

formed regarding the trade policy matters and negotiations with respect to which the adviser is designated.

(3)(A) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)(1) of this section) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

(B) The Chairman¹ of any committee of the House or Senate or any joint committee of Congress from which official advisers are selected under subsection (a)(2) of this section may designate other members of such committee, and staff members of such committee, who shall have access to the information provided to official advisers under paragraph (2).

(c) Committee consultation

The United States Trade Representative shall consult on a continuing basis with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the other appropriate committees of the House and Senate on the development, implementation, and administration of overall trade policy of the United States. Such consultations shall include, but are not limited to, the following elements of such policy:

(1) The principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement.

(2) The implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(3) The actions taken, and proposed to be taken, under the trade laws of the United States and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives.

(4) The important developments and issues in other areas of trade for which there must be developed proper policy response.

When necessary, meetings shall be held with each Committee¹ in executive session to review matters under negotiation.

(Pub. L. 93-618, title I, §161, Jan. 3, 1975, 88 Stat. 2008; Pub. L. 96-39, §3(e), July 26, 1979, 93 Stat. 150; Pub. L. 100-418, title I, §1632, Aug. 23, 1988, 102 Stat. 1269.)

AMENDMENTS

1988—Pub. L. 100-418 amended section generally, substituting present provisions for similar provisions which had related to Congressional delegates to negotiations, and changing the structure of the section from one consisting of subsecs. (a) and (b) to one consisting of subsecs. (a) to (c).

1979—Subsec. (b)(1). Pub. L. 96-39 substituted “trade agreement or any requirement of, amendment to, or recommendation under, such agreement” for “trade agreement”.

§ 2212. Transmission of agreements to Congress

(a) Submission of copy and reasons

As soon as practicable after a trade agreement entered into under section 2133 or 2134 of this

title or under section 3803 of this title has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the International Trade Commission under section 2151(b) of this title, if any, and of other relevant considerations, of his reasons for entering into the agreement.

(b) Submission to each member

The President shall transmit to each Member of the Congress a summary of the information required to be transmitted to each House under subsection (a) of this section. For purposes of this subsection, the term “Member” includes any Delegate or Resident Commissioner.

(Pub. L. 93-618, title I, §162, Jan. 3, 1975, 88 Stat. 2008; Pub. L. 100-647, title IX, §9001(a)(10), Nov. 10, 1988, 102 Stat. 3807; Pub. L. 107-210, div. B, title XXI, §2110(a)(6), Aug. 6, 2002, 116 Stat. 1020.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-210 substituted “or under section 3803 of this title” for “or under section 2902 of this title”.

1988—Subsec. (a). Pub. L. 100-647 struck out “part 1 of this subchapter or” after “entered into under”, and inserted “or under section 2902 of this title” after “2134 of this title”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

DELEGATION OF AUTHORITY

For delegation of functions of President under div. B of Pub. L. 107-210, amending this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 2213. Reports

(a) Annual report on trade agreements program and national trade policy agenda

(1) The President shall submit to the Congress during each calendar year (but not later than March 1 of that year) a report on—

(A) the operation of the trade agreements program, and the provision of import relief and adjustment assistance to workers and firms, under this chapter during the preceding calendar year; and

(B) the national trade policy agenda for the year in which the report is submitted.

(2) The report shall include, with respect to the matters referred to in paragraph (1)(A), information regarding—

(A) new trade negotiations;

(B) changes made in duties and nontariff barriers and other distortions of trade of the United States;

(C) reciprocal concessions obtained;

(D) changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor);

(E) the extension or withdrawal of non-discriminatory treatment by the United

¹ So in original. Probably should not be capitalized.

States with respect to the products of foreign countries;

(F) the extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries;

(G) the results of actions to obtain the removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment;

(H) the measures being taken to seek the removal of other significant foreign import restrictions;

(I) each of the referrals made under section 2171(d)(1)(B) of this title and any action taken with respect to such referral;

(J) other information relating to the trade agreements program and to the agreements entered into thereunder; and

(K) the number of applications filed for adjustment assistance for workers and firms, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

(3)(A) The national trade policy agenda required under paragraph (1)(B) for the year in which a report is submitted shall be in the form of a statement of—

(i) the trade policy objectives and priorities of the United States for the year, and the reasons therefor;

(ii) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including, but not limited to, actions authorized under the trade laws and negotiations with foreign countries;

(iii) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

(iv) the progress that was made during the preceding year in achieving the trade policy objectives and priorities included in the statement provided for that year under this paragraph.

(B) The President may separately submit any information referred to in subparagraph (A) to the Congress in confidence if the President considers confidentiality appropriate.

(C) Before submitting the national trade policy agenda for any year, the President shall seek advice from the appropriate advisory committees established under section 2155 of this title and shall consult with the appropriate committees of the Congress.

(D) The United States Trade Representative (hereafter referred to in this section as the “Trade Representative”) and other appropriate officials of the United States Government shall consult periodically with the appropriate committees of the Congress regarding the annual objectives and priorities set forth in each national trade policy agenda with respect to—

(i) the status and results of the actions that have been undertaken to achieve the objectives and priorities; and

(ii) any development which may require, or result in, changes to any of such objectives or priorities.

(b) Annual trade projection report

(1) In order for the Congress to be informed of the impact of foreign trade barriers and macroeconomic factors on the balance of trade of the United States, the Trade Representative and the Secretary of the Treasury shall jointly prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter referred to in this subsection as the “Committees”) on or before March 1 of each year a report which consists of—

(A) a review and analysis of—

(i) the merchandise balance of trade,

(ii) the goods and services balance of trade,

(iii) the balance on the current account,

(iv) the external debt position,

(v) the exchange rates,

(vi) the economic growth rates,

(vii) the deficit or surplus in the fiscal budget, and

(viii) the impact on United States trade of market barriers and other unfair practices,

of countries that are major trading partners of the United States, including, as appropriate, groupings of such countries;

(B) projections for each of the economic factors described in subparagraph (A) (except those described in clauses (v) and (viii)) for each of the countries and groups of countries referred to in subparagraph (A) for the year in which the report is submitted and for the succeeding year; and

(C) conclusions and recommendations, based upon the projections referred to in subparagraph (B), for policy changes, including trade policy, exchange rate policy, fiscal policy, and other policies that should be implemented to improve the outlook.

(2) To the extent that subjects referred to in paragraph (1)(A), (B), or (C) are covered in the national trade policy agenda required under subsection (a)(1)(B) of this section or in other reports required by this chapter or other law, the Trade Representative and the Secretary of the Treasury may, as appropriate, draw on the information, analysis, and conclusions, if any, in those reports for the purposes of preparing the report required by this subsection.

(3) The Trade Representative and the Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System in the preparation of each report required under this subsection.

(4) The Trade Representative and the Secretary of the Treasury may separately submit any information, analysis, or conclusion referred to in paragraph (1) to the Committees in confidence if the Trade Representative and the Secretary consider confidentiality appropriate.

(5) After submission of each report required under paragraph (1), the Trade Representative and the Secretary of the Treasury shall consult with each of the Committees with respect to the report.

(c) ITC reports

The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.

(Pub. L. 93-618, title I, §163, Jan. 3, 1975, 88 Stat. 2009; Pub. L. 100-418, title I, §1641, Aug. 23, 1988, 102 Stat. 1271.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1)(A) and (b), was in the original “this Act”, meaning Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

AMENDMENTS

1988—Pub. L. 100-418 amended section generally, completely revising and expanding provisions covering reports, changing the structure of the section from one consisting of subsecs. (a) and (b) to one consisting of subsecs. (a) to (c).

DELEGATION OF FUNCTIONS

Memorandum of President of the United States, Mar. 1, 2004, 69 F.R. 10133, provided:

Memorandum for the United States Trade Representative

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), to provide the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

TRADE DEFICIT REVIEW COMMISSION

Pub. L. 105-277, div. A, §127, Oct. 21, 1998, 112 Stat. 2681-547, as amended by Pub. L. 106-57, title III, §311, Sept. 29, 1999, 113 Stat. 427; Pub. L. 106-246, div. B, title II, §2501, July 13, 2000, 114 Stat. 556; Pub. L. 107-107, div. A, title X, §1048(i)(10), Dec. 28, 2001, 115 Stat. 1229, provided that:

“(a) SHORT TITLE.—This section may be cited as the ‘Trade Deficit Review Commission Act’.

“(b) FINDINGS.—Congress makes the following findings:

“(1) The United States continues to run substantial merchandise trade and current account deficits.

“(2) Economic forecasts anticipate continued growth in such deficits in the next few years.

“(3) The positive net international asset position that the United States built up over many years was eliminated in the 1980s. The United States today has become the world’s largest debtor nation.

“(4) The United States merchandise trade deficit is characterized by large bilateral trade imbalances with a handful of countries.

“(5) The United States has one of the most open borders and economies in the world. The United States faces significant tariff and nontariff trade barriers with its trading partners. The United States does not benefit from fully reciprocal market access.

“(6) The United States is once again at a critical juncture in trade policy development. The nature of the United States trade deficit and its causes and consequences must be analyzed and documented.

“(c) ESTABLISHMENT OF COMMISSION.—

“(1) ESTABLISHMENT.—There is established a commission to be known as the Trade Deficit Review Commission (hereafter in this section referred to as the ‘Commission’).

“(2) PURPOSE.—The purpose of the Commission is to study the nature, causes, and consequences of the United States merchandise trade and current account deficits.

“(3) MEMBERSHIP OF COMMISSION.—

“(A) COMPOSITION.—The Commission shall be composed of 12 members as follows:

“(i) Three persons shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader of the Senate, after consultation with the Chairman of the Committee on Finance.

“(ii) Three persons shall be appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate, after consultation with the ranking minority member of the Committee on Finance.

“(iii) Three persons shall be appointed by the Speaker of the House of Representatives, after consultation with the Chairman of the Committee on Ways and Means.

“(iv) Three persons shall be appointed by the Minority Leader of the House of Representatives, after consultation with the ranking minority member of the Committee on Ways and Means.

“(B) QUALIFICATIONS OF MEMBERS.—

“(i) APPOINTMENTS.—Persons who are appointed under subparagraph (A) shall be persons who—

“(I) have expertise in economics, international trade, manufacturing, labor, environment, business, or have other pertinent qualifications or experience; and

“(II) are not officers or employees of the United States.

“(ii) OTHER CONSIDERATIONS.—In appointing Commission members, every effort shall be made to ensure that the members—

“(I) are representative of a broad cross-section of economic and trade perspectives within the United States; and

“(II) provide fresh insights to analyzing the causes and consequences of United States merchandise trade and current account deficits.

“(4) PERIOD OF APPOINTMENT; VACANCIES.—

“(A) IN GENERAL.—Members shall be appointed not later than 60 days after the date of enactment of this Act [Oct. 21, 1998] and the appointment shall be for the life of the Commission.

“(B) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(5) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

“(6) MEETINGS.—The Commission shall meet at the call of the Chairperson.

“(7) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a chairperson and vice chairperson from among the members of the Commission.

“(8) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

“(9) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

“(d) DUTIES OF THE COMMISSION.—

“(1) IN GENERAL.—The Commission shall be responsible for examining the nature, causes, and consequences of, and the accuracy of available data on, the United States merchandise trade and current account deficits.

“(2) ISSUES TO BE ADDRESSED.—The Commission shall examine and report to the President, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and other appropriate committees of Congress on the following:

“(A) The relationship of the merchandise trade and current account balances to the overall well-being of the United States economy, and to wages and employment in various sectors of the United States economy.

“(B) The impact that United States monetary and fiscal policies may have on United States merchandise trade and current account deficits.

“(C) The extent to which the coordination, allocation, and accountability of trade responsibilities among Federal agencies may contribute to the trade and current account deficits.

“(D) The causes and consequences of the merchandise trade and current account deficits and specific bilateral trade deficits, including—

“(i) identification and quantification of—

“(I) the macroeconomic factors and bilateral trade barriers that may contribute to the United States merchandise trade and current account deficits;

“(II) any impact of the merchandise trade and current account deficits on the domestic economy, industrial base, manufacturing capacity, technology, number and quality of jobs, productivity, wages, and the United States standard of living;

“(III) any impact of the merchandise trade and current account deficits on the defense production and innovation capabilities of the United States; and

“(IV) trade deficits within individual industrial, manufacturing, and production sectors, and any relationship between such deficits and the increasing volume of intra-industry and intra-company transactions;

“(ii) a review of the adequacy and accuracy of the current collection and reporting of import and export data, and the identification and development of additional data bases and economic measurements that may be needed to properly quantify the merchandise trade and current account balances, and any impact the merchandise trade and current account balances may have on the United States economy; and

“(iii) the extent to which there is reciprocal market access substantially equivalent to that afforded by the United States in each country with which the United States has a persistent and substantial bilateral trade deficit, and the extent to which such deficits have become structural.

“(E) Any relationship of United States merchandise trade and current account deficits to both comparative and competitive trade advantages within the global economy, including—

“(i) a systematic analysis of the United States trade patterns with different trading partners and to what extent the trade patterns are based on comparative and competitive trade advantages;

“(ii) the extent to which the increased mobility of capital and technology has changed both comparative and competitive trade advantages;

“(iii) any impact that labor, environmental, or health and safety standards may have on comparative and competitive trade advantages;

“(iv) the effect that offset and technology transfer agreements have on the long-term competitiveness of the United States manufacturing sectors; and

“(v) any effect that international trade, labor, environmental, or other agreements may have on United States competitiveness.

“(F) The extent to which differences in the growth rates of the United States and its trading partners may impact on United States merchandise trade and current account deficits.

“(G) The impact that currency exchange rate fluctuations and any manipulation of exchange rates may have on United States merchandise trade and current account deficits.

“(H) The flow of investments both into and out of the United States, including—

“(i) any consequences for the United States economy of the current status of the United States as a debtor nation;

“(ii) any relationship between such investment flows and the United States merchandise trade and current account deficits and living standards of United States workers;

“(iii) any impact such investment flows may have on United States labor, community, environmental, and health and safety standards, and how such investment flows influence the location of manufacturing facilities; and

“(iv) the effect of barriers to United States foreign direct investment in developed and developing nations, particularly nations with which the United States has a merchandise trade and current account deficit.

“(e) FINAL REPORT.—

“(1) IN GENERAL.—Not later than 15 months after the date of the initial meeting of the Commission, the Commission shall submit to the President and Congress a final report which contains—

“(A) the findings and conclusions of the Commission described in subsection (d); and

“(B) recommendations for addressing the problems identified as part of the Commission’s analysis.

“(2) SEPARATE VIEWS.—Any member of the Commission may submit additional findings and recommendations as part of the final report.

“(f) POWERS OF COMMISSION.—

“(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may find advisable to fulfill the requirements of this section. The Commission shall hold at least 1 or more hearings in Washington, D.C., and 4 in different regions of the United States.

“(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

“(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(g) COMMISSION PERSONNEL MATTERS.—

“(1) COMPENSATION OF MEMBERS.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

“(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(3) STAFF.—

“(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

“(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

“(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the

Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(5) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

“(6) **APPLICABILITY OF CERTAIN PAY AUTHORITIES.**—An individual who is a member of the Commission and is an annuitant or otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the Commission is not subject to the provisions of section 8344 or 8468 (whichever is applicable) with respect to such membership.

“(h) **SUPPORT SERVICES.**—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

“(i) **APPROPRIATIONS.**—There are appropriated \$2,000,000 to the Commission to carry out the provisions of this section. Amounts appropriated pursuant to this subsection shall remain available until the date which is 90 days after the date on which the Commission submits the final report described in subsection (e).

“(j) **FEDERAL ADVISORY COMMITTEE ACT.**—The provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. App.) shall not apply to the Commission.

“(k) **TERMINATION.**—The Commission shall terminate 90 days after the date on which the Commission submits the final report under subsection (e).”

PART 7—UNITED STATES INTERNATIONAL TRADE COMMISSION

§ 2231. Change of name

(a) Former United States Tariff Commission

The United States Tariff Commission (established by section 1330 of this title) is renamed as the United States International Trade Commission.

(b) References in law and other documents

Any reference in any law of the United States, or in any order, rule, regulation, or other document, to the United States Tariff Commission (or the Tariff Commission) shall be considered to refer to the United States International Trade Commission.

(Pub. L. 93-618, title I, § 171, Jan. 3, 1975, 88 Stat. 2009.)

§ 2232. Independent budget and authorization of appropriations

Effective with respect to the fiscal year beginning October 1, 1976, for purposes of chapter 11 of title 31, estimated expenditures and proposed appropriations for the United States International Trade Commission shall be transmitted to the President on or before October 15 of the year preceding the beginning of each fiscal year and shall be included by him in the Budget without revision, and the Commission shall not be considered to be a department or establishment for purposes of such chapter.

(Pub. L. 93-618, title I, § 175(a)(1), Jan. 3, 1975, 88 Stat. 2011.)

CODIFICATION

“Chapter 11 of title 31” and “such chapter” substituted in text for “the Budget and Accounting Act,

1921 (31 U.S.C. 1 et seq.)” and “such Act”, respectively, on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PART 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE ACTIONS

§ 2241. Estimates of barriers to market access

(a) National trade estimates

(1) In general

For calendar year 1988, and for each succeeding calendar year, the United States Trade Representative, through the interagency trade organization established pursuant to section 1872(a) of this title and with the assistance of the interagency advisory committee established under section 2171(d)(2) of this title, shall—

(A) identify and analyze acts, policies, or practices of each foreign country which constitute significant barriers to, or distortions of—

(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons),

(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services;¹ and

(iii) United States electronic commerce,²

(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A); and

(C) make an estimate, if feasible, of—

(i) the value of additional goods and services of the United States,

(ii) the value of additional foreign direct investment by United States persons, and

(iii) the value of additional United States electronic commerce,

that would have been exported to, or invested in or transacted with,³ each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(2) Certain factors taken into account in making analysis and estimate

In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

(A) the relative impact of the act, policy, or practice on United States commerce;

(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party;

(D) any advice given through appropriate committees established pursuant to section 2155 of this title; and

¹ So in original. The semicolon probably should be a comma.

² So in original. The comma probably should be a semicolon.

³ So in original.