2001, 66 F.R. 37109.—Republic of Belarus.

Determination No. 02-21, June 3, 2002, 67 F.R. 40833.—Republic of Belarus.

Determination No. 02-22, June 3, 2002, 67 F.R. 40835.—Vietnam.

Determination No. 2003-24, May 29, 2003, 68 F.R. 35525.—Vietnam.

Determination No. 2003-25, May 29, 2003, 68 F.R. 35527.—Republic of Belarus.

Determination No. 2003-31, Aug. 8, 2003, 68 F.R. 49325.—Turkmenistan.

Determination No. 2004-32, June 3, 2004, 69 F.R. 32429.—Turkmenistan.

Determination No. 2004-33, June 3, 2004, 69 F.R. 32431.—Republic of Belarus.

Determination No. 2004-34, June 3, 2004, 69 F.R. 32433.—Vietnam.

Determination No. 2007-24, June 28, 2007, 72 F.R. 37421.—Turkmenistan.

Determination No. 2009-22, July 1, 2009, 74 F.R. 32785.—Republic of Belarus.

§ 2433. United States personnel missing in action in Southeast Asia

(a) Penalty for noncooperating countries

Notwithstanding any other provision of law, if the President determines that a nonmarket economy country is not cooperating with the United States—

- (1) to achieve a complete accounting of all United States military and civilian personnel who are missing in action in Southeast Asia,
- (2) to repatriate such personnel who are alive, and
- (3) to return the remains of such personnel who are dead to the United States,

then, during the period beginning with the date of such determination and ending on the date on which the President determines such country is cooperating with the United States, he may provide that—

- (A) the products of such country may not receive nondiscriminatory treatment,
- (B) such country may not participate, directly or indirectly, in any program under which the United States extends credit, credit guarantees, or investment guarantees, and
- (C) no commercial agreement entered into under this subchapter between such country and the United States will take effect.

(b) Exception

This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

(Pub. L. 93-618, title IV, § 403, Jan. 3, 1975, 88 Stat. 2060.)

Editorial Notes

REFERENCES IN TEXT

The Tariff Schedules of the United States, referred to in subsec. (b), to be treated as a reference to the Har-