

43903, set out as a note under section 4201 of this title, and Memorandum of President of the United States, May 24, 2016, 81 F.R. 35579, set out below.

DELEGATION OF AUTHORITY UNDER SECTION 106 OF THE BIPARTISAN CONGRESSIONAL TRADE PRIORITIES AND ACCOUNTABILITY ACT OF 2015

Memorandum of President of the United States, May 24, 2016, 81 F.R. 35579, provided:

Memorandum for the Secretary of State

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 functions and authorities vested in the President by section 106(b)(6)(B) and (C) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Public Law 114-26, title I) (the “Act”), as added by section 914(e) of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114-125). In carrying out these functions, you will inform the United States Trade Representative at the earliest possible time of a decision to invoke an exception under section 106(b)(6)(B) of the Act.

In exercising authority delegated by or performing functions assigned in this memorandum, you may redelegate authority delegated by this memorandum and may further assign functions assigned by this memorandum to officers of any other department or agency within the executive branch to the extent permitted by law.

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

BARACK OBAMA.

§ 4206. Treatment of certain trade agreements for which negotiations have already begun

(a) Certain agreements

Notwithstanding the prenegotiation notification and consultation requirement described in section 4204(a) of this title, if an agreement to which section 4202(b) of this title applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with the Trans-Pacific Partnership countries with respect to which notifications have been made in a manner consistent with section 4204(a)(1)(A) of this title as of June 29, 2015,

(3) is entered into with the European Union,

(4) is an agreement with respect to international trade in services entered into with WTO members with respect to which a notification has been made in a manner consistent with section 4204(a)(1)(A) of this title as of June 29, 2015, or

(5) is an agreement with respect to environmental goods entered into with WTO members with respect to which a notification has been made in a manner consistent with section 4204(a)(1)(A) of this title as of June 29, 2015,

and results from negotiations that were commenced before June 29, 2015, subsection (b) shall apply.

(b) Treatment of agreements

In the case of any agreement to which subsection (a) applies, the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 4204(a) of this title (relating only to notice prior to initiating negotiations), and any resolution under paragraph (1)(B), (3)(C), or (4)(C) of section 4205(b) of this

title shall not be in order on the basis of a failure or refusal to comply with the provisions of section 4204(a) of this title, if (and only if) the President, as soon as feasible after June 29, 2015—

(1) notifies Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(2) before and after submission of the notice, consults regarding the negotiations with the committees referred to in section 4204(a)(1)(B) of this title and the House and Senate Advisory Groups on Negotiations convened under section 4203(c) of this title.

(c)¹ Agreement by Asia-Pacific Economic Cooperation members to reduce rates of duty on certain environmental goods

Notwithstanding the notification requirement described in section 4202(a)(2) of this title, the President may exercise the proclamation authority provided for in section 4202(a)(1)(B) of this title to implement an agreement by members of the Asia-Pacific Economic Cooperation (APEC) to reduce any rate of duty on certain environmental goods included in Annex C of the APEC Leaders Declaration issued on September 9, 2012, if (and only if) the President, as soon as feasible after December 18, 2015, and before exercising proclamation authority under section 4202(a)(1)(B) of this title, notifies Congress of the negotiations relating to the agreement and the specific United States objectives in the negotiations.

(c)¹ Agreement by Asia-Pacific Economic Cooperation members to reduce rates of duty on certain environmental goods

Notwithstanding the notification requirement described in section 4202(a)(2) of this title, the President may exercise the proclamation authority provided for in section 4202(a)(1)(B) of this title to implement an agreement by members of the Asia-Pacific Economic Cooperation (APEC) to reduce any rate of duty on certain environmental goods included in Annex C of the APEC Leaders Declaration issued on September 9, 2012, if (and only if) the President, as soon as feasible after February 24, 2016, and before exercising proclamation authority under section 4202(a)(1)(B) of this title, notifies Congress of the negotiations relating to the agreement and the specific United States objectives in the negotiations.

(Pub. L. 114-26, title I, §107, June 29, 2015, 129 Stat. 355; Pub. L. 114-113, div. Q, title V, §502, Dec. 18, 2015, 129 Stat. 3127; Pub. L. 114-125, title IX, §916, Feb. 24, 2016, 130 Stat. 279.)

Editorial Notes

AMENDMENTS

2016—Subsec. (c). Pub. L. 114-125 added subsec. (c) relating to proclamation authority and requiring notification to Congress after Feb. 24, 2016.

2015—Subsec. (c). Pub. L. 114-113 added subsec. (c) relating to proclamation authority and requiring notification to Congress after Dec. 18, 2015.

¹ So in original. Two subsecs. (c) have been enacted.

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.

§ 4207. Sovereignty**(a) United States law to prevail in event of conflict**

No provision of any trade agreement entered into under section 4202(b) of this title, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States, any State of the United States, or any locality of the United States shall have effect.

(b) Amendments or modifications of United States law

No provision of any trade agreement entered into under section 4202(b) of this title shall prevent the United States, any State of the United States, or any locality of the United States from amending or modifying any law of the United States, that State, or that locality (as the case may be).

(c) Dispute settlement reports

Reports, including findings and recommendations, issued by dispute settlement panels convened pursuant to any trade agreement entered into under section 4202(b) of this title shall have no binding effect on the law of the United States, the Government of the United States, or the law or government of any State or locality of the United States.

(Pub. L. 114-26, title I, §108, June 29, 2015, 129 Stat. 356.)

§ 4208. Interests of small businesses**(a) Sense of Congress**

It is the sense of Congress that—

(1) the United States Trade Representative should facilitate participation by small businesses in the trade negotiation process; and

(2) the functions of the Office of the United States Trade Representative relating to small businesses should continue to be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small businesses.

(b) Consideration of small business interests

The Assistant United States Trade Representative for Small Business, Market Access, and Industrial Competitiveness shall be responsible for ensuring that the interests of small businesses are considered in all trade negotiations in accordance with the objective described in section 4201(a)(8) of this title.

(Pub. L. 114-26, title I, §109, June 29, 2015, 129 Stat. 356.)

§ 4209. Application of certain provisions

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

(1) any trade agreement entered into under section 4202 of this title shall be treated as an agreement entered into under section 2111 or 2112 of this title, as appropriate; and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 4202 of this title shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 2112 of this title.

(Pub. L. 114-26, title I, §110(b), June 29, 2015, 129 Stat. 358.)

§ 4210. Definitions

In this chapter:

(1) Agreement on Agriculture

The term “Agreement on Agriculture” means the agreement referred to in section 3511(d)(2) of this title.

(2) Agreement on Safeguards

The term “Agreement on Safeguards” means the agreement referred to in section 3511(d)(13) of this title.

(3) Agreement on Subsidies and Countervailing Measures

The term “Agreement on Subsidies and Countervailing Measures” means the agreement referred to in section 3511(d)(12) of this title.

(4) Antidumping Agreement

The term “Antidumping Agreement” means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 3511(d)(7) of this title.

(5) Appellate Body

The term “Appellate Body” means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(6) Common multilateral environmental agreement**(A) In general**

The term “common multilateral environmental agreement” means any agreement specified in subparagraph (B) or included under subparagraph (C) to which both the United States and one or more other parties to the negotiations are full parties, including any current or future mutually agreed upon protocols, amendments, annexes, or adjustments to such an agreement.

(B) Agreements specified

The agreements specified in this subparagraph are the following:

(i) The Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249).

(ii) The Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal September 16, 1987.

(iii) The Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London February 17, 1978.

(iv) The Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar February 2, 1971 (TIAS 11084).