

States Trade Representative (U.S. Trade Representative).

(b) The exercise of the following authorities of, and functions specifically assigned to, the President under, title I of the Act are not delegated or assigned under this order:

- (i) section 102(c)(1) and (c)(3) of the Act;
- (ii) section 103(a)(1)(A), (a)(1)(B), (a)(5), (a)(7), (b)(1), and (c)(2) of the Act [see bracketed note below];
- (iii) section 105(a)(5) of the Act; and
- (iv) section 106(a)(1)(A) and (E) of the Act.

(c)(i) The functions of the President under section 102(c)(2) of the Act with respect to establishing consultative mechanisms are assigned to the Secretary of State in consultation with the U.S. Trade Representative, with the advice and assistance of the Secretary of the Interior, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the Secretary of Commerce and, as the Secretary of State determines appropriate, the heads of other executive departments and agencies.

(ii) The functions of the President under section 105(d)(1) of the Act are assigned to the U.S. Trade Representative, who shall conduct the environmental reviews under section 105(d)(1)(A) of the Act through the interagency Trade Policy Staff Committee, and shall perform the reporting function under section 105(d)(1)(B) of the Act.

(iii) The functions of the President under section 105(d)(2)(A) of the Act are assigned to the Secretary of Labor, who, in coordination with the U.S. Trade Representative, shall conduct the employment impact review under section 105(d)(2)(A) of the Act through the interagency Trade Policy Staff Committee, and shall prepare the report under section 105(d)(2) of the Act. The functions of the President under section 105(d)(2)(B) of the Act are assigned to the U.S. Trade Representative, who shall perform the reporting function under that section.

(iv) The functions of the President under section 105(d)(3) of the Act are assigned to the Secretary of Labor, who, in consultation with the U.S. Trade Representative and the Secretary of State, shall prepare the report on labor rights under section 105(d)(3)(A) and (B) of the Act, and to the U.S. Trade Representative, who shall perform the reporting function under section 105(d)(3) of the Act.

(v) The functions of the President under section 105(e)(2)(A) through (C) and (E) of the Act with respect to preparing plans for implementing and enforcing agreements submitted to the Congress pursuant to section 103(b) of the Act are assigned to the Director of the Office of Management and Budget, who shall carry out these functions with the advice and assistance of the Secretaries of State, the Treasury, Agriculture, Commerce, and Homeland Security and the U.S. Trade Representative and other executive departments and agencies as necessary.

SEC. 2. Capacity Building. The U.S. Trade Representative, with the advice and assistance of executive departments and agencies participating in capacity building activities undertaken in accordance with section 102(c)(1) and (2) of the Act, shall perform the reporting function under section 102(c)(4) of the Act.

SEC. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) In exercising authority delegated by or performing functions assigned in this order, officers of the United States:

- (i) shall ensure that all actions taken by them are consistent with the President's constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes

of the Executive, or the performance of the Executive's constitutional duties; (C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and (D) supervise the executive branch; and

(ii) may redelegate authority delegated by this order and may further assign functions assigned by this order to officers of any other department or agency within the executive branch to the extent permitted by law, and such redelegation or further assignment shall be published in the Federal Register.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[For delegation of authority and functions under section 103(a)(1)(A) and (b)(1) of Pub. L. 114-26, notwithstanding section 1(b)(ii) of Ex. Ord. No. 13701, set out above, see Memorandum of President of the United States, Jan. 29, 2016, 81 F.R. 5571, set out as a note under section 4202 of this title.]

§ 4202. 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, 2018; or
- (ii) July 1, 2021, 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.

Substantial modifications to, or substantial additional provisions of, a trade agreement entered into after July 1, 2018, or July 1, 2021, if trade authorities procedures are extended under subsection (c), shall not be eligible for approval under this chapter.

(2) Notification

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

(3) 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 June 29, 2015) to a rate of duty

which is less than 50 percent of the rate of such duty that applies on June 29, 2015;

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

(C) increases any rate of duty above the rate that applied on June 29, 2015.

(4) 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 $\frac{1}{10}$ of the total reduction, 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.

(5) Rounding

If the President determines that such action will simplify the computation of reductions under paragraph (4), 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) $\frac{1}{2}$ of 1 percent ad valorem.

(6) Other limitations

A rate of duty reduction that may not be proclaimed by reason of paragraph (3) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 4205 of this title and that bill is enacted into law.

(7) Other tariff modifications

Notwithstanding paragraphs (1)(B), (3)(A), (3)(C), and (4) through (6), 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.

(8) 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) 1 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, 2018; or

(ii) July 1, 2021, if trade authorities procedures are extended under subsection (c).

Substantial modifications to, or substantial additional provisions of, a trade agreement entered into after July 1, 2018, or July 1, 2021, if trade authorities procedures are extended under subsection (c), shall not be eligible for approval under this chapter.

(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 subsections (a) and (b) of section 4201 of this title and the President satisfies the conditions set forth in sections 4203 and 4204 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 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, only such provisions as are strictly 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 4205(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, 2018; 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, 2018, and before July 1, 2021, if (and only if)—

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

(ii) neither House of Congress adopts an extension disapproval resolution under paragraph (5) before July 1, 2018.

(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 Congress, not later than April 1, 2018, 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 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 decision of the President to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to Congress as soon as practicable, but not later than June 1, 2018, 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 International Trade Commission

The President shall promptly inform the United States International Trade Commission of the decision of the President to submit a report to Congress under paragraph (2). The International Trade Commission shall submit to Congress as soon as practicable, but not later than June 1, 2018, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between June 29, 2015, and the date on which the President decides to seek an extension requested under paragraph (2).

(4) Status of reports

The reports submitted to 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 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 103(c)(1)(B)(i) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 103(b) of that Act after June 30, 2018.”, with the blank space being filled with the name of the resolving House of Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of 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 subsections (d) and (e) of section 2192 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 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;

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

(iii) either House of Congress to consider an extension disapproval resolution after June 30, 2018.

(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 negotiating objectives set forth in section 4201 of this title. (Pub. L. 114-26, title I, §103, June 29, 2015, 129 Stat. 333.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 114-26, June 29, 2015, 129 Stat. 320, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4201 of this title and Tables.

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015, referred to in subsec. (c)(5)(A), is title I of Pub. L. 114-26, June 29, 2015, 129 Stat. 320, which is classified principally to this chapter. Section 103 of the Act is classified to this section. For complete classification of title I to the Code, see Short Title note set out under section 4201 of this title and Tables.

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 13701, July 17, 2015, 80 F.R. 43903, set out as a note under section 4201 of this title, and Memorandum of President of the United States, Jan. 29, 2016, 81 F.R. 5571, set out below.

DELEGATION OF CERTAIN AUTHORITY AND ASSIGNMENT OF CERTAIN FUNCTIONS UNDER SECTION 103(a)(1)(A) AND SECTION 103(b)(1) OF THE BIPARTISAN CONGRESSIONAL TRADE PRIORITIES AND ACCOUNTABILITY ACT OF 2015

Memorandum of President of the United States, Jan. 29, 2016, 81 F.R. 5571, provided:

Memorandum for the United States Trade Representative

In addition to the authorities and functions delegated and assigned to you by Executive Order 13701 of July 17, 2015, by the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the authority to enter into trade agreements, reserved to the President in Executive Order 13701, under section 103(a)(1)(A) and section 103(b)(1) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Public Law 114-26, title I), and assign to you that function.

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

BARACK OBAMA.

§ 4203. Congressional oversight, consultations, and access to information**(a) Consultations with Members of Congress****(1) Consultations during negotiations**

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

(A) meet upon request with any Member of Congress regarding negotiating objectives, the status of negotiations in progress, and the nature of any changes in the laws of the United States or the administration of those laws that may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, that agreement;

(B) upon request of any Member of Congress, provide access to pertinent documents relating to the negotiations, including classified materials;

(C) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(D) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the House Advisory Group on Negotiations and the Senate Advisory Group on Negotiations convened under subsection (c) and all committees of the House of Representatives and the Senate with jurisdiction over laws that could be affected by a trade agreement resulting from the negotiations; and

(E) 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.

(2) Consultations prior to entry into force

Prior to exchanging notes providing for the entry into force of a trade agreement, the United States Trade Representative shall consult closely and on a timely basis with Members of Congress and committees as specified in paragraph (1), and keep them fully apprised of the measures a trading partner has taken to comply with those provisions of the agreement that are to take effect on the date that the agreement enters into force.

(3) Enhanced coordination with Congress**(A) Written guidelines**

The United States Trade Representative, in consultation with the chairmen and the ranking members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, respectively—

(i) shall, not later than 120 days after June 29, 2015, develop written guidelines on enhanced coordination with Congress, including coordination with designated congressional advisers under subsection (b), regarding negotiations conducted under this chapter; and