

(b) Factors to be taken into account

In identifying priority foreign countries under subsection (a), the Trade Representative shall take into account, among other relevant factors—

- (1) the nature and significance of the acts, policies, and practices that deny mutually advantageous market opportunities to telecommunications products and services of United States firms;
- (2) the economic benefits (actual and potential) accruing to foreign firms from open access to the United States market;
- (3) the potential size of the market of a foreign country for telecommunications products and services of United States firms;
- (4) the potential to increase United States exports of telecommunications products and services, either directly or through the establishment of a beneficial precedent; and
- (5) measurable progress being made to eliminate the objectionable acts, policies, or practices.

(c) Revocations and additional identifications

(1) The Trade Representative may at any time, after taking into account the factors described in subsection (b)—

- (A) revoke the identification of any priority foreign country that was made under this section, or
- (B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 2419(3) of this title a detailed explanation of the reasons for the revocation under paragraph (1) of this subsection of any identification of any foreign country as a priority foreign country.

(d) Report to Congress

By no later than the date that is 30 days after the date on which the investigation conducted under subsection (a) is completed, the United States Trade Representative shall submit a report on the investigation to the President and to appropriate committees of the Congress.

(Pub. L. 100-418, title I, §1374, Aug. 23, 1988, 102 Stat. 1217.)

§ 3104. Negotiations in response to investigation**(a) In general**

Upon—

- (1) the date that is 30 days after the date on which any foreign country is identified in the investigation conducted under section 3103(a) of this title as a priority foreign country, and
- (2) the date on which any foreign country is identified under section 3103(c)(1)(B) of this title as a priority foreign country,

the President shall enter into negotiations with such priority foreign country for the purpose of entering into a bilateral or multilateral trade agreement under chapter 17 of this title which meets the specific negotiating objectives established by the President under subsection (b) for such priority foreign country.

(b) Establishment of specific negotiating objectives for each foreign priority country

(1) The President shall establish such relevant specific negotiating objectives on a country-by-country basis as are necessary to meet the general negotiating objectives of the United States under this section.

(2)(A) The President may refine or modify specific negotiating objectives for particular negotiations in order to respond to circumstances arising during the negotiating period, including—

- (i) changed practices by the priority foreign country,
- (ii) tangible substantive developments in multilateral negotiations,
- (iii) changes in competitive positions, technological developments, or
- (iv) other relevant factors.

(B) By no later than the date that is 30 days after the date on which the President makes any modifications or refinements to specific negotiating objectives under subparagraph (A), the President shall submit to appropriate committees of the Congress a statement describing such modifications or refinements and the reasons for such modifications or refinements.

(c) General negotiating objectives

The general negotiating objectives of the United States under this section are—

- (1) to obtain multilateral or bilateral agreements (or the modification of existing agreements) that provide mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries;
- (2) to correct the imbalances in market opportunities accruing from reductions in barriers to the access of telecommunications products and services of foreign firms to the United States market; and
- (3) to facilitate the increase in United States exports of telecommunications products and services to a level of exports that reflects the competitiveness of the United States telecommunications industry.

(d) Specific negotiating objectives

The specific negotiating objectives of the United States under this section regarding telecommunications products and services are to obtain—

- (1) national treatment for telecommunications products and services that are provided by United States firms;
- (2) most-favored-nation treatment for such products and services;
- (3) nondiscriminatory procurement policies with respect to such products and services and the inclusion under the Agreement on Government Procurement of the procurement (by sale or lease by government-owned or controlled entities) of all telecommunications products and services;
- (4) the reduction or elimination of customs duties on telecommunications products;
- (5) the elimination of subsidies, violations of intellectual property rights, and other unfair trade practices that distort international trade in telecommunications products and services;

(6) the elimination of investment barriers that restrict the establishment of foreign-owned business entities which market such products and services;

(7) assurances that any requirement for the registration of telecommunications products, which are to be located on customer premises, for the purposes of—

(A) attachment to a telecommunications network in a foreign country, and

(B) the marketing of the products in a foreign country,

be limited to the certification by the manufacturer that the products meet the standards established by the foreign country for preventing harm to the network or network personnel;

(8) transparency of, and open participation in, the standards-setting processes used in foreign countries with respect to telecommunications products;

(9) the ability to have telecommunications products, which are to be located on customer premises, approved and registered by type, and, if appropriate, the establishment of procedures between the United States and foreign countries for the mutual recognition of type approvals;

(10) access to the basic telecommunications network in foreign countries on reasonable and nondiscriminatory terms and conditions (including nondiscriminatory prices) for the provision of value-added services by United States suppliers;

(11) the nondiscriminatory procurement of telecommunications products and services by foreign entities that provide local exchange telecommunications services which are owned, controlled, or, if appropriate, regulated by foreign governments; and

(12) monitoring and effective dispute settlement mechanisms to facilitate compliance with matters referred to in the preceding paragraphs of this subsection.

(Pub. L. 100-418, title I, §1375, Aug. 23, 1988, 102 Stat. 1218.)

Editorial Notes

REFERENCES IN TEXT

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

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section relating to certain telecommunications negotiations delegated to United States Trade Representative, see section 1-401 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

§ 3105. Actions to be taken if no agreement obtained

(a) In general

(1) If the President is unable, before the close of the negotiating period, to enter into an agree-

ment under subtitle A with any priority foreign country identified under section 3103 of this title which achieves the general negotiating objectives described in section 3104(b) of this title as defined by the specific objectives established by the President for that country, the President shall take whatever actions authorized under subsection (b) that are appropriate and most likely to achieve such general negotiating objectives.

(2) In taking actions under paragraph (1), the President shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the President determines that actions against other economic sectors would be more effective in achieving the general negotiating objectives referred to in paragraph (1).

(b) Actions authorized

(1) The President is authorized to take any of the following actions under subsection (a) with respect to any priority foreign country:

(A) termination, withdrawal, or suspension of any portion of any trade agreement entered into with such country under—

(i) the Trade Act of 1974 [19 U.S.C. 2101 et seq.],

(ii) section 1821 of this title, or

(iii) section 1351 of this title,

with respect to any duty or import restriction imposed by the United States on any telecommunications product;

(B) actions described in section 301 of the Trade Act of 1974 [19 U.S.C. 2411];

(C) prohibition of purchases by the Federal Government of telecommunications products of such country;

(D) increases in domestic preferences under chapter 83 of title 41 for purchases by the Federal Government of telecommunications products of such country;

(E) suspension of any waiver of domestic preferences under chapter 83 of title 41 which may have been extended to such country pursuant to the Trade Agreements Act of 1979 with respect to telecommunications products or any other products;

(F) issuance of orders to appropriate officers and employees of the Federal Government to deny Federal funds or Federal credits for purchases of the telecommunications products of such country; and

(G) suspension, in whole or in part, of benefits accorded articles of such country under title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.).

(2) Notwithstanding section 125 of the Trade Act of 1974 [19 U.S.C. 2135] and any other provision of law, if any portion of a trade agreement described in paragraph (1)(A) is terminated, withdrawn, or suspended under paragraph (1) with respect to any duty imposed by the United States on the products of a foreign country, the rate of such duty that shall apply to such products entered, or withdrawn from warehouse for consumption, after the date on which such termination, withdrawal, or suspension takes effect shall be a rate determined by the President.