

and unanticipated currency movements and to scrutinize whether a foreign government is engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) Consultations

(1) Consultations with congressional advisers

In the course of negotiations conducted under this chapter, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 3807 of this title and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) Consultation before agreement initialed

In the course of negotiations conducted under this chapter, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 2211 of this title, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 3807 of this title; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) Adherence to obligations under Uruguay Round Agreements

In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

(Pub. L. 107-210, div. B, title XXI, §2102, Aug. 6, 2002, 116 Stat. 994; Pub. L. 108-429, title II, §2004(a)(16), Dec. 3, 2004, 118 Stat. 2591.)

REFERENCES IN TEXT

Executive Order 13141, referred to in subsec. (c)(4) and (5), is set out as a note under section 2112 of this title.

This chapter, referred to in subsec. (c)(8), was in the original “this title”, meaning title XXI of Pub. L. 107-210, div. B, Aug. 6, 2002, 116 Stat. 993, which enacted this chapter and amended sections 2151 to 2155, 2191, and 2212 of this title. For complete classification of title XXI to the Code, see Tables.

AMENDMENTS

2004—Subsec. (c)(8). Pub. L. 108-429, §2004(a)(16)(A), substituted “this chapter” for “this Act”.

Subsec. (c)(12). Pub. L. 108-429, §2004(a)(16)(B), substituted “government is engaged” for “government engaged”.

DELEGATION OF FUNCTIONS

For delegation of functions of President under 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.

§ 3803. Trade agreements authority

(a) Agreements regarding tariff barriers

(1) In general

Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this chapter will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) July 1, 2005; or

(ii) July 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President’s intention to enter into an agreement under this subsection.

(2) Limitations

No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on August 6, 2002) to a rate of duty which is less than 50 percent of the rate of such duty that applies on August 6, 2002;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applied on August 6, 2002.

(3) Aggregate reduction; exemption from staging

(A) Aggregate reduction

Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduc-

tion, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) Exemption from staging

No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) Rounding

If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) Other limitations

A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 3805 of this title and that bill is enacted into law.

(6) Other tariff modifications

Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act [19 U.S.C. 3524], the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act [19 U.S.C. 3501(5)], if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) Authority under Uruguay Round Agreements Act not affected

Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) Agreements regarding tariff and nontariff barriers

(1) In general

(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect,

and that the purposes, policies, priorities, and objectives of this chapter will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A); or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) July 1, 2005; or

(ii) July 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) Conditions

A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 3802(a) and (b) of this title and the President satisfies the conditions set forth in section 3804 of this title.

(3) Bills qualifying for trade authorities procedures

(A) The provisions of section 2191 of this title (in this chapter referred to as “trade authorities procedures”) apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 2191 of this title applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this chapter be referred to as an “implementing bill”.

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) Extension disapproval process for Congressional trade authorities procedures

(1) In general

Except as provided in section 3805(b) of this title—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before July 1, 2005.

(2) Report to Congress by the President

If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than April 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this chapter, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) Other reports to Congress

(A) Report by the Advisory Committee

The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 2155 of this title of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than June 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this chapter; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) Report by ITC

The President shall promptly inform the International Trade Commission of the President's decision to submit a report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than June 1, 2005, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between August 6, 2002, and the date on which the President decides to seek an extension requested under paragraph (2).

(4) Status of reports

The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) Extension disapproval resolutions

(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a

resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the ___ disapproves the request of the President for the extension, under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 2103(b) of that Act after June 30, 2005.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 2192(d) and (e) of this title (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) Commencement of negotiations

In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 3802(b) of this title.

(Pub. L. 107-210, div. B, title XXI, §2103, Aug. 6, 2002, 116 Stat. 1004; Pub. L. 108-429, title II, §2004(a)(17), Dec. 3, 2004, 118 Stat. 2591.)

REFERENCES IN TEXT

The Bipartisan Trade Promotion Authority Act of 2002, referred to in subsec. (c)(5)(A), is title XXI of Pub. L. 107-210, div. B, Aug. 6, 2002, 116 Stat. 993, which is classified principally to this chapter. Section 2103 of the Act is classified to this section. For complete classification of title XXI to the Code, see section 3801(a) of this title and Tables.

AMENDMENTS

2004—Subsec. (a)(1)(A). Pub. L. 108–429, § 2004(a)(17)(A), substituted “July 1” for “June 1” in two places.

Subsec. (b)(1)(C). Pub. L. 108–429, § 2004(a)(17)(B), substituted “July 1” for “June 1” in two places.

Subsec. (c)(1)(B)(ii). Pub. L. 108–429, § 2004(a)(17)(C)(i), substituted “July 1” for “June 1”.

Subsec. (c)(2). Pub. L. 108–429, § 2004(a)(17)(C)(ii), substituted “April 1” for “March 1” in introductory provisions.

Subsec. (c)(3). Pub. L. 108–429, § 2004(a)(17)(C)(iii), substituted “June 1” for “May 1” in two places.

DELEGATION OF FUNCTIONS

For delegation of functions of President under 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.

§ 3804. Consultations and assessment**(a) Notice and consultation before negotiation**

The President, with respect to any agreement that is subject to the provisions of section 3803(b) of this title, shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President’s intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 3807 of this title; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 3807(c) of this title, meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) Negotiations regarding agriculture**(1) In general**

Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 3802(b)(10)(A)(i) of this title with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is ap-

propriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) Special consultations on import sensitive products

(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after August 6, 2002, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on August 6, 2002, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned;

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(III) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such programs, policies, and practices on United States producers of the products;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or