

Editorial Notes

REFERENCES IN TEXT

Subtitle A, referred to in subsec. (a)(1), is subtitle A (§§1101–1125) of title I of Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1121. For complete classification of subtitle A to the Code, see Tables.

The Trade Act of 1974, referred to in subsec. (b)(1)(A)(i), (G), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, which is classified principally to chapter 12 (§2101 et seq.) of this title. Title V of the Trade Act of 1974 is classified generally to subchapter V (§2461 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

The Trade Agreements Act of 1979, referred to in subsec. (b)(1)(E), is Pub. L. 96–39, July 26, 1979, 93 Stat. 144. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of this title and Tables.

CODIFICATION

In subsec. (b)(1)(D), (E), “chapter 83 of title 41” substituted for “title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under subsec. (e) relating to reports to Congressional committees delegated to United States Trade Representative, see section 1–401 of Ex. Ord. No. 21661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

§ 3106. Review of trade agreement implementation by Trade Representative**(a) In general**

(1) In conducting the annual analysis under section 181(a) of the Trade Act of 1974 (19 U.S.C. 2241), the Trade Representative shall review the operation and effectiveness of—

(A) each trade agreement negotiated by reason of this chapter that is in force with respect to the United States; and

(B) every other trade agreement regarding telecommunications products or services that is in force with respect to the United States.

(2) In each review conducted under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that has entered into the agreement described in paragraph (1)—

(A) is not in compliance with the terms of such agreement, or

(B) otherwise denies, within the context of the terms of such agreement, to telecommunications products and services of United States firms mutually advantageous market opportunities in that foreign country.

(b) Review factors

(1) In conducting reviews under subsection (a), the Trade Representative shall 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 coun-

try 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) 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).

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

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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.)

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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”.

Statutory Notes and Related Subsidiaries

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

“Commission”) shall periodically submit to appropriate committees of the House of Representatives and of the Senate any data collected and otherwise made public under Report No. DC-1105, “Information Reporting Requirements Established for Common Carriers”, adopted February 25, 1988, relating to FCC Docket No. 86-494, adopted December 23, 1987.

(b) Action to ensure compliance

(1)(A) Any product of a foreign country that is subject to registration or approval by the Commission may be entered only if—

(i) such product conforms with all applicable rules and regulations of the Commission, and

(ii) the information which is required on Federal Communications Commission Form 740 on August 23, 1988, is provided to the appropriate customs officer at the time of such entry in such form and manner as the Secretary of the Treasury may prescribe.

(B) For purposes of this paragraph, the term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The Commission, the Secretary of Commerce, and the Trade Representative shall provide such assistance in the enforcement of paragraph (1) as the Secretary of the Treasury may request.

(3) The Secretary of the Treasury shall compile the information collected under paragraph (1)(A)(ii) into a summary and shall annually submit such summary to the Congress until the authority to negotiate trade agreements under chapter 17 of this title expires. Such information shall also be made available to the public.

(Pub. L. 100-418, title I, §1380, Aug. 23, 1988, 102 Stat. 1223.)

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REFERENCES IN TEXT

Chapter 17 of this title, referred to in subsec. (b)(3), was in the original “part 1 of subtitle A”, meaning part 1 (§§1101-1117) of subtitle A of title I of Pub. L. 100-418, Aug. 23, 1988, 102 Stat. 1121, which enacted chapter 17 (§2901 et seq.) of this title and amended sections 2131, 2133, and 2191 of this title. For complete classification of part 1 to the Code, see Tables.

§ 3110. Study on telecommunications competitiveness in United States

(a) In general

The Secretary of Commerce, in consultation with the Federal Communications Commission and the United States Trade Representative, shall conduct a study of the competitiveness of the United States telecommunications industry and the effects of foreign telecommunications policies and practices on such industry in order to assist the Congress and the President in determining what actions might be necessary to preserve the competitiveness of the United States telecommunications industry.

(b) Public comment

The Secretary of Commerce may, as appropriate, provide notice and reasonable opportunity for public comment as part of the study conducted under subsection (a).