§ 2806. United States wine export promotion

In order to develop, maintain, and expand foreign markets for United States wine, the President is encouraged to—

(1) utilize, for the fiscal year ending September 30, 1985, the authority provided under section 135 of the Omnibus Budget Reconciliation Act of 1982 [7 U.S.C. 612c note] to make available sufficient funds to initiate, in cooperation with nongovernmental trade associations representative of United States wineries, an export promotion program for United States;[1] and

(2) request, for each subsequent fiscal year, an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agriculture commodities.

(Pub. L. 98–573, title IX, § 907, Oct. 30, 1984, 98 Stat. 3050.)

REFERENCES IN TEXT

Section 135 of the Omnibus Budget Reconciliation Act of 1982, referred to in par. (1), is section 135 of Pub. L. 97–253, title I, Sept. 8, 1982, 96 Stat. 772, which is set out as a note under section 612c of Title 7, Agriculture.

CHAPTER 17—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

Sec.
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§ 2901. Overall and principal trade negotiating objectives of the United States

(a) Overall trade negotiating objectives

The overall trade negotiating objectives of the United States are to obtain—

(1) more open, equitable, and reciprocal market access;

(2) the reduction or elimination of barriers and other trade-distorting policies and practices; and

(3) a more effective system of international trading disciplines and procedures.

(b) Principal trade negotiating objectives

(1) Dispute settlement

The principal negotiating objectives of the United States with respect to dispute settlement are—

(A) to provide for more effective and expeditious dispute settlement mechanisms and procedures; and

(B) to ensure that such mechanisms within the GATT and GATT agreements provide for more effective and expeditious resolution of disputes and enable better enforcement of United States rights.

(2) Improvement of the GATT and multilateral trade negotiation agreements

The principal negotiating objectives of the United States regarding the improvement of GATT and multilateral trade negotiation agreements are—

(A) to enhance the status of the GATT;

(B) to improve the operation and extend the coverage of the GATT and such agreements and arrangements to products, sectors, and conditions of trade not adequately covered; and

(C) to expand country participation in particular agreements or arrangements, where appropriate.

(3) Transparency

The principal negotiating objective of the United States regarding transparency is to obtain broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions through the observance of open and equitable procedures in trade matters by Contracting Parties to the GATT.

(4) Developing countries

The principal negotiating objectives of the United States regarding developing countries are—

(A) to ensure that developing countries promote economic development by assuming the fullest possible measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices; and

(B) to establish procedures for reducing nonreciprocal trade benefits for the more advanced developing countries.

(5) Current account surpluses

The principal negotiating objective of the United States regarding current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances which threaten the stability of the international trading system, by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate.

(6) Trade and monetary coordination

The principal negotiating objective of the United States regarding trade and monetary coordination is to develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions.

(7) Agriculture

The principal negotiating objectives of the United States with respect to agriculture are to achieve, on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by—

(A) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices;

(B) increasing United States agricultural exports by eliminating barriers to trade (in-

[1] So in original. Probably should be ''United States wine;''.

cluding transparent and nontransparent barriers) and reducing or eliminating the subsidization of agricultural production consistent with the United States policy of agricultural stabilization in cyclical and unpredictable markets;

(C) creating a free and more open world agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing and market access and eliminating and reducing substantially other specific constraints to fair trade and more open market access, such as tariffs, quotas, and other nontariff practices, including unjustified phytosanitary and sanitary restrictions; and

(D) seeking agreements by which the major agricultural exporting nations agree to pursue policies to reduce excessive production of agricultural commodities during periods of oversupply, with due regard for the fact that the United States already undertakes such policies, and without recourse to arbitrary schemes to divide market shares among major exporting countries.

(8) Unfair trade practices

The principal negotiating objectives of the United States with respect to unfair trade practices are—

(A) to improve the provisions of the GATT and nontariff measure agreements in order to define, deter, discourage the persistent use of, and otherwise discipline unfair trade practices having adverse trade effects, including forms of subsidy and dumping and other practices not adequately covered such as resource input subsidies, diversionary dumping, dumped or subsidized inputs, and export targeting practices;

(B) to obtain the application of similar rules to the treatment of primary and nonprimary products in the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the GATT (relating to subsidies and countervailing measures); and

(C) to obtain the enforcement of GATT rules against—

(i) state trading enterprises, and

(ii) the acts, practices, or policies of any foreign government which, as a practical matter, unreasonably require that—

(I) substantial direct investment in the foreign country be made,

(II) intellectual property be licensed to the foreign country or to any firm of the foreign country, or

(III) other collateral concessions be made,

as a condition for the importation of any product or service of the United States into the foreign country or as a condition for carrying on business in the foreign country.

(9) Trade in services

(A) The principal negotiating objectives of the United States regarding trade in services are—

(i) to reduce or to eliminate barriers to, or other distortions of, international trade in services, including barriers that deny national treatment and restrictions on establishment and operation in such markets; and

(ii) 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 fair, equitable opportunities for foreign markets.

(B) In pursuing the negotiating objectives described in subparagraph (A), 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 law and regulations related thereto.

(10) Intellectual property

The principal negotiating objectives of the United States regarding intellectual property are—

(A) to seek the enactment and effective enforcement by foreign countries of laws which—

(i) recognize and adequately protect intellectual property, including copyrights, patents, trademarks, semiconductor chip layout designs, and trade secrets, and

(ii) provide protection against unfair competition,

(B) to establish in the GATT obligations—

(i) to implement adequate substantive standards based on—

(I) the standards in existing international agreements that provide adequate protection, and

(II) the standards in national laws if international agreement standards are inadequate or do not exist,

(ii) to establish effective procedures to enforce, both internally and at the border, the standards implemented under clause (i), and

(iii) to implement effective dispute settlement procedures that improve on existing GATT procedures;

(C) to recognize that the inclusion in the GATT of—

(i) adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights, and

(ii) dispute settlement provisions and enforcement procedures,

is without prejudice to other complementary initiatives undertaken in other international organizations; and

(D) to supplement and strengthen standards for protection and enforcement in existing international intellectual property conventions administered by other international organizations, including their expansion to cover new and emerging technologies and elimination of discrimination

or unreasonable exceptions or preconditions to protection.

(11) Foreign direct investment

(A) The principal negotiating objectives of the United States regarding foreign direct investment are—

(i) 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

(ii) 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 trade-related investment measures.

(B) In pursuing the negotiating objectives described in subparagraph (A), 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 law and regulations related thereto.

(12) Safeguards

The principal negotiating objectives of the United States regarding safeguards are—

(A) to improve and expand rules and procedures covering safeguard measures;

(B) to ensure that safeguard measures are—

(i) transparent,

(ii) temporary,

(iii) degressive, and

(iv) subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment; and

(C) to require notification of, and to monitor the use by, GATT Contracting Parties of import relief actions for their domestic industries.

(13) Specific barriers

The principal negotiating objective of the United States regarding specific barriers is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports to United States markets, including the reduction or elimination of specific tariff and nontariff trade barriers, particularly—

(A) measures identified in the annual report prepared under section 2241 of this title; and

(B) foreign tariffs and nontariff barriers on competitive United States exports when like or similar products enter the United States at low rates of duty or are duty-free, and other tariff disparities that impede access to particular export markets.

(14) Worker rights

The principal negotiating objectives of the United States regarding worker rights are—

(A) to promote respect for worker rights;

(B) to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

(C) to adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

(15) Access to high technology

(A) The principal negotiating objective of the United States regarding access to high technology is to obtain the elimination or reduction of foreign barriers to, and acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(i) restricting the participation of United States persons in government-supported research and development projects;

(ii) denying equitable access by United States persons to government-held patents;

(iii) requiring the approval or agreement of government entities, or imposing other forms of government interventions, as a condition for the granting of licenses to United States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology); and

(iv) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(B) In pursuing the negotiating objective described in subparagraph (A), the United States negotiators shall take into account United States Government policies in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(16) Border taxes

The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the GATT with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily for revenue on direct taxes rather than indirect taxes.

(Pub. L. 100–418, title I, § 1101, Aug. 23, 1988, 102 Stat. 1121.)

SHORT TITLE

Section 1(a) of Pub. L. 100–418 provided that: ''This Act [see Tables for classification] may be cited as the 'Omnibus Trade and Competitiveness Act of 1988'.''

FINDINGS AND PURPOSES OF TRADE, CUSTOMS, AND TARIFF LAWS

Section 1001 of title I of Pub. L. 100–418 provided that: ''(a) FINDINGS.—The Congress finds that—

''(1) in the last 10 years there has arisen a new global economy in which trade, technological development, investment, and services form an integrated

system; and in this system these activities affect each other and the health of the United States economy;

''(2) the United States is confronted with a fundamental disequilibrium in its trade and current account balances and a rapid increase in its net external debt;

''(3) such disequilibrium and increase are a result of numerous factors, including—

''(A) disparities between the macroeconomic policies of the major trading nations,

''(B) the large United States budget deficit,

''(C) instabilities and structural defects in the world monetary system,

''(D) the growth of debt throughout the developing world,

''(E) structural defects in the world trading system and inadequate enforcement of trade agreement obligations,

''(F) governmental distortions and barriers,

''(G) serious shortcomings in United States trade policy, and

''(H) inadequate growth in the productivity and competitiveness of United States firms and industries relative to their overseas competition;

''(4) it is essential, and should be the highest priority of the United States Government, to pursue a broad array of domestic and international policies—

''(A) to prevent future declines in the United States economy and standards of living,

''(B) to ensure future stability in external trade of the United States, and

''(C) to guarantee the continued vitality of the technological, industrial, and agricultural base of the United States;

''(5) the President should be authorized and encouraged to negotiate trade agreements and related investment, financial, intellectual property, and services agreements that meet the standards set forth in this title [see Tables for classification]; and

''(6) while the United States is not in a position to dictate economic policy to the rest of the world, the United States is in a position to lead the world and it is in the national interest for the United States to do so.

''(b) PURPOSES.—The purposes of this title [see Tables for classification] are to—

''(1) authorize the negotiation of reciprocal trade agreements;

''(2) strengthen United States trade laws;

''(3) improve the development and management of United States trade strategy; and

''(4) through these actions, improve standards of living in the world.''

EX. ORD. NO. 12661. IMPLEMENTING OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988 AND RELATED INTERNATIONAL TRADE MATTERS

Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, as amended by Ex. Ord. No. 12697, Dec. 22, 1989, 54 F.R. 53037; Ex. Ord. No. 12716, May 24, 1990, 55 F.R. 21831; Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100–418, 102 Stat. 1107) (''Omnibus Trade Act'') [see Short Title note above], the Tariff Act of 1930 (Chapter 497, 46 Stat. 590, June 17, 1930), as amended (''Tariff Act'') [19 U.S.C. 1202 et seq.], the National Defense Authorization Act, Fiscal Year 1989 (P.L. 100–456, 102 Stat. 1918) (''Defense Authorization Act'') [see Tables for classification], section 301 of Title 3 of the United States Code, and, in general, to ensure that the international trade policy of the United States shall be conducted and administered in a way that achieves the economic, foreign policy, and national security objectives of the United States and in a coordinated manner under the direction of the President, it is hereby ordered as follows:

PART I—TRADE, CUSTOMS, AND TARIFF LAWS

SECTION 1–101. *Accession of State Trading Regimes to the General Agreement on Tariffs and Trade*. The functions vested in the President by sections 1106(a), (b) and (d) of the Omnibus Trade Act [19 U.S.C. 2905(a), (b), (d)], regarding the accession of state trading regimes to the General Agreement on Tariffs and Trade, are delegated to the United States Trade Representative.

SEC. 1–201. *Wine Barriers*. The functions vested in the President by section 1125 of the Omnibus Trade Act [19 U.S.C. 2804 note], regarding the updated report on barriers to wine trade, are delegated to the United States Trade Representative.

SEC. 1–301. *Steel Imports*. The functions vested in the President by section 805(d)(1) and (2) of the Trade and Tariff Act of 1984 (19 U.S.C. 2253, note), as amended by section 1322 of the Omnibus Trade Act, are delegated to the United States Trade Representative.

SEC. 1–401. *Telecommunications Trade*. The functions vested in the President by sections 1375 and 1376(e) of the Omnibus Trade Act [19 U.S.C. 3104, 3105(e)], regarding certain telecommunications negotiations as may be ordered by the President and reports thereon to Congressional Committees, are delegated to the United States Trade Representative.

SEC. 1–501. *Uniform Fee on Imports*. The functions vested in the President by section 1428 of the Omnibus Trade Act [19 U.S.C. 2397, 19 U.S.C. 2397 note], regarding negotiations to obtain authority under the General Agreement on Tariffs and Trade to impose a small uniform fee on imports, are delegated to the United States Trade Representative.

PART II—EXPORT ENHANCEMENT

SEC. 2–101. *Countertrade and Barter*.

(1) *Establishment*. There is established an Interagency Group on Countertrade, which shall be composed of the Secretaries of Commerce, State, Defense, Treasury, Labor, Agriculture, and Energy, the Attorney General, the Administrator of the Agency for International Development, the Director [Administrator] of the Federal Emergency Management Agency, the United States Trade Representative and the Director of the Office of Management and Budget, or their respective representatives. The Secretary of Commerce or his representative shall be the Chairman of the interagency group.

(2) *Functions*. The interagency group shall carry out the functions and duties set out in section 2205(a) of the Omnibus Trade Act [15 U.S.C. 4712(a)].

SEC. 2–201. *Sanctions Against Toshiba and Kongsberg*.

(1) *Procurement Sanctions*. Pursuant to section 2443 of the Omnibus Trade Act [50 U.S.C. App. 2410a note] and subject to the exceptions referred to in paragraph (3), departments, agencies and instrumentalities of the United States Government shall not for the three-year period beginning on the date this Order takes effect, contract with or procure products and services from Toshiba Machine Company, Kongsberg Trading Company, Toshiba Corporation or Kongsberg Vaapenfabrikk. The head of each department, agency or instrumentality is hereby directed and authorized to implement this procurement sanction in accordance with paragraph (3).

(2) *Import Sanctions*. Pursuant to section 2443 of the Omnibus Trade Act and subject to the exceptions referred to in paragraph (3), importation into the United States, its territories and possessions, of products produced by Toshiba Machine Company or Kongsberg Trading Company is prohibited for three years from the effective date of this Order. The Secretary of the Treasury is hereby directed and authorized to implement this import sanction in accordance with paragraph (3).

(3) *Exceptions*. Authority to make determinations as to exceptions to sanctions and to implement exceptions by regulation or otherwise is delegated (i) to the Secretary of Defense with respect to determinations under section 2443(c)(1) regarding the procurement of defense articles or defense services, (ii) to the Secretary of the Treasury with respect to exceptions under section 2443(c)(2) regarding importation prohibited by section 2443(a)(2), and (iii) to the head of each Federal department, agency or instrumentality with respect to exceptions under section 2443(c)(2) affecting their respective

contracting and procurement. All regulations implementing these exceptions provisions shall be consistent with any guidelines provided by the Office of Federal Procurement Policy, Office of Management and Budget.

(4) *Annual Report*. The annual report required by section 2445 [50 U.S.C. App. 2413], concerning estimated increases in defense expenditures arising from illegal technology transfers, shall be prepared by the Secretary of Defense, in consultation with the Secretaries of State and Commerce, for submission to the Congress by the President.

PART III—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

SEC. 3–101. *Foreign Corrupt Practices Act Amendments*.

The functions conferred upon the President by section 5003(d)(1) (''International Agreement'') of the Omnibus Trade Act [15 U.S.C. 78dd–1 note] are delegated to the Secretary of State, who in performing such functions shall act in consultation with the Attorney General, the United States Trade Representative, the Chairman of the Securities and Exchange Commission, the Secretary of Commerce, the Secretary of the Treasury and the Director of the Office of Management and Budget.

SEC. 3–201. *Authority to Review Certain Mergers, Acquisitions, and Takeovers*.

(1) Executive Order No. 11858, as amended [50 U.S.C. App. 2170 note], regarding the Committee on Foreign Investment in the United States (the ''Committee'') is further amended as follows:

(A) By adding new Sections 7 and 8 as follows:

''SEC. 7. (1) *Investigations*. (a) The Committee is designated to receive notices and other information, to determine whether investigations should be undertaken, and to make investigations, pursuant to Section 721(a) of the Defense Production Act. (b) If the Committee determines that an investigation should be undertaken, such investigation shall commence no later than 30 days after receipt by the Committee of written notification of the proposed or pending merger, acquisition, or takeover. Such investigation shall be completed no later than 45 days after such determination. (c) If one or more Committee members differ with a Committee decision not to undertake an investigation, the Chairman shall submit a report of the Committee to the President setting forth the differing views and presenting the issues for his decision within 25 days after receipt by the Committee of written notification of the proposed or pending merger, acquisition, or takeover. (d) A unanimous decision by the Committee not to undertake an investigation with regard to a notice shall conclude action under this section on such notice. The Chairman shall advise the President of said decision.

''(2) *Report to the President*. Upon completion or termination of any investigation, the Committee shall report to the President and present a recommendation. Any such report shall include information relevant to subparagraphs (1) and (2) of Section 721(d) of the Defense Production Act. If the Committee is unable to reach a unanimous recommendation, the Chairman shall submit a report of the Committee to the President setting forth the differing views and presenting the issues for his decision.

''SEC. 8. The Chairman of the Committee, in consultation with other members of the Committee, is hereby delegated the authority to issue regulations to implement Section 721 of the Defense Production Act.''

(B) By deleting, from the second sentence in Section 1(a), the text beginning with ''a representative'' and ending with ''by each of''.

(C) By deleting, from the third sentence in Section 1(a), the phrase ''representative of the''.

(D) By deleting ''and'' at the end of subparagraph (3) of Section 1(b), by substituting ''; and'' for the period at the end of subparagraph (4) of that Section, and by adding a new subparagraph (5) as follows: ''(5) coordinate the views of the Executive Branch and discharge the responsibilities with respect to Section 721(a) and (e) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) (''Defense Production Act'').''

(E) By adding the following sentence at the end of Section 5: ''Information or documentary material filed pursuant to Section 1(b)(5) or Section 7 of this Order shall be treated in accordance with paragraph (b) of Section 721 of the Defense Production Act.''

(F) By inserting in Section 1(a) the following additional Committee members: ''(7) The Attorney General.'' and ''(8) The Director of the Office of Management and Budget.''

(G) The Interim Presidential Directive to the Secretary of the Treasury of October 26, 1988, is hereby revoked, and any notices received or investigations pending as of the date this Order takes effect shall be referred to the Chairman of the Committee for action consistent with this Order.

SEC. 3–301. *Reporting Requirement on Semiconductors, Fiber Optics and Superconducting Materials*.

(1) The Secretary of Commerce, in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Director of the Office of Management and Budget, shall prepare for the President to submit to the Congress with the Fiscal Year 1990 budget a report describing policies and budget proposals regarding:

(A) Federal research in semiconductors and semiconductor manufacturing technology, including a discussion of the respective roles of the various Federal departments and agencies in such research;

(B) Federal research and acquisition policies for fiber optics and optical-electronic technologies generally;

(C) Superconducting materials, including descriptions of research priorities, the scientific and technical barriers to commercialization which such research is designed to overcome, steps taken to ensure coordination among Federal agencies conducting research on superconducting materials, and steps taken to consult with private United States industry to ensure that no unnecessary duplication of research exists and that all important scientific and technical barriers to the commercialization of superconducting materials will be addressed; and

(D) Federal research to assist United States industry to develop and apply advanced manufacturing technologies for the production of durable and nondurable goods.

(2) The Department of Defense, the Department of Energy, the National Science Foundation, the National Aeronautics and Space Administration, the Department of State, the United States Trade Representative, and other Federal agencies deemed appropriate by the Secretary of Commerce shall provide the information described in section 5141 of the Omnibus Trade Act [Pub. L. 100–418, title V, Aug. 23, 1988, 102 Stat. 1444] concerning their Fiscal Year 1989 program and proposed Fiscal Year 1990 program to the Secretary of Commerce in sufficient time to permit preparation of the report.

(3) The Office of Management and Budget shall provide to the Secretary of Commerce, in sufficient time to permit preparation of the report, a summary of the Federal base program and Fiscal Year 1990 budget initiatives in each of the technical areas of the report.

(4) The Office of Science and Technology Policy (''OSTP'') shall provide the Secretary of Commerce with appropriate policy guidance in the technical areas of the report, including a summary of the criteria used to select research projects within an agency and among agencies, and the results of any studies conducted by OSTP, or by others if OSTP deems them to be relevant, which analyze the influence of the Federal research programs in the technical areas of the report.

SEC. 3–401. [Revoked by Ex. Ord. No. 12774, § 3(a), Sept. 27, 1991, 56 F.R. 49835]

PART IV—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

SEC. 4–101. *Buy American Act of 1988*.

(1) The functions vested in the President by section 7002 of the Omnibus Trade Act, regarding section 4(d) of

Title III of the Buy American Act of 1933, as amended (41 U.S.C. 10a–10d) [former 41 U.S.C. 10b–1], are delegated to the Secretary of Defense.

(2) The functions vested in the President by section 7003 of the Omnibus Trade Act, regarding the annual report required by subsection (d) of section 305 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2515), are delegated to the United States Trade Representative.

PART V—MISCELLANEOUS

SEC. 5–101. *Executive Oversight*.

Any actions or determinations taken or made by an officer or agency under the Omnibus Trade Act or this Order shall be subject to the Executive oversight and direction of the President, and such actions or determinations shall be undertaken after appropriate interagency consultation as established by the President.

SEC. 5–102. *Regulatory Review*. Notwithstanding the provisions of section 1(a)(2) of Executive Order No. 12291 of February 17, 1981 [formerly 5 U.S.C. 601 note], the Director of the Office of Management and Budget shall, with regard to regulations, rules, or agency statements of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency relative to the administration of the Export Administration Act [50 U.S.C. App. 2401 et seq.], determine whether such regulations, rules, or agency statements are exempted from review under that Order, pursuant to the provisions of section 8(b) thereof [50 U.S.C. App. 2407(b)].

SEC. 5–201. *Offsets*. The negotiating functions under section 825(c) of the Defense Authorization Act [10 U.S.C. 2532 note], as may be ordered by the President, are hereby jointly delegated to the Secretary of Defense and the United States Trade Representative. These functions shall be coordinated with the Secretary of State and conducted in consultation with the Secretaries of Commerce, Labor and the Treasury.

SEC. 5–202. *Reporting Functions*. The reporting functions of the President under section 825(d) of the Defense Authorization Act [10 U.S.C. 2532 note] are delegated to the Director of the Office of Management and Budget. The Director may further delegate to the heads of Executive departments and agencies responsibility for preparing particular sections of such reports. The heads of Executive departments and agencies shall, to the extent permitted by law, provide the Director with such information as may be necessary for the effective performance of these functions.

SEC. 5–301. *International Trade Commission Report*. The functions vested in the President by section 332(g) of the Tariff Act [19 U.S.C. 1332(g)], regarding reports by the United States International Trade Commission to the President, are delegated to the United States Trade Representative.

SEC. 5–401. *Strengthening International Institutions*. To the extent possible, actions undertaken under this Order shall be conducted in a manner that strengthens international institutions that further United States objectives, such as opening foreign markets and preventing the export of strategic goods and technologies to proscribed destinations.

SEC. 5–501. *Effective Date*. This Order shall take effect at 12:01 a.m. on Wednesday, December 28, 1988.

§ 2902. Trade agreement negotiating authority

(a) Agreements regarding tariff barriers

(1) 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, and objectives of this title will be promoted thereby, the President—

(A) before June 1, 1993, may enter into trade agreements with foreign countries; and

(B) may, subject to paragraphs (2) through (5), 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 he determines to be required or appropriate to carry out any such trade agreement.

(2) No proclamation may be made under subsection (a) of this section that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on August 23, 1988) to a rate which is less than 50 percent of the rate of such duty that applies on August 23, 1988; or

(B) increases any rate of duty above the rate that applies on August 23, 1988.

(3)(A) 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 a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed in paragraph (1) to carry out such agreement with respect to such article.

(B) No staging under subparagraph (A) is required with respect to a rate 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.

(4) If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) No reduction in a rate of duty under a trade agreement entered into under subsection (a) of this section on any article may take effect more than 10 years after the effective date of the first reduction under paragraph (1) that is proclaimed to carry out the trade agreement with respect to such article.

(6) A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 2903 of this title and that bill is enacted into law.

(b) Agreements regarding nontariff barriers

(1) Whenever the President determines that any barrier to, or other distortion of, international trade—

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, and objectives of this title will be promoted thereby, the President may, before June 1, 1993, enter into a trade agreement with foreign countries providing for—

(i) the reduction or elimination of such barrier or other distortion; or

(ii) the prohibition of, or limitations on the imposition of, such barrier or other distortion.

(2) A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2901 of this title.

(c) Bilateral agreements regarding tariff and nontariff barriers

(1) Before June 1, 1993, the President may enter into bilateral trade agreements with foreign countries that provide for the elimination or reduction of any duty imposed by the United States. A trade agreement entered into under this paragraph may also provide for the reduction or elimination of barriers to, or other distortions of, the international trade of the foreign country or the United States.

(2) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(3) A trade agreement may be entered into under paragraph (1) with any foreign country only if—

(A) the agreement makes progress in meeting the applicable objectives described in section 2901 of this title;

(B) such foreign country requests the negotiation of such an agreement; and

(C) the President, at least 60 days before the date notice is provided under section 2903(a)(1)(A) of this title—

(i) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

(ii) consults with such committees regarding the negotiation of such agreement.

(4) The 60-day period of time described in paragraph (3)(C) shall be computed in accordance with section 2903(e) of this title.

(5) In any case in which there is an inconsistency between any provision of this Act and any bilateral free trade area agreement that entered into force and effect with respect to the United States before January 1, 1987, the provision shall not apply with respect to the foreign country that is party to that agreement.

(d) Consultation with Congress before agreements entered into

(1) Before the President enters into any trade agreement under subsection (b) or (c) of this section, the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) all matters relating to the implementation of the agreement under section 2903 of this title.

(3) If it is proposed to implement two or more trade agreements in a single implementing bill under section 2903 of this title, the consultation under paragraph (1) shall include the desirability and feasibility of such proposed implementation.

(e) Special provisions regarding Uruguay Round trade negotiations

(1) In general

Notwithstanding the time limitations in subsections (a) and (b) of this section, if the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade has not resulted in trade agreements by May 31, 1993, the President may, during the period after May 31, 1993, and before April 16, 1994, enter into, under subsections (a) and (b) of this section, trade agreements resulting from such negotiations.

(2) Application of tariff proclamation authority

No proclamation under subsection (a) of this section to carry out the provisions regarding tariff barriers of a trade agreement that is entered into pursuant to paragraph (1) may take effect before the effective date of a bill that implements the provisions regarding nontariff barriers of a trade agreement that is entered into under such paragraph.

(3) Application of implementing and "fast track" procedures

Section 2903 of this title applies to any trade agreement negotiated under subsection (b) of this section pursuant to paragraph (1), except that—

(A) in applying subsection (a)(1)(A) of section 2903 of this title to any such agreement, the phrase ''at least 120 calendar days before the day on which he enters into the trade agreement (but not later than December 15, 1993),'' shall be substituted for the phrase ''at least 90 calendar days before the day on which he enters into the trade agreement,''; and

(B) no provision of subsection (b) of section 2903 of this title other than paragraph (1)(A) applies to any such agreement and in applying such paragraph, ''April 16, 1994;'' shall be substituted for ''June 1, 1991;''.

(4) Advisory committee reports

The report required under section 2155(e)(1) of this title regarding any trade agreement provided for under paragraph (1) shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 2903(a)(1)(A) of this title of his intention to enter into the agreement (but before January 15, 1994).

(Pub. L. 100–418, title I, § 1102, Aug. 23, 1988, 102 Stat. 1126; Pub. L. 101–382, title I, § 139(b), Aug. 20, 1990, 104 Stat. 653; Pub. L. 103–49, § 1, July 2, 1993, 107 Stat. 239.)

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) of this section—

(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 Negotiations 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) of this section 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 2902 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.

(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) of this section 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

(B) a bill submitted under subsection (c) of this section which approves of the extension of the application of the GATT 1947 or the WTO Agreement between the United States and such major foreign country is enacted into law.

(c) Expedited consideration of bill to approve extension

(1) The President may submit to the Congress any draft of a bill which approves of the extension of the application of the GATT 1947 or the WTO Agreement between the United States and a major foreign country.

(2) Any draft of a bill described in paragraph (1) that is submitted by the President to the Congress shall—

(A) be introduced by the majority leader of each House of the Congress (by request) on the first day on which such House is in session after the date such draft is submitted to the Congress; and

(B) shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 2191 of this title.

(d) Publication

The President shall publish in the Federal Register each determination made under subsection (a) of this section.

(e) Definitions

For purposes of this section:

(1) The term ''GATT 1947'' has the meaning given that term in section 3501(1)(A) of this title.

(2) The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994 and the multilateral trade agreements (as such term is defined in section 3501(4) of this title).

(Pub. L. 100–418, title I, § 1106, Aug. 23, 1988, 102 Stat. 1133; Pub. L. 103–465, title VI, § 621(a)(4), Dec. 8, 1994, 108 Stat. 4993; Pub. L. 104–295, § 20(f)(3), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104–295 substituted ''or WTO'' for ''for WTO'' in section catchline.

1994—Pub. L. 103–465, § 621(a)(4)(D), inserted ''for WTO'' after ''Trade'' in section catchline.

Subsec. (a). Pub. L. 103–465, § 621(a)(4)(A), substituted ''the GATT 1947, or to the WTO Agreement,'' for ''the GATT'' in introductory provisions.

Subsecs. (b), (c). Pub. L. 103–465, § 621(a)(4)(B), inserted ''1947 or the WTO Agreement'' after ''the GATT'' wherever appearing.

Subsec. (e). Pub. L. 103–465, § 621(a)(4)(C), added subsec. (e).

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.

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section to United States Trade Representative, see section 1–101 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

PRESIDENTIAL DOCUMENTS REGARDING STATE TRADING ENTERPRISES

The following presidential documents related to determinations under subsec. (a) of this section:

CHINA.—Memorandum of the President of the United States, Nov. 9, 2001, 66 F.R. 57357.

SAUDI ARABIA.—Memorandum of the President of the United States, Nov. 10, 2005, 70 F.R. 69419.

TAIWAN, PENGHU, KINMEN, AND MATSU.—Memorandum of the President of the United States, Nov. 9, 2001, 66 F.R. 57359.

UKRAINE.—Determination of the President of the United States, No. 2008–17, Mar. 28, 2008, 73 F.R. 17879.

VIETNAM.—Memorandum of the President of the United States, Nov. 6, 2006, 71 F.R. 66223.

§ 2906. Definitions

For purposes of this chapter:

(1) The term ''distortion'' includes, but is not limited to, a subsidy.

(2) The term ''foreign country'' includes any foreign instrumentality. Any territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

(3) The term ''GATT'' means the GATT 1947 (as defined in section 3501(1)(A) of this title).

(4) The term ''implementing bill'' has the meaning given such term in section 2191(b)(1) of this title.

(5) The term ''international trade'' includes, but is not limited to—

(A) trade in both goods and services, and

(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

(6) The term ''state trading enterprise'' means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade; or

(B) any business firm which—

(i) is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit thereof,

(ii) is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods or services in international trade.

(Pub. L. 100–418, title I, § 1107, Aug. 23, 1988, 102 Stat. 1134; Pub. L. 103–465, title VI, § 621(a)(5), Dec. 8, 1994, 108 Stat. 4993.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this part'', meaning part 1 (§§ 1101 to 1107) of subtitle A of title I of Pub. L. 100–418, which enacted this chapter and amended sections 2131, 2133, and 2191 of this title. For complete classification of part 1 to the Code, see Tables.

CODIFICATION

Section is comprised of subsec. (a) of section 1107 of Pub. L. 100–418. Subsec. (b) of section 1107 of Pub. L. 100–418 amended sections 2131 and 2191 of this title.

AMENDMENTS

1994—Par. (3). Pub. L. 103–465 substituted ''the GATT 1947 (as defined in section 3501(1)(A) of this title)'' for ''the General Agreement on Tariffs and Trade''.

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.

CHAPTER 18—IMPLEMENTATION OF HARMONIZED TARIFF SCHEDULE

Sec.
3001. Purposes.
3002. Definitions.
3003. Congressional approval of United States accession to the Convention.
3004. Enactment of Harmonized Tariff Schedule.
3005. Commission review of, and recommendations regarding, Harmonized Tariff Schedule.
3006. Presidential action on Commission recommendations.
3007. Publication of Harmonized Tariff Schedule.
3008. Import and export statistics.
3009. Coordination of trade policy and Convention.
3010. United States participation on Customs Cooperation Council regarding Convention.
3011. Transition to Harmonized Tariff Schedule.
3012. Reference to Harmonized Tariff Schedule.

§ 3001. Purposes

The purposes of this chapter are—

(1) to approve the International Convention on the Harmonized Commodity Description and Coding System;

(2) to implement in United States law the nomenclature established internationally by the Convention; and

(3) to provide that the Convention shall be treated as a trade agreement obligation of the United States.

(Pub. L. 100–418, title I, § 1201, Aug. 23, 1988, 102 Stat. 1147.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this subtitle'', meaning subtitle B (§§ 1201 to 1217) of title I of Pub. L. 100–418, which enacted this chapter, amended sections 58c, 1312, 1315, 1321, 1337, 1466, 1498, 2011, 2138, 2253, 2434, 2437, 2481, 2483, 2581, 2702, and 2703 of this title, sections 511r, 1444, 1783, and 1784 of Title 7, Agriculture, section 374 of Title 10, Armed Forces, section 301 of Title 13, Census, sections 1274, 2064, 2066, 2602, and 2612 of Title 15, Commerce and Trade, sections 1606a and 3912 of Title 16, Conservation, sections 41 and 951 of Title 21, Food and Drugs, section 5059 of Title 22, Foreign Relations and Intercourse, sections 7652 and 9504 of Title 26, Internal Revenue Code, section 1295 of Title 28, Judiciary and Judicial Procedure, and section 98h–4 of Title 50, War and National Defense, and enacted provisions set out as notes under sections 1202, 3001, and 3005 of this title, and amended provisions set out as notes preceding section 1202 and under section 2112 of this title. For complete classification of subtitle B to the Code, see Tables.

EFFECTIVE DATE

Section 1217 of Pub. L. 100–418 provided that:

''(a) ACCESSION TO CONVENTION AND PROVISIONS OTHER THAN THE IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—Except as provided in subsection (b), the provisions of this subtitle [subtitle B (§§ 1201–1217) of title I of Pub. L. 100–418, see References in Text note above] take effect on the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988 [Aug. 23, 1988].

''(b) IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—The effective date of the Harmonized Tariff Schedule is January 1, 1989. On such date—

''(1) the amendments made by sections 1204(a), 1213, 1214, and 1215 [amending sections 58c, 1312, 1315, 1321, 1337, 1466, 1498, 2011, 2138, 2253, 2434, 2437, 2481, 2483, 2581, 2702, and 2703 of this title, sections 511r, 1444, 1783, and 1784 of Title 7, Agriculture, section 374 of Title 10, Armed Forces, section 301 of Title 13, Census, sections 1274, 2064, 2066, 2602, and 2612 of Title 15, Commerce and Trade, sections 1606a and 3912 of Title 16, Conservation, sections 41 and 951 of Title 21, Food and Drugs, section 5059 of Title 22, Foreign Relations and Intercourse, sections 7652 and 9504 of Title 26, Internal Revenue Code, section 1295 of Title 28, Judiciary and Judicial Procedure, and section 98h–4 of Title 50, War and National Defense, and amending provisions set out as notes preceding section 1202 and under section 2112 of this title] take effect and apply with respect to articles entered on or after such date; and

''(2) sections 1204(c), 1211, and 1212 [enacting sections 3004(c), 3011, and 3012 of this title] take effect.''

§ 3002. Definitions

As used in this chapter:

(1) The term ''Commission'' means the United States International Trade Commission.

(2) The term ''Convention'' means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987.

(3) The term ''entered'' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term ''Federal agency'' means any establishment in the executive branch of the United States Government.

(5) The term ''old Schedules'' means title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a).

(6) The term ''technical rectifications'' means rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as—

(A) errors in spelling, numbering, or punctuation;

(B) errors in indentation;

(C) errors (including inadvertent omissions) in cross-references to headings or subheadings or notes; and

(D) other clerical or typographical errors.

(Pub. L. 100–418, title I, § 1202, Aug. 23, 1988, 102 Stat. 1147.)