

REFERENCES IN TEXT

This title, referred to in subsecs. (a)(1), (b)(1), and (d)(2)(B), is title I (§1001 et seq.) of Pub. L. 100-418, see note below. For complete classification of this title to the Code, see Tables.

This Act, referred to in subsec. (c)(5), is Pub. L. 100-418, Aug. 23, 1988, 102 Stat. 1107, known as the Omnibus Trade and Competitiveness Act of 1988. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1993—Subsec. (e). Pub. L. 103-49 added subsec. (e).

1990—Subsec. (c)(4). Pub. L. 101-382 substituted “paragraph (3)(C)” for “paragraph (3)(B)” and “2903(e)” for “2903(f)”.

§ 2903. Implementation of trade agreements**(a) In general**

(1) Any agreement entered into under section 2902(b) or (c) of this title shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a document to the House of Representatives and to the Senate containing a copy of the final legal text of the agreement, together with—

- (i) a draft of an implementing bill,
- (ii) a statement of any administrative action proposed to implement the trade agreement, and
- (iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

- (i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of this title,
- (ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

- (I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement, and
- (II) the agreement applies to or affects purchases and sales by such enterprises.

(3) To ensure that a foreign country which receives benefits under a trade agreement entered into under section 2902(b) or (c) of this title is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) Application of Congressional “fast track” procedures to implementing bills

(1) Except as provided in subsection (c)—

(A) the provisions of section 2191 of this title (hereinafter in this section referred to as “fast track procedures”) apply to implementing bills submitted with respect to trade agreements entered into under section 2902(b) or (c) of this title before June 1, 1991; and

(B) such fast track procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under section 2902(b) or (c) of this title after May 31, 1991, and before June 1, 1993, 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 June 1, 1991.

(2) If the President is of the opinion that the fast track procedures should be extended to implementing bills described in paragraph (1)(B), the President must submit to the Congress, no later than March 1, 1991, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under section 2902(b) or (c) of this title and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title, 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) The President shall promptly inform the Advisory Committee for Trade Policy and Nego-

tiations established under section 2155 of this title of his decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but no later than March 1, 1991, a written report that contains—

(A) its views regarding the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title; and

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

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

(5)(A) For purposes of this subsection, 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 1103(b)(1)(B)(i) of the Omnibus Trade and Competitiveness Act of 1988, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 1102(b) or (c) of such Act after May 31, 1991, because sufficient tangible progress has not been made in trade negotiations.”, 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 jointly referred, in the House of Representatives, to the Committee on Ways and Means and 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 the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution that is reported to such House after May 15, 1991.

(c) Limitations on use of “fast track” procedures

(1)(A) The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 2902(b) or (c) of this title if both Houses of the Congress separately agree to procedural disapproval resolutions within any 60-day period.

(B) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules,

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules, and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(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 procedural disapproval resolutions.

(D) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(E) For purposes of this subsection, the term “procedural 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 President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Omnibus Trade and Competitiveness Act of 1988, and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 1102(b) or (c) of such Act of 1988, if, during the 60-day period beginning on the date on which this resolution is agreed to by the _____, the _____ agrees to a procedural disapproval resolution (within the meaning of section 1103(c)(1)(E) of such Act of 1988).”, with the first blank space being filled with the name of the resolving House of the Congress and the second blank space being filled with the name of the other House of the Congress.

(2) The fast track procedures shall not apply to any implementing bill that contains a provision approving of any trade agreement which is entered into under section 2902(c) of this title with any foreign country if either—

(A) the requirements of section 2902(c)(3) of this title are not met with respect to the negotiation of such agreement; or

(B) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproves of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under section 2902(c)(3)(C)(i) of this title with respect to the negotiation of such agreement.

(d) Rules of House of Representatives and Senate

Subsections (b) and (c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(e) Computation of certain periods of time

Each period of time described in subsection (c)(1)(A) and (E) and (2) of this section shall be computed without regard to—

(1) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

(Pub. L. 100-418, title I, § 1103, Aug. 23, 1988, 102 Stat. 1128.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a)(2)(B)(i) and (b)(2)(B), (3)(A), is title I (§1001 et seq.) of Pub. L. 100-418, see note below. For complete classification of this title to the Code, see Tables.

The Omnibus Trade and Competitiveness Act of 1988, referred to in subsecs. (b)(5)(A) and (c)(1)(E), is Pub. L. 100-418, Aug. 23, 1988, 102 Stat. 1107. Sections 1102(b) and (c) and 1103(b)(1)(B)(i) and (c)(1)(E) of such Act are classified to sections 2902(b) and (c) and 2903(b)(1)(B)(i) and (c)(1)(E) of this title, respectively. For complete classification of this Act to the Code, see Tables.

Section 151 of the Trade Act of 1974, referred to in subsecs. (b)(5)(A) and (c)(1)(E), is classified to section 2191 of this title.

§ 2904. Termination and reservation authority; reciprocal nondiscriminatory treatment**(a) In general**

For purposes of applying sections 2135, 2136(a), and 2137 of this title—

(1) any trade agreement entered into under section 2902 of this title shall be treated as an agreement entered into under section 2111 or 2112, as appropriate, of this title; and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 2112 of this title.

(b) Reciprocal nondiscriminatory treatment

(1) The President shall determine, before June 1, 1993, whether any major industrial country has failed to make concessions under trade agreements entered into under section 2902(a) and (b) of this title which provide competitive opportunities for the commerce of the United States in such country substantially equivalent to the competitive opportunities, provided by concessions made by the United States under trade agreements entered into under section 2902(a) and (b) of this title, for the commerce of such country in the United States.

(2) If the President determines under paragraph (1) that a major industrial country has not made concessions under trade agreements entered into under section 2902(a) and (b) of this title which provide substantially equivalent competitive opportunities for the commerce of the United States, the President shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities, recommend to the Congress—

(A) legislation providing for the termination or denial of the benefits of concessions of

trade agreements entered into under section 2902(a) and (b) of this title that have been made with respect to rates of duty or other import restrictions imposed by the United States, and

(B) legislation providing that any law necessary to carry out any trade agreement under section 2902(a) or (b) of this title not apply to such country.

(3) For purposes of this subsection, the term “major industrial country” means Canada, the European Communities, the individual member countries of the European Communities, Japan, and any other foreign country designated by the President for purposes of this subsection.

(Pub. L. 100-418, title I, § 1105, Aug. 23, 1988, 102 Stat. 1132.)

§ 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) 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