

abroad and foreign investment in the United States;

(2) international investment has increased rapidly within recent years;

(3) such investment significantly affects the economies of the United States and other nations;

(4) international efforts to obtain information on the activities of multinational enterprises and other international investors have accelerated recently;

(5) the potential consequences of international investment cannot be evaluated accurately because the United States Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States;

(6) accurate and comprehensive information on international investment is needed by the Congress to develop an informed United States policy on such investment;

(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

(8) international trade and services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and

(9) existing estimates of international investment and trade in services, collected under existing legal authority, are limited in scope and are based on outdated statistical bases, reports, and information which are insufficient for policy formulation and decision-making.

#### (b) Purpose

It is therefore the purpose of this chapter to provide clear and unambiguous authority for the President to collect information on international investment and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade, to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons, and to provide analyses of such information to the Congress, the executive agencies, and the general public. It is the intent of the Congress that information which is collected from the public under this chapter be obtained with a minimum burden on business and other respondents and with no unnecessary duplication of effort, consistent with the national interest in obtaining comprehensive and reliable information on international investment and trade in services.

#### (c) Nonrestraint and nondeterrence of investment

Nothing in this chapter is intended to restrain or deter foreign investment in the United States, United States investment abroad, or trade in services.

(Pub. L. 94-472, §2, Oct. 11, 1976, 90 Stat. 2059; Pub. L. 98-573, title III, §306(b)(2), Oct. 30, 1984, 98

Stat. 3009; Pub. L. 101-533, §6(A)[(a)], Nov. 7, 1990, 104 Stat. 2348.)

#### AMENDMENTS

1990—Subsec. (b). Pub. L. 101-533 inserted “to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons,” after “the impact of such investment and trade,” in first sentence.

1984—Subsec. (a)(7) to (9). Pub. L. 98-573, §306(b)(2)(A), added pars. (7) and (8), redesignated former par. (7) as (9), and inserted “and trade in services” after “international investment” in par. (9).

Subsec. (b). Pub. L. 98-573, §306(b)(2)(B), substituted “international investment and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade,” for “international investment”, and “international investment and trade in services” for “international investment”.

Subsec. (c). Pub. L. 98-573, §306(b)(2)(C), inserted reference to trade in services.

#### SHORT TITLE

Section 1 of Pub. L. 94-472, as amended by Pub. L. 98-573, title III, §306(b)(1), Oct. 30, 1984, 98 Stat. 3009, provided that: “This Act [enacting this chapter] may be cited as the ‘International Investment and Trade in Services Survey Act.’”

#### EX. ORD. NO. 11961. INTERNATIONAL INVESTMENT AND TRADE IN SERVICES

Ex. Ord. No. 11961, Jan. 19, 1977, 42 F.R. 4321, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931; Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833; Ex. Ord. No. 12518, June 3, 1985, 50 F.R. 23661, provided:

By virtue of the authority vested in me by the International Investment and Trade in Services Survey Act (90 Stat. 2059, 22 U.S.C. 3101) [this chapter], and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. All the functions vested in the President by the International Investment and Trade in Services Survey Act (90 Stat. 2059, 22 U.S.C. 3101) [this chapter], hereinafter referred to as the Act, are hereby delegated to the Director of the Office of Management and Budget, hereinafter referred to as the Director. The Director may, from time to time, designate other officers or agencies of the Federal Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

SEC. 2. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to portfolio investment, shall perform the functions set forth in sections 4(a)(1), (2), (5) and 4(c) of the Act [22 U.S.C. 3103(a)(1), (2), (5) and (c)].

SEC. 3. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of Commerce, with respect to direct investment and trade in services, shall perform the functions set forth in sections 4(a)(1), (2), (4), (5) and 4(b) of the Act [22 U.S.C. 3103(a)(1), (2), (4), (5) and (b)].

SEC. 4. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of Commerce shall perform the function of making periodic reports to the Committees of the Congress as set forth in Section 4(a)(3) of the Act [22 U.S.C. 3103(a)(3)].

#### § 3102. Definitions

As used in this chapter, the term—

(1) “United States”, when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of

Puerto Rico, the Canal Zone, and all territories and possessions of the United States;

(2) “foreign”, when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(3) “person” means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency);

(4) “United States person” means any person resident in the United States or subject to the jurisdiction of the United States;

(5) “foreign person” means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(6) “business enterprise” means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(7) “parent” means a person of one country who, directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(8) “affiliate” means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(9) “international investment” means (A) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (B) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short- and long-term debt obligations of a foreign person;

(10) “direct investment” means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise; and

(11) “portfolio investment” means any international investment which is not direct investment.

(Pub. L. 94-472, § 3, Oct. 11, 1976, 90 Stat. 2060.)

#### REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (1), see section 3602(b) of this title.

### § 3103. Presidential authority and duties

#### (a) Data collection program; studies and surveys; periodic report to Congressional committees; statistical information publication

The President shall, to the extent he deems necessary and feasible—

(1) conduct a regular data collection program to secure current information on international capital flows and other information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States;

(2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment and trade in services which may have significant implications for the economic welfare and national security of the United States;

(3) study the adequacy of information, disclosure, and reporting requirements and procedures relating to international investment and trade in services; recommend necessary improvements in information recording, collection, and retrieval and in statistical analysis and presentation; and report periodically to the Committees on Finance<sup>1</sup> Foreign Relations<sup>1</sup> and Commerce of the Senate and the Committees on Ways and Means, Energy and Commerce, and Foreign Affairs of the House of Representatives on national and international developments with respect to laws and regulations affecting international investment and trade in services;

(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and

(5) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection and to the benchmark surveys conducted pursuant to subsections (b) and (c) of this section, including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownership of such enterprises.

#### (b) Benchmark survey of United States direct investment abroad and foreign direct investment in United States

With respect to foreign direct investment in the United States, the President shall conduct a

<sup>1</sup> So in original. Probably should be followed by a comma.