

United States from yarns wholly formed in the United States and certified by the producer or entity controlling production as being suitable for use in the manufacture of apparel items such as trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts or pants, all the foregoing of cotton, except that—

(A) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains nylon filament yarn with respect to which section 2703(b)(2)(A)(vii)(IV) of this title applies;

(B) fabric that would otherwise be ineligible as qualifying fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric, except that any elastomeric yarn contained in an eligible apparel article must be wholly formed in the United States; and

(C) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains yarns or fibers that have been designated as not commercially available pursuant to—

(i) article 3.25(4) or Annex 3.25 of the Agreement;

(ii) Annex 401 of the North American Free Trade Agreement;

(iii) section 3721(b)(5) of this title;

(iv) section 3203(b)(3)(B)(i)(III) or (ii) of this title;

(v) section 2703(b)(2)(A)(v) or 2703a(b)(5)(A) of this title; or

(vi) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

(d) Review and report

(1) Review

The United States International Trade Commission shall carry out a review of the program under this section annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

(2) Report

The United States International Trade Commission shall submit to the appropriate congressional committees annually a report on the results of the review carried out under paragraph (1).

(e) Effective date and applicability

(1) Effective date

The program under this section shall be in effect for the 10-year period beginning on the date on which the President certifies to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 (December 20, 2007) have taken effect.

(2) Applicability

The program under this section shall apply with respect to qualifying fabric exported to an eligible country on or after August 1, 2007.

(Pub. L. 109–53, title IV, §404, as added Pub. L. 110–436, §2(a), Oct. 16, 2008, 122 Stat. 4977.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Termination Date note below.

Editorial Notes

REFERENCES IN TEXT

For Nov. 25, 2008, as the date on which the President certified to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 (December 20, 2007) had taken effect, referred to in subsec. (e)(1), see Proc. No. 8323, Nov. 25, 2008, 73 F.R. 72677. Presidential Proclamation 8213 is Proc. No. 8213, Dec. 20, 2007, 72 F.R. 73555, which is not set out in the Code.

Statutory Notes and Related Subsidiaries

TERMINATION DATE

Section to cease to have effect on the date the Dominican Republic-Central America-United States Free Trade Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as an Effective and Termination Dates note under section 4001 of this title.

CHAPTER 27—BIPARTISAN CONGRESSIONAL TRADE PRIORITIES AND ACCOUNTABILITY

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§ 4201. Trade negotiating objectives

(a) Overall trade negotiating objectives

The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 4202 of this title are—

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

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and investment and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trade and investment disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, enhance the competitiveness of the United States, promote full employment in the United States, and enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO (as set out in section 4210(7) of this title) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade;

(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export market opportunities, and provide for the reduction or elimination of trade and investment barriers that disproportionately impact small businesses;

(9) to promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor;

(10) to ensure that trade agreements reflect and facilitate the increasingly interrelated, multi-sectoral nature of trade and investment activity;

(11) to recognize the growing significance of the Internet as a trading platform in international commerce;

(12) to take into account other legitimate United States domestic objectives, including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(13) to take into account conditions relating to religious freedom of any party to negotiations for a trade agreement with the United States;

(14) to ensure that trade agreements do not require changes to the immigration laws of the United States or obligate the United States to grant access or expand access to visas issued under section 1101(a)(15) of title 8; and

(15) to ensure that trade agreements do not establish obligations for the United States regarding greenhouse gas emissions measures, including obligations that require changes to United States laws or regulations or that would affect the implementation of such laws or regulations, other than those fulfilling the other negotiating objectives in this section.

(b) Principal trade negotiating objectives

(1) Trade in goods

The principal negotiating objectives of the United States regarding trade in goods are—

(A) to expand competitive market opportunities for exports of goods from the United States and to obtain fairer and more open conditions of trade, including through the utilization of global value chains, by reduc-

ing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, including with respect to those tariff categories covered in section 3521(b) of this title.

(2) Trade in services

(A) The principal negotiating objective of the United States regarding trade in services is to expand competitive market opportunities for United States services and to obtain fairer and more open conditions of trade, including through utilization of global value chains, by reducing or eliminating barriers to international trade in services, such as regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(B) Recognizing that expansion of trade in services generates benefits for all sectors of the economy and facilitates trade, the objective described in subparagraph (A) should be pursued through all means, including through a plurilateral agreement with those countries willing and able to undertake high standard services commitments for both existing and new services.

(3) Trade in agriculture

The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value added commodities by—

(A) securing more open and equitable market access through robust rules on sanitary and phytosanitary measures that—

(i) encourage the adoption of international standards and require a science-based justification be provided for a sanitary or phytosanitary measure if the measure is more restrictive than the applicable international standard;

(ii) improve regulatory coherence, promote the use of systems-based approaches, and appropriately recognize the equivalence of health and safety protection systems of exporting countries;

(iii) require that measures are transparently developed and implemented, are based on risk assessments that take into account relevant international guidelines and scientific data, and are not more restrictive on trade than necessary to meet the intended purpose; and

(iv) improve import check processes, including testing methodologies and procedures, and certification requirements,

while recognizing that countries may put in place measures to protect human, animal, or

plant life or health in a manner consistent with their international obligations, including the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (referred to in section 3511(d)(3) of this title);

(B) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(i) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(ii) providing reasonable adjustment periods for United States import sensitive products, in close consultation with Congress on such products before initiating tariff reduction negotiations;

(C) reducing tariffs to levels that are the same as or lower than those in the United States;

(D) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(E) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(F) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(G) eliminating government policies that create price depressing surpluses;

(H) eliminating state trading enterprises whenever possible;

(I) developing, strengthening, and clarifying rules to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, and ensuring that such rules are subject to efficient, timely, and effective dispute settlement, including—

(i) unfair or trade distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(ii) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(iii) unjustified sanitary or phytosanitary restrictions, including restrictions not based on scientific principles in contravention of obligations in the Uruguay Round Agreements or bilateral or regional trade agreements;

(iv) other unjustified technical barriers to trade; and

(v) restrictive rules in the administration of tariff rate quotas;

(J) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms

to recognize the unique characteristics of perishable and cyclical agriculture;

(K) ensuring that import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(L) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(M) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(N) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(O) taking into account the impact that agreements covering agriculture to which the United States is a party have on the United States agricultural industry;

(P) maintaining bona fide food assistance programs, market development programs, and export credit programs;

(Q) seeking to secure the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import sensitive commodities (including those subject to tariff rate quotas);

(R) seeking to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area;

(S) seeking to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule;

(T) ensuring transparency in the administration of tariff rate quotas through multilateral, plurilateral, and bilateral negotiations; and

(U) eliminating and preventing the undermining of market access for United States products through improper use of a country's system for protecting or recognizing geographical indications, including failing to ensure transparency and procedural fairness and protecting generic terms.

(4) Foreign investment

Recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade distorting barriers to foreign investment, while ensuring

that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) seeking to establish standards for fair and equitable treatment, consistent with United States legal principles and practice, including the principle of due process;

(F) providing meaningful procedures for resolving investment disputes;

(G) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims and to deter the filing of frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(iii) procedures to enhance opportunities for public input into the formulation of government positions; and

(iv) providing for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public; and

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(5) Intellectual property

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

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i) (I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property

Rights referred to in section 3511(d)(15) of this title, particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property, including in a manner that facilitates legitimate digital trade;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works;

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(vi) preventing or eliminating government involvement in the violation of intellectual property rights, including cyber theft and piracy;

(B) to secure fair, equitable, and non-discriminatory market access opportunities for United States persons that rely upon intellectual property protection; and

(C) to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001, and to ensure that trade agreements foster innovation and promote access to medicines.

(6) Digital trade in goods and services and cross-border data flows

The principal negotiating objectives of the United States with respect to digital trade in goods and services, as well as cross-border data flows, are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization and bilateral and regional trade agreements apply to digital trade in goods and services and to cross-border data flows;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade

treatment possible, fully encompassing both existing and new trade;

(C) to ensure that governments refrain from implementing trade-related measures that impede digital trade in goods and services, restrict cross-border data flows, or require local storage or processing of data;

(D) with respect to subparagraphs (A) through (C), where legitimate policy objectives require domestic regulations that affect digital trade in goods and services or cross-border data flows, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(7) Regulatory practices

The principal negotiating objectives of the United States regarding the use of government regulation or other practices to reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms and seek other commitments, as appropriate, to improve regulatory practices and promote increased regulatory coherence, including through—

(i) transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes;

(ii) the elimination of redundancies in testing and certification;

(iii) early consultations on significant regulations;

(iv) the use of impact assessments;

(v) the periodic review of existing regulatory measures; and

(vi) the application of good regulatory practices;

(D) to seek greater openness, transparency, and convergence of standards development processes, and enhance cooperation on standards issues globally;

(E) to promote regulatory compatibility through harmonization, equivalence, or mutual recognition of different regulations and standards and to encourage the use of international and interoperable standards, as appropriate;

(F) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products;

(G) to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for United States products; and

(H) to ensure that foreign governments—

(i) demonstrate that the collection of undisclosed proprietary information is limited to that necessary to satisfy a legitimate and justifiable regulatory interest; and

(ii) protect such information against disclosure, except in exceptional circumstances to protect the public, or where such information is effectively protected against unfair competition.

(8) State-owned and state-controlled enterprises

The principal negotiating objective of the United States regarding competition by state-owned and state-controlled enterprises is to seek commitments that—

(A) eliminate or prevent trade distortions and unfair competition favoring state-owned and state-controlled enterprises to the extent of their engagement in commercial activity, and

(B) ensure that such engagement is based solely on commercial considerations,

in particular through disciplines that eliminate or prevent discrimination and market-distorting subsidies and that promote transparency.

(9) Localization barriers to trade

The principal negotiating objective of the United States with respect to localization barriers is to eliminate and prevent measures that require United States producers and service providers to locate facilities, intellectual property, or other assets in a country as a market access or investment condition, including indigenous innovation measures.

(10) Labor and the environment

The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States—

(i) adopts and maintains measures implementing internationally recognized core labor standards (as defined in section 4210(17) of this title) and its obligations under common multilateral environmental agreements (as defined in section 4210(6) of this title),

(ii) does not waive or otherwise derogate from, or offer to waive or otherwise derogate from—

(I) its statutes or regulations implementing internationally recognized core labor standards (as defined in section 4210(17) of this title), in a manner affecting trade or investment between the United States and that party, where the waiver or derogation would be inconsistent with one or more such standards, or

(II) its environmental laws in a manner that weakens or reduces the protections afforded in those laws and in a manner affecting trade or investment between the United States and that party, except as provided in its law and provided not inconsistent with its obligations under

common multilateral environmental agreements (as defined in section 4210(6) of this title) or other provisions of the trade agreement specifically agreed upon, and

(iii) does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction,

in a manner affecting trade or investment between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that—

(i) with respect to environment, parties to a trade agreement retain the right to exercise prosecutorial discretion and to make decisions regarding the allocation of enforcement resources with respect to other environmental laws determined to have higher priorities, and a party is effectively enforcing its laws if a course of action or inaction reflects a reasonable, bona fide exercise of such discretion, or results from a reasonable, bona fide decision regarding the allocation of resources; and

(ii) with respect to labor, decisions regarding the distribution of enforcement resources are not a reason for not complying with a party's labor obligations; a party to a trade agreement retains the right to reasonable exercise of discretion and to make bona fide decisions regarding the allocation of resources between labor enforcement activities among core labor standards, provided the exercise of such discretion and such decisions are not inconsistent with its obligations;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 4210(7) of this title);

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services;

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade;

(H) to ensure that enforceable labor and environment obligations are subject to the same dispute settlement and remedies as other enforceable obligations under the agreement; and

(I) to ensure that a trade agreement is not construed to empower a party's authorities to undertake labor or environmental law enforcement activities in the territory of the United States.

(11) Currency

The principal negotiating objective of the United States with respect to currency practices is that parties to a trade agreement with the United States avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate.

(12) Foreign currency manipulation

The principal negotiating objective of the United States with respect to unfair currency practices is to seek to establish accountability through enforceable rules, transparency, reporting, monitoring, cooperative mechanisms, or other means to address exchange rate manipulation involving protracted large scale intervention in one direction in the exchange markets and a persistently undervalued foreign exchange rate to gain an unfair competitive advantage in trade over other parties to a trade agreement, consistent with existing obligations of the United States as a member of the International Monetary Fund and the World Trade Organization.

(13) WTO and multilateral trade agreements

Recognizing that the World Trade Organization is the foundation of the global trading system, the principal negotiating objectives of the United States regarding the World Trade Organization, the Uruguay Round Agreements, and other multilateral and plurilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and multilateral and plurilateral agreements to products, sectors, and conditions of trade not adequately covered;

(B) to expand country participation in and enhancement of the Information Technology Agreement, the Government Procurement Agreement, and other plurilateral trade agreements of the World Trade Organization;

(C) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade, including through utilization of global value chains, through the negotiation of new WTO multilateral and plurilateral trade agreements, such as an agreement on trade facilitation;

(D) to ensure that regional trade agreements to which the United States is not a party fully achieve the high standards of, and comply with, WTO disciplines, including Article XXIV of GATT 1994, Article V and V bis of the General Agreement on Trade in Services, and the Enabling Clause, including through meaningful WTO review of such regional trade agreements;

(E) to enhance compliance by WTO members with their obligations as WTO members through active participation in the bodies of the World Trade Organization by the United States and all other WTO members, includ-

ing in the trade policy review mechanism and the committee system of the World Trade Organization, and by working to increase the effectiveness of such bodies; and

(F) to encourage greater cooperation between the World Trade Organization and other international organizations.

(14) Trade institution transparency

The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency in the World Trade Organization, entities established under bilateral and regional trade agreements, and other international trade fora through seeking—

(A) timely public access to information regarding trade issues and the activities of such institutions;

(B) openness by ensuring public access to appropriate meetings, proceedings, and submissions, including with regard to trade and investment dispute settlement; and

(C) public access to all notifications and supporting documentation submitted by WTO members.

(15) Anti-corruption

The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and effective domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments or officials or to secure any such improper advantage;

(B) to ensure that such standards level the playing field for United States persons in international trade and investment; and

(C) to seek commitments to work jointly to encourage and support anti-corruption and anti-bribery initiatives in international trade fora, including through the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development, done at Paris December 17, 1997 (commonly known as the “OECD Anti-Bribery Convention”).

(16) Dispute settlement and enforcement

The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek adherence by panels convened under the Dispute Settlement Understanding and by the Appellate Body to—

(i) the mandate of those panels and the Appellate Body to apply the WTO Agreement as written, without adding to or diminishing rights and obligations under the Agreement; and

(ii) the standard of review applicable under the Uruguay Round Agreement involved in the dispute, including greater deference, where appropriate, to the fact finding and technical expertise of national investigating authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(17) Trade remedy laws

The principal negotiating objectives of the United States with respect to trade remedy laws are—

(A) to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market access barriers.

(18) Border taxes

The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the rules of the World Trade Organization with respect to the treatment of

border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(19) Textile negotiations

The principal negotiating objectives of the United States with respect to trade in textiles and apparel articles are to obtain competitive opportunities for United States exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

(20) Commercial partnerships

(A) In general

With respect to an agreement that is proposed to be entered into with the Transatlantic Trade and Investment Partnership countries and to which section 4202(b) of this title will apply, the principal negotiating objectives of the United States regarding commercial partnerships are the following:

(i) To discourage actions by potential trading partners that directly or indirectly prejudice or otherwise discourage commercial activity solely between the United States and Israel.

(ii) To discourage politically motivated actions to boycott, divest from, or sanction Israel and to seek the elimination of politically motivated nontariff barriers on Israeli goods, services, or other commerce imposed on the State of Israel.

(iii) To seek the elimination of state-sponsored unsanctioned foreign boycotts against Israel or compliance with the Arab League Boycott of Israel by prospective trading partners.

(B) Definition

In this paragraph, the term “actions to boycott, divest from, or sanction Israel” means actions by states, non-member states of the United Nations, international organizations, or affiliated agencies of international organizations that are politically motivated and are intended to penalize or otherwise limit commercial relations specifically with Israel or persons doing business in Israel or in Israeli-controlled territories.

(21) Good governance, transparency, the effective operation of legal regimes, and the rule of law of trading partners

The principal negotiating objectives of the United States with respect to ensuring implementation of trade commitments and obligations by strengthening good governance, transparency, the effective operation of legal regimes and the rule of law of trading partners of the United States is through capacity building and other appropriate means, which are important parts of the broader effort to create more open democratic societies and to promote respect for internationally recognized human rights.

(22) Fisheries negotiations

The principal negotiating objectives of the United States with respect to trade in fish, seafood, and shellfish products are—

(A) to obtain competitive opportunities for United States exports of fish, seafood, and shellfish products in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports of fish, seafood, and shellfish products in United States markets and to achieve fairer and more open conditions of trade in fish, seafood, and shellfish products, including by reducing or eliminating tariff and nontariff barriers;

(B) to eliminate fisheries subsidies that distort trade, including subsidies of the type referred to in paragraph 9 of Annex D to the Ministerial Declaration adopted by the World Trade Organization at the Sixth Ministerial Conference at Hong Kong, China on December 18, 2005;

(C) to pursue transparency in fisheries subsidies programs; and

(D) to address illegal, unreported, and unregulated fishing.

(c) Capacity building and other priorities

In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) direct the heads of relevant Federal agencies—

(A) to work to strengthen the capacity of United States trading partners to carry out obligations under trade agreements by consulting with any country seeking a trade agreement with the United States concerning that country’s laws relating to customs and trade facilitation, sanitary and phytosanitary measures, technical barriers to trade, intellectual property rights, labor, and the environment; and

(B) to provide technical assistance to that country if needed;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science;

(3) promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of GATT 1994; and

(4) submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on capacity-building activities undertaken in connection with trade agreements negotiated or being negotiated pursuant to this chapter.

(Pub. L. 114–26, title I, §102, June 29, 2015, 129 Stat. 320; Pub. L. 114–125, title IX, §914(a)–(c), Feb. 24, 2016, 130 Stat. 273.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(4), was in the original “this title”, meaning title I of Pub. L. 114-26, June 29, 2015, 129 Stat. 320, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2016—Subsec. (a)(14). Pub. L. 114-125, §914(a), added par. (14).

Subsec. (a)(15). Pub. L. 114-125, §914(b), added par. (15).

Subsec. (b)(22). Pub. L. 114-125, §914(c), added par. (22).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-125, title IX, §914(g), Feb. 24, 2016, 130 Stat. 276, provided that: “The amendments made by this section [amending this section and sections 4203 to 4205 of this title] shall take effect as if included in the enactment of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 ([title I of] Public Law 114-26; 129 Stat. 320; 19 U.S.C. 4201 et seq.).”

SHORT TITLE

Pub. L. 114-26, title I, §101, June 29, 2015, 129 Stat. 320, provided that: “This title [enacting this chapter and amending sections 2151 to 2155, 2171, 2191, and 2212 of this title] may be cited as the ‘Bipartisan Congressional Trade Priorities and Accountability Act of 2015’.”

Executive Documents

EX. ORD. NO. 13701. DELEGATION OF CERTAIN AUTHORITIES AND ASSIGNMENT OF CERTAIN FUNCTIONS UNDER THE BIPARTISAN CONGRESSIONAL TRADE PRIORITIES AND ACCOUNTABILITY ACT OF 2015

Ex. Ord. No. 13701, July 17, 2015, 80 F.R. 43903, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (the “Act”) (Public Law 114-26) and section 301 of title 3, United States Code, I hereby order as follows:

SECTION 1. *Authorities and Functions under the Act.* (a) Except as provided in subsections (b) and (c) of this section, the authorities granted to and functions specifically assigned to the President under title I of the Act are delegated and assigned, respectively, to the United States Trade Representative (U.S. Trade Representative).

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

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

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

(ii) The functions of the President under section 105(d)(1) of the Act are assigned to the U.S. Trade Representative, who shall conduct the environmental re-

views under section 105(d)(1)(A) of the Act through the interagency Trade Policy Staff Committee, and shall perform the reporting function under section 105(d)(1)(B) of the Act.

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

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

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

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

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

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

(i) shall ensure that all actions taken by them are consistent with the President’s constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive’s constitutional duties; (C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and (D) supervise the executive branch; and

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

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

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

BARACK OBAMA.

[For delegation of authority and functions under section 103(a)(1)(A) and (b)(1) of Pub. L. 114-26, notwithstanding section 1(b)(ii) of Ex. Ord. No. 13701, set out above, see Memorandum of President of the United

States, Jan. 29, 2016, 81 F.R. 5571, set out as a note under section 4202 of this title.]

§ 4202. Trade agreements authority

(a) Agreements regarding tariff barriers

(1) In general

Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this chapter will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

- (i) July 1, 2018; or
- (ii) July 1, 2021, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

- (i) such modification or continuance of any existing duty,
- (ii) such continuance of existing duty free or excise treatment, or
- (iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

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

(2) Notification

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

(3) Limitations

No proclamation may be made under paragraph (1) that—

- (A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on June 29, 2015) to a rate of duty which is less than 50 percent of the rate of such duty that applies on June 29, 2015;
- (B) reduces the rate of duty below that applicable under the Uruguay Round Agreements or a successor agreement, on any import sensitive agricultural product; or
- (C) increases any rate of duty above the rate that applied on June 29, 2015.

(4) Aggregate reduction; exemption from staging

(A) Aggregate reduction

Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

- (i) a reduction of 3 percent ad valorem or a reduction of $\frac{1}{10}$ of the total reduction, whichever is greater, had taken effect on

the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

- (ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) Exemption from staging

No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(5) Rounding

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

- (A) the difference between the reduction without regard to this paragraph and the next lower whole number; or
- (B) $\frac{1}{2}$ of 1 percent ad valorem.

(6) Other limitations

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

(7) Other tariff modifications

Notwithstanding paragraphs (1)(B), (3)(A), (3)(C), and (4) through (6), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act (19 U.S.C. 3524), the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act (19 U.S.C. 3501(5)), if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(8) Authority under Uruguay Round Agreements Act not affected

Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) Agreements regarding tariff and nontariff barriers

(1) In general

(A) Whenever the President determines that—

- (i) 1 or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or