

§ 2905. Accession of state trading regimes to General Agreement on Tariffs and Trade or WTO

(a) In general

Before any major foreign country accedes, after August 23, 1988, to the GATT 1947, or to the WTO Agreement, the President shall determine—

(1) whether state trading enterprises account for a significant share of—

(A) the exports of such major foreign country, or

(B) the goods of such major foreign country that are subject to competition from goods imported into such foreign country; and

(2) whether such state trading enterprises—

(A) unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or

(B) are likely to result in such a burden, restriction, or effect.

(b) Effects of affirmative determination

If both of the determinations made under paragraphs (1) and (2) of subsection (a) of this section with respect to a major foreign country are affirmative—

(1) the President shall reserve the right of the United States to withhold extension of the application of the GATT 1947 or the WTO Agreement, between the United States and such major foreign country, and

(2) the GATT 1947 or the WTO Agreement shall not apply between the United States and such major foreign country until—

(A) such foreign country enters into an agreement with the United States providing that the state trading enterprises of such foreign country—

(i) will—

(I) make purchases which are not for the use of such foreign country, and

(II) make sales in international trade,

in accordance with commercial considerations (including price, quality, availability, marketability, and transportation), and

(ii) will afford United States business firms adequate opportunity, in accordance with customary practice, to compete for participation in such purchases or sales; or

(B) a bill submitted under subsection (c) of this section which approves of the extension of the application of the GATT 1947 or the WTO Agreement between the United States and such major foreign country is enacted into law.

(c) Expedited consideration of bill to approve extension

(1) The President may submit to the Congress any draft of a bill which approves of the extension of the application of the GATT 1947 or the WTO Agreement between the United States and a major foreign country.

(2) Any draft of a bill described in paragraph (1) that is submitted by the President to the Congress shall—

(A) be introduced by the majority leader of each House of the Congress (by request) on the first day on which such House is in session after the date such draft is submitted to the Congress; and

(B) shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 2191 of this title.

(d) Publication

The President shall publish in the Federal Register each determination made under subsection (a) of this section.

(e) Definitions

For purposes of this section:

(1) The term “GATT 1947” has the meaning given that term in section 3501(1)(A) of this title.

(2) The term “WTO Agreement” means the Agreement Establishing the World Trade Organization entered into on April 15, 1994 and the multilateral trade agreements (as such term is defined in section 3501(4) of this title).

(Pub. L. 100-418, title I, § 1106, Aug. 23, 1988, 102 Stat. 1133; Pub. L. 103-465, title VI, § 621(a)(4), Dec. 8, 1994, 108 Stat. 4993; Pub. L. 104-295, § 20(f)(3), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 substituted “or WTO” for “for WTO” in section catchline.

1994—Pub. L. 103-465, § 621(a)(4)(D), inserted “for WTO” after “Trade” in section catchline.

Subsec. (a). Pub. L. 103-465, § 621(a)(4)(A), substituted “the GATT 1947, or to the WTO Agreement,” for “the GATT” in introductory provisions.

Subsecs. (b), (c). Pub. L. 103-465, § 621(a)(4)(B), inserted “1947 or the WTO Agreement” after “the GATT” wherever appearing.

Subsec. (e). Pub. L. 103-465, § 621(a)(4)(C), added subsec. (e).

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.

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section to United States Trade Representative, see section 1-101 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

PRESIDENTIAL DOCUMENTS REGARDING STATE TRADING ENTERPRISES

The following presidential documents related to determinations under subsec. (a) of this section:

CHINA.—Memorandum of President of the United States, Nov. 9, 2001, 66 F.R. 57357.

RUSSIA.—Memorandum of President of the United States, Dec. 15, 2011, 76 F.R. 79023.

SAUDI ARABIA.—Memorandum of President of the United States, Nov. 10, 2005, 70 F.R. 69419.

TAIWAN, PENGHU, KINMEN, AND MATSU.—Memorandum of President of the United States, Nov. 9, 2001, 66 F.R. 57359.

UKRAINE.—Determination of President of the United States, No. 2008-17, Mar. 28, 2008, 73 F.R. 17879.

VIETNAM.—Memorandum of President of the United States, Nov. 6, 2006, 71 F.R. 66223.

§ 2906. Definitions

For purposes of this chapter: