DELEGATION OF AUTHORITY UNDER SECTION 103(a) OF UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988

Memorandum of President of the United States, Feb. 11, 1991, 56 F.R. 6789, provided:

Memorandum for the United States Trade Representative

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, you are hereby delegated the authority to perform the functions necessary to fulfill the consultation and lay-over requirements set forth in section 103(a)(1) through (4) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (''the Act'') [Pub. L. 100–449, set out as a note above], including:

(1) obtaining advice from the appropriate advisory committees and the U.S. International Trade Commission on the proposed implementation of an action by Presidential proclamation;

(2) submitting a report on such action to the House Ways and Means and Senate Finance Committees; and

(3) consulting with such committees during the 60-day period following the date on which the requirements under (1) and (2) have been met.

The President retains the sole authority under the Act to implement an action by proclamation after the consultation and lay-over requirements set forth in section 103(a)(1) through (4) have been met.

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

GEORGE BUSH.

§ 2113. Overall negotiating objective

The overall United States negotiating objective under sections 2111 and 2112 of this title shall be to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices which distort trade or commerce. To the maximum extent feasible, the harmonization, reduction, or elimination of agricultural trade barriers and distortions shall be undertaken in conjunction with the harmonization, reduction, or elimination of industrial trade barriers and distortions.

(Pub. L. 93–618, title I, § 103, Jan. 3, 1975, 88 Stat. 1984.)

§ 2114. Sector negotiating objectives

(a) Obtaining equivalent competitive opportunities

A principal United States negotiating objective under sections 2111 and 2112 of this title shall be to obtain, to the maximum extent feasible, with respect to appropriate product sectors of manufacturing, and with respect to the agricultural sector, competitive opportunities for United States exports to the developed countries of the world equivalent to the competitive opportunities afforded in United States markets to the importation of like or similar products, taking into account all barriers (including tariffs) to and other distortions of international trade affecting that sector.

(b) Conduct of negotiations on basis of appropriate product sectors of manufacturing

As a means of achieving the negotiating objective set forth in subsection (a) of this section, to the extent consistent with the objective of maximizing overall economic benefit to the United States (through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, through the development of fair and equitable market opportunities, and through open and nondiscriminatory world trade), negotiations shall, to the extent feasible be conducted on the basis of appropriate product sectors of manufacturing.

(c) Identification of appropriate product sectors of manufacturing

For the purposes of this section and section 2155 of this title, the United States Trade Representative together with the Secretary of Commerce, Agriculture, or Labor, as appropriate, shall, after consultation with the Advisory Committee for Trade Negotiations established under section 2155 of this title and after consultation with interested private or non-Federal governmental organizations, identify appropriate product sectors of manufacturing.

(d) Presidential analysis of how negotiating objectives are achieved in each product sector by trade agreements

If the President determines that competitive opportunities in one or more product sectors will be significantly affected by a trade agreement concluded under section 2111 or 2112 of this title, he shall submit to the Congress with each such agreement an analysis of the extent to which the negotiating objective set forth in subsection (a) of this section is achieved by such agreement in each product sector or product sectors.

(Pub. L. 93–618, title I, § 104, Jan. 3, 1975, 88 Stat. 1984; 1979 Reorg. Plan No. 3, § 1(b)(1), eff. Jan. 2, 1980, 44 F.R. 69273, 93 Stat. 1381; Pub. L. 98–573, title III, § 306(c)(2)(C)(i), Oct. 30, 1984, 98 Stat. 3012.)

CHANGE OF NAME

''United States Trade Representative'' substituted for ''Special Representative for Trade Negotiations'' in subsec. (c), pursuant to Reorg. Plan No. 3 of 1979, § 1(b)(1), 44 F.R. 69273, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1–107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title. See, also, section 2171 of this title as amended by Pub. L. 97–456.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–573 inserted ''or non-Federal governmental'' after ''private''.

§ 2114a. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products

(a) Trade in services

(1) In general

Principal United States negotiating objectives under section 2112 of this title shall be—

(A) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and restrictions on the establishment and operation in such markets; and

(B) to develop internationally agreed rules, including dispute settlement procedures, which—

(i) are consistent with the commercial policies of the United States, and

(ii) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

(2) Domestic objectives

In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

(b) Foreign direct investment

(1) In general

Principal United States negotiating objectives under section 2112 of this title shall be—

(A) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

(B) to develop internationally agreed rules, including dispute settlement procedures, which—

(i) will help ensure a free flow of foreign direct investment, and

(ii) will reduce or eliminate the trade distortive effects of certain investment related measures.

(2) Domestic objectives

In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

(c) High technology products

Principal United States negotiating objectives shall be—

(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of foreign government acts, policies, or practices identified in section 2241 of this title, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

(A) foreign industrial policies which distort international trade or investment;

(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

(D) measures which impair access to domestic markets for key commodity products; and

(E) measures which facilitate or encourage anticompetitive market practices or structures;

(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

(5) to obtain commitments to foster national treatment;

(6) to obtain commitments to—

(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

(d) Definition of barriers and other distortions

For purposes of subsection (a) of this section, the term ''barriers to, or other distortions of, international trade in services'' includes, but is not limited to—

(1) barriers to establishment in foreign markets, and

(2) restrictions on the operation of enterprises in foreign markets, including—

(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.

(Pub. L. 93–618, title I, § 104A, as added Pub. L. 98–573, title III, § 305(a)(1), Oct. 30, 1984, 98 Stat. 3006.)

§ 2114b. Provisions relating to international trade in services

(1) The Secretary of Commerce shall establish a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of Government policies and actions pertaining to services, including, but not limited to, data on trade, both aggregate and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—