

consider any evidence of actual patterns of trade (including United States exports to a foreign country of telecommunications products and services, including sales and services related to those products) that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of such products and services.

(2) The Trade Representative shall consult with the United States International Trade Commission with regard to the actual patterns of trade described in paragraph (1).

**(c) Action in response to affirmative determination**

(1) Any affirmative determination made by the Trade Representative under subsection (a)(2) of this section with respect to any act, policy, or practice of a foreign country shall, for purposes of chapter 1 of title III of the Trade Act of 1974 [19 U.S.C. 2411 et seq.], be treated as an affirmative determination under section 304(a)(1)(A) of such Act [19 U.S.C. 2414(a)(1)(A)] that such act, policy, or practice violates a trade agreement.

(2) In taking actions under section 301 [19 U.S.C. 2411] by reason of paragraph (1), the Trade Representative shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the Trade Representative determines that actions against other economic sectors would be more effective in achieving compliance by the foreign country with the trade agreement that is the subject of the affirmative determination made under subsection (a)(2) of this section.

(Pub. L. 100-418, title I, §1377, Aug. 23, 1988, 102 Stat. 1222.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (c)(1), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title III of the Trade Act of 1974 is classified generally to subchapter III (§2411 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

**§ 3107. Compensation authority**

If—

(1) the President has taken action under section 3105(a) of this title with respect to any foreign country, and

(2) such action is found to be inconsistent with the international obligations of the United States, including the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of this title),

the President may enter into trade agreements with such foreign country for the purpose of granting new concessions as compensation for such action in order to maintain the general level of reciprocal and mutually advantageous concessions.

(Pub. L. 100-418, title I, §1378, Aug. 23, 1988, 102 Stat. 1222; Pub. L. 103-465, title VI, §621(a)(6), Dec. 8, 1994, 108 Stat. 4993.)

AMENDMENTS

1994—Par. (2). Pub. L. 103-465 substituted “the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of this title)” for “the General Agreement on Tariffs and Trade”.

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.

**§ 3108. Consultations**

**(a) Advice from departments and agencies**

Prior to taking any action under this chapter, the President shall seek information and advice from the interagency trade organization established under section 1872(a) of this title.

**(b) Advice from private sector**

Before—

(1) the Trade Representative concludes the investigation conducted under section 3103(a) of this title or takes action under section 3103(c) of this title,

(2) the President establishes specific negotiating objectives under section 3104(b) of this title with respect to any foreign country, or

(3) the President takes action under section 3105 of this title,

the Trade Representative shall provide an opportunity for the presentation of views by any interested party with respect to such investigation, objectives, or action, including appropriate committees established pursuant to section 2155 of this title.

**(c) Consultations with Congress and official advisors**

For purposes of conducting negotiations under section 3104(a) of this title, the Trade Representative shall keep appropriate committees of the Congress, as well as appropriate committees established pursuant to section 2155 of this title, currently informed with respect to—

(1) the negotiating priorities and objectives for each priority foreign country;

(2) the assessment of negotiating prospects, both bilateral and multilateral; and

(3) any United States concessions which might be included in negotiations to achieve the objectives described in subsections (c) and (d) of section 3104 of this title.

**(d) Modification of specific negotiating objectives**

Before the President takes any action under section 3104(b)(2)(A) of this title to refine or modify specific negotiating objectives, the President shall consult with the Congress and with members of the industry, and representatives of labor, affected by the proposed refinement or modification.

(Pub. L. 100-418, title I, §1379, Aug. 23, 1988, 102 Stat. 1223.)

**§ 3109. Submission of data; action to ensure compliance**

**(a) Submission of data**

The Federal Communications Commission (hereafter in this section referred to as the