

114 Stat. 887; amended Pub. L. 108-429, title II, §2004(d)(4), Dec. 3, 2004, 118 Stat. 2592, related to action in response to trade diversion.

Section 2451b, Pub. L. 93-618, title IV, §423, as added Pub. L. 106-286, div. A, title I, §103(a)(3), Oct. 10, 2000, 114 Stat. 890, related to regulations; termination of provision.

#### SUBCHAPTER V—GENERALIZED SYSTEM OF PREFERENCES

##### § 2461. Authority to extend preferences

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this subchapter. In taking any such action, the President shall have due regard for—

- (1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;
- (2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;
- (3) the anticipated impact of such action on United States producers of like or directly competitive products; and
- (4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

(Pub. L. 93-618, title V, §501, as added Pub. L. 104-188, title I, §1952(a), Aug. 20, 1996, 110 Stat. 1917.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 2461, Pub. L. 93-618, title V, §501, Jan. 3, 1975, 88 Stat. 2066; Pub. L. 98-573, title V, §502, Oct. 30, 1984, 98 Stat. 3018, related to authority to extend preferences, prior to the general amendment of this subchapter by Pub. L. 104-188.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Pub. L. 104-188, title I, §1953, Aug. 20, 1996, 110 Stat. 1926, provided that:

“(a) IN GENERAL.—The amendments made by this subtitle [subtitle J (§§1951-1954) of title I of Pub. L. 104-188, enacting this subchapter, amending sections 2702, 3011, 3202, 3331, and 3551 of this title, section 1444-2 of Title 7, Agriculture, section 4711 of Title 15, Commerce and Trade, sections 262p-4p and 2191a of Title 22, Foreign Relations and Intercourse, and section 871 of Title 26, Internal Revenue Code, and enacting provisions set out as a note under section 2101 of this title] apply to articles entered on or after October 1, 1996.

“(b) RETROACTIVE APPLICATION.—

“(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 [19 U.S.C. 1514] or any other provision of law and subject to subsection (c)—

“(A) any article that was entered—

“(i) after July 31, 1995, and

“(ii) before January 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 [this subchapter] would have applied if the entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and

“(B) any article that was entered—

“(i) after December 31, 1995, and

“(ii) before October 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 [this subchapter] (as amended by this subtitle) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

“(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.

“(3) ENTRY.—As used in this subsection, the term ‘entry’ includes a withdrawal from warehouse for consumption.

“(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act [Aug. 20, 1996], that contains sufficient information to enable the Customs Service—

“(1) to locate the entry; or

“(2) to reconstruct the entry if it cannot be located.”

##### § 2462. Designation of beneficiary developing countries

###### (a) Authority to designate countries

###### (1) Beneficiary developing countries

The President is authorized to designate countries as beneficiary developing countries for purposes of this subchapter.

###### (2) Least-developed beneficiary developing countries

The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this subchapter, based on the considerations in section 2461 of this title and subsection (c) of this section.

###### (b) Countries ineligible for designation

###### (1) Specific countries

The following countries may not be designated as beneficiary developing countries for purposes of this subchapter:

- (A) Australia.
- (B) Canada.
- (C) European Union member states.
- (D) Iceland.
- (E) Japan.
- (F) Monaco.
- (G) New Zealand.
- (H) Norway.
- (I) Switzerland.

###### (2) Other bases for ineligibility

The President shall not designate any country a beneficiary developing country under this subchapter if any of the following applies:

(A) Such country is a Communist country, unless—

(i) the products of such country receive nondiscriminatory treatment,

(ii) such country is a WTO Member (as such term is defined in section 3501(10) of this title) and a member of the International Monetary Fund, and

(iii) such country is not dominated or controlled by international communism.

(B) Such country is a party to an arrangement of countries and participates in any