

Chapter 7: ORGANIZATION OF TRADE POLICY FUNCTIONS

Congress

The role of the Congress in trade derives from its powers under the Constitution to regulate foreign commerce and to lay and collect duties (see preface). Consequently, the trade agreements program and application of duties or other import restrictions are based upon and limited to specific legislation or authorities delegated by the Congress. In order to ensure proper implementation of these laws and authorities, in accordance with legislative intent, Congress has included various statutory requirements in the trade laws to limit their application, to ensure congressional oversight of their implementation, and to fulfill its responsibility for legislating any necessary or appropriate changes in U.S. laws.

More specifically, for example, periodic delegations of authority by the Congress to the President to proclaim changes in U.S. tariff treatment in the context of trade agreements has been limited in scope and periods of time, and use of the authority subject to certain prenegotiation procedures and negotiating objectives and priorities. On the other hand, Congress has granted Federal agencies permanent authorities to administer certain laws and programs, such as trade remedy laws or trade adjustment assistance, under certain specific guidelines and subject to congressional oversight, including appropriations.

Specific statutory roles of the Congress became formalized under the Trade Act of 1974¹ with the grant of authority to the President under section 102 to enter into reciprocal trade agreements affecting U.S. laws other than traditional changes in tariff treatment. In authorizing implementation through an expedited, no amendment procedure, Congress ensured its role through statutory consultation and notification procedures prior to submission of a draft implementing bill by the executive. This relationship continued under authorities granted by the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 2002 (see chapter 6).

Section 2017 of the Bipartisan Trade Promotion Authority Act of 2002 establishes the Congressional Oversight Group, to be co-chaired by the Chairmen of the Ways & Means and Finance Committees and to be comprised of Committees of the House and Senate which would have jurisdiction over provisions of law affected by trade agreement negotiations during this Congress, plus five Members each from the Ways & Means and Finance Committees. The purpose of the COG is to provide the President and the United States Trade Representative with advice regarding the formulation of specific objectives, negotiating strategies and positions, the development of trade agreements, and compliance and enforcement of negotiated commitments under trade agreements. Each Member of the COG is to be accredited as an official adviser to the U.S.

¹ Public Law 93-618, approved January 3, 1975, 19 U.S.C. 2101.

delegation to trade negotiations. The Act directs USTR to develop written guidelines to facilitate the timely and useful exchange of information between USTR and the COG, including: (1) regular, detailed briefings of the COG regarding negotiating objectives and priorities, and positions and the status of the applicable negotiations; (2) access by members of the COG and staff with proper security clearances to pertinent documents relating to the negotiations, including classified materials; (3) the closest practicable coordination between USTR and the COG at all critical periods during the negotiations, including at negotiation sites; (4) after the trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments; and (5) the time frame for submitting the labor rights report required under section 2102(c)(8) of the Trade Act of 2002.

Section 161 of the Trade Act of 1974 provides for appointment at the beginning of each session of Congress of five official congressional advisers by the Speaker of the House from the Committee on Ways and Means and five official advisers by the President of the Senate from the Committee on Finance, and additional advisers where appropriate for specific policy matters or negotiations, to U.S. delegations to international negotiating sessions on trade agreements. The U.S. Trade Representative (USTR) must keep each adviser and designated committee staff members informed of U.S. objectives and the status of negotiations and of any changes which may be recommended in U.S. laws. Section 162 requires transmission of any trade agreements to the Congress.

Section 163 requires annual reports from the President and from the U.S. International Trade Commission (ITC) to keep the Congress informed regarding actions taken under the various trade laws and programs. Additional reports are required on specific aspects of various authorities (e.g., from the ITC on the domestic economic impact of the Caribbean Basin Initiative).

See also the following reporting requirements included in the Bipartisan Trade Promotion Authority Act of 2002, reprinted in Chap. 14:

Sec. 2102(c)(2)	Capacity building on International Labor Organization core labor standards
Sec. 2102(c)(3)	Capacity building on environment
Sec. 2102(c)	Environmental review
Sec. 2102(c)(5)	Impact of future trade agreements on U.S. employment
Sec. 2102(c)(11)	Effectiveness of penalty or remedy imposed by the United States under dispute settlement
Sec. 2103(c)(2)	Extension of Trade Promotion Authority
Sec. 2103(c)(3)	Advisory Committee for Trade Policy Negotiations Report in event of Administration extension request
Sec. 2104(d)(3)	Report on U.S. trade remedy laws
Sec. 2105(a)	Submission of agreement to Congress and supporting information
Sec. 2108	Implementation and enforcement plan

Sec. 2111 Report on economic impact of the five agreements already implemented under trade promotion authorities

See also the following requirements for consultation of Congress by the Administration as part of trade negotiations, as included in the Bipartisan Trade Promotion Authority Act of 2002, reprinted in Chap. 14:

Sec. 2102(d) Consultations throughout negotiations, including before an agreement is initialed

Sec. 2104 Detailed consultation requirements, both in general and for agriculture and textile negotiations

Sec. 2105 Consultations concerning the submission of a trade agreement

Sec. 2106 Consultations for negotiations that began before the passage of trade promotion authority

Finally, Congress had maintained its institutional role with the executive by requiring the USTR to advise the Congress as well as the President on trade policy developments, through requests to the ITC for studies and analyses under section 332 of the Tariff Act of 1930 of various current trade issues, and through its power to authorize and appropriate funds for the functions of major trade agencies.

Executive Branch

INTERAGENCY TRADE PROCESS

Trade policy is a major element of U.S. economic and foreign policy. A decision to raise or lower tariffs, to impose import quotas, or to take other trade policy actions affects both domestic and foreign interests. In light of the far-reaching effects of trade policy decisions, a large number of U.S. government agencies have a role to play in the development of policy. Various interagency coordinating mechanisms have been used for bringing together conflicting views and interests and resolving them so that there can be a consistent and balanced national trade policy.

Until the late 1950s, the Department of State was the major initiator and coordinator of international trade policy. The Secretary of State chaired the interagency Trade Agreements Committee which originally included eight agencies: the Departments of State, Agriculture, Commerce, and Treasury, the Tariff Commission, the Agricultural Adjustment Administration, the National Recovery Administration, and the Office of the Special Advisor to the President on Foreign Trade.

Congress authorized the President under section 242 of the Trade Expansion Act of 1962² to establish a new interagency trade organization to carry out

² 19 U.S.C. 1801.

specified trade policy functions. The Trade Agreements Committee was replaced by the Trade Policy Committee (TPC) in 1975.³ The TPC performs the same functions authorized by section 242 of the 1962 Trade Act. Two subordinate coordinating groups, the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), were subsequently created by the authority of the Special Representative.⁴

Section 1621 of the Omnibus Trade and Competitiveness Act of 1988⁵ amended section 242 of the 1962 Act to provide that this interagency organization will include the USTR as chair, the Secretaries of Commerce, State, Treasury, Agriculture, and Labor, and authorizes the USTR to invite other agencies to attend meetings as appropriate. The functions of the organization are: to assist and make recommendations to the President in carrying out his functions under the trade laws and to advise the USTR in carrying out its functions; to assist the President and advise the USTR on the development and implementation of U.S. international trade policy objectives; and to advise the President and the USTR on the relationship between U.S. international trade policy objectives and other major policy areas.

The TPSC is the working level interagency group, with members drawn from the office-director level of member agencies. Over 30 subcommittees and task forces support the work of the TPSC. In the absence of consensus at the TPSC level or in the case of particularly significant policy matters, issues are referred to the Assistant Secretary-level TPRG. Disagreements at the Assistant Secretary-level are referred to the TPC for Cabinet-level review. When presidential trade policy decisions are needed, the Chairman (USTR) submits the recommendations and advice of the Committee to the President.

In 1993, President Clinton established the National Economic Council as the final tier of the interagency trade mechanism. Chaired by the President, the NEC is composed of the Vice President, the Secretaries of State, Treasury, Agriculture, Commerce, Labor, Housing and Urban Development, Transportation, and Energy, the Administrator of the Environmental Protection Agency, the Director of the Office of Management and Budget, the USTR, the Chairman of the Council of Economic Advisors, the National Security Advisor, and the Assistants to the President for Economic Policy, Domestic Policy and Science and Technology Policy.

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Section 241 of the Trade Expansion Act of 1962 established the Office of the Special Representative for Trade Negotiations.⁶ Congress' stated purpose for

³ 40 Fed. Reg. 18419, April 28, 1975.

⁴ Exec. Order 11846, March 27, 1975, 40 Fed. Reg. 14291.

⁵ Public Law 100-418, section 1621, approved August 23, 1988.

⁶ Public Law 87-794, approved October 11, 1962, 19 U.S.C. 1801.

creating the position was to provide better balance between competing domestic and international interests in the formulation of U.S. trade policy and negotiations. The Special Trade Representative (STR), whose rank was ambassador extraordinary and plenipotentiary, was to serve as the chief U.S. representative for negotiations conducted under authority of the Act and for other trade negotiations authorized by the President.

Various executive orders issued by President Kennedy in 1963 established an Office of the Special Trade Representative and provided for the appointment of two Deputy Special Representatives for Trade Negotiations. These deputies, one based in Washington, D.C., and the other in Geneva, Switzerland (headquarters of the GATT Secretariat), were assigned major responsibilities for the conduct of the 1963-67 multilateral trade negotiations under the GATT, commonly known as the Kennedy Round.⁷

Section 141 of the Trade Act of 1974⁸ established the office as an agency within the executive office of the President and expanded the STR's duties to include responsibility for the trade agreements program under the Tariff Act of 1930, the Trade Expansion Act of 1962 and the Trade Act of 1974. Other duties and responsibilities also were assigned by the 1974 Trade Act and by Executive Order 11846 of March 27, 1975, as amended. Section 141 indicated Congressional intent to elevate the STR to Cabinet level by adding it to the list of positions at level I of the executive schedule of salaries, with the rank of ambassador. The STR was also made directly responsible to the President and the Congress.

Reorganization Plan No. 3 of 1979, implemented by Executive Order 12188 of January 4, 1980,⁹ authorized certain changes in the trade responsibilities of the STR. Plan No. 3 redesignated the Office of the Special Representative for Trade Negotiations as the Office of the United States Trade Representative (USTR). The new name reflected the plan's intent for the Trade Representative to have overall responsibility, on a permanent basis, for developing and coordinating the implementation of U.S. trade policy.

The 1979 Reorganization Plan specified that the USTR is the President's principal adviser and chief spokesman on trade, including advice on the impact of international trade on other U.S. government policies. The USTR also became Vice Chairman of the Overseas Private Investment Corporation (OPIC), a nonvoting member of the Export-Import Bank, and a member of the National Advisory Committee on International Monetary and Financial Policies. In addition to these responsibilities, section 306(c) of the Trade and Tariff Act of 1984¹⁰ specified that the USTR, through the interagency organization, is responsible for developing and coordinating U.S. policies on trade in services.

⁷ Public Law 97-456, approved January 12, 1983, added a third deputy trade representative.

⁸ Public Law 93-618, approved January 3, 1975, 19 U.S.C. 2171.

⁹ 44 Fed. Reg. 69273.

¹⁰ Public Law 98-573, approved October 30, 1984.

Section 1601 of the Omnibus Trade and Competitiveness Act of 1988¹¹ amended section 141 of the 1974 Act to the responsibilities of the USTR first enumerated under Reorganization Plan No. 3 and other statutes, as the following:

- (1) to have primary responsibility for developing and coordinating the implementation of U.S. international trade policy;
- (2) to serve as the principal adviser to the President on international trade policy and advise the President on the impact of other U.S. government policies on international trade;
- (3) to have lead responsibility for the conduct of, and be chief U.S. representative for, international trade negotiations, including commodity and direct investment negotiations;
- (4) to coordinate trade policy with other agencies;
- (5) to act as the principal international trade spokesman of the President;
- (6) to report to the President and the Congress on, and be responsible to the President and the Congress for, the administration of the trade agreements program, including advising on nontariff barriers, international commodity agreements, and other matters relating to the trade agreements program; and
- (7) to be chairman of the Trade Policy Committee.

In addition, the Omnibus Trade and Competitiveness Act also included the sense of Congress that the USTR be the senior representative on any body the President establishes to advise him on overall economic policies in which international trade matters predominate and that the USTR be included in all economic summits and other international meetings at which international trade is a major topic. The USTR was made responsible for identifying and coordinating agency resources on unfair trade practices cases that may be actionable under U.S. antidumping and countervailing duty statutes, section 337, or section 301. The Act established an unfair trade practices committee to advise the USTR.

Under the Omnibus Trade and Competitiveness Act of 1988, the Congress further sought to elevate the importance of the USTR in trade matters by shifting to the USTR from the President responsibility for implementing actions under section 301 of that Act, subject to the specific direction, if any, of the President.

The Uruguay Round Agreements Act specifies that the USTR is to have lead responsibility for all negotiations on any matter considered under the auspices of the World Trade Organization.

The Lobbying Disclosure Act of 1995 amended section 141 to prohibit the appointment of a person who has directly represented, aided, or advised a foreign entity (as defined by section 207(f)(3) of title 18, U.S. Code) in any trade negotiations, or trade dispute, with the United States as United States Trade Representative or Deputy United States Trade Representative.¹² In 1997,

¹¹ Public Law 100-418, section 1601, approved August 23, 1988.

¹² Public Law 104-65, approved December 19, 1995.

Congress passed legislation to waive this restriction so that Deputy USTR Charlene Barshefsky could become USTR.¹³

Section 406 of the Trade and Development Act of 2000 (Public Law 106-200) amended the Trade Act of 1974 to establish the position of Chief Agriculture Negotiator within USTR, with the rank of Ambassador, to conduct trade negotiations and enforce trade agreements relating to U.S. agriculture products and services. Section 117 of that Act also established the position of Assistant USTR for African Affairs to direct and coordinate interagency activities on U.S.-Africa trade policy and investment matters.

Section 141(g) of the Trade Act of 1974 provides for a 2-year authorization of appropriations for USTR.

U.S. DEPARTMENT OF COMMERCE

The Department of Commerce was established in 1903 as the Department of Commerce and Labor.¹⁴ A 1913 act of Congress split the Department of Commerce and Labor into two separate departments.¹⁵ The mandate of the Commerce Department originally was to promote the foreign and domestic commerce of the United States. In subsequent years, its authority was extended to other areas bearing on the economic and technological development of the country. The titles of the component units of the Department indicate the diversity of the agency's current programs and services: Bureau of the Census; Bureau of Economic Analysis; Economic Development Administration; Bureau of Industry and Security; International Trade Administration; Minority Business Development Agency; National Institute of Standards and Technology; National Oceanic and Atmospheric Administration; National Technical Information Service; National Telecommunications and Information Administration; and United States Patent and Trademark Office.

While most of these agencies have some responsibilities that affect U.S. trade, the U.S. Department of Commerce's major trade responsibilities are centered in the International Trade Administration and the Bureau of Industry and Security.

The International Trade Administration (ITA), which was established by the Secretary of Commerce on January 2, 1980,¹⁶ administers many of the Department's international trade responsibilities and activities as prescribed by Reorganization Plan No. 3 of 1979. The plan provides that the Commerce Department has "general operational responsibility for major nonagricultural international trade functions," as well as for any other functions assigned by law. Those include export development, commercial representation abroad, the administration of the antidumping and countervailing duty laws, export controls,

¹³ Public Law 105-5.

¹⁴ 32 Stat. 827, 5 U.S.C. 591.

¹⁵ 37 Stat. 736, 15 U.S.C. 1501.

¹⁶ 45 Fed. Reg. 11862, as amended by 46 Fed. Reg. 13537.

trade adjustment assistance to firms, research and analysis, and compliance with international trade agreements to which the United States is a party.

The Bureau of Industry and Security (BIS), formerly the Bureau of Export Administration controls exports of commodities and technology for reasons of national security, foreign policy, and short supply. BIS issues export licenses in accordance with the export control regulations. Export control regulations are developed in consultation with other agencies, and some export license applications require interagency review.

U.S. CUSTOMS AND BORDER PROTECTION

The second act of Congress, dated July 4, 1789, authorized the collection of duties on imported goods, wares and merchandise. The fifth act of Congress, passed in July 31, 1789, established customs districts and authorized customs officers to collect import duties. On March 3, 1927, the Bureau of Customs was established as a separate agency under the Treasury Department.¹⁷ The Bureau was redesignated the U.S. Customs Service on August 1, 1973.¹⁸

On November 25, 2002 President Bush signed the Homeland Security Act of 2002 (Public Law 107-296), which established the new Department of Homeland Security as a Department level agency. Under Section 402, the Secretary of Homeland Security became vested with the functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury. The entire agency was moved into the new Department's Border and Transportation Security directorate. Notwithstanding this section, authority related to Customs revenue functions that were vested in the Secretary of the Treasury by law before the effective date of the Act under those provisions of law set forth in paragraph (2) are not to be transferred to the Secretary by reason of the Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury is to consult with the Secretary of Homeland Security regarding the exercise of any such authority not delegated to the Secretary.

The provisions of law that remain vested with the Secretary of the Treasury under the Act are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round

¹⁷ 44 Stat. 1381.

¹⁸ Treasury Department Order 165-23, of April 4, 1973.

Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

The Act defines the term “customs revenue function” as the following: (1) assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment; (2) processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties; (3) detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States; (4) enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks; (5) collecting accurate import data for compilation of international trade statistics; (6) enforcing reciprocal trade agreements; (7) functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists; (8) functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

Customs collects import duties and enforces more than 400 laws or regulations relating to international trade. Among the many responsibilities falling to Customs are assessing and collecting duties, excise taxes, penalties and other fees due on imported goods; interdicting and seizing illegally entered merchandise; processing persons, carriers, cargo and mail into and out of the United States; helping enforce U.S. laws against the transfer of certain technologies to certain countries under export control authorities, laws on copyright, patent and trademark rights; and administering quotas and other import restrictions. Customs maintains close ties with private business associations, international organizations, and foreign customs services.

The Commissioner of Customs is appointed by the President and subject to confirmation by the Senate.

U.S. International Trade Commission

The U.S. International Trade Commission (ITC) is an independent and quasi-judicial agency that conducts studies, reports, and investigations, and makes recommendations to the President and the Congress on a wide range of international trade issues. The agency was established on September 8, 1916¹⁹ as the U.S. Tariff Commission. In 1974 the name was changed to the U.S. International Trade Commission by section 171 of the Trade Act of 1974.²⁰

Commissioners are appointed by the President for 9-year terms, unless they are appointed to fill an unexpired term. Any Commissioner who has served for more than 5 years may not be reappointed. Of the six commissioners, not more than three may be of the same political party. The Chairman and Vice Chairman are designated by the President for 2-year terms, and successive Chairmen may not be of the same political party. After June 17, 1996, a Commissioner with less than 1 year of continuous service as a Commissioner may not be designated as Chairman.

The Commission has numerous responsibilities for advice, investigations, studies, and data collection and analysis which may be grouped into the following general areas: advice on trade negotiations; Generalized System of Preferences; import relief for domestic industries; East-West trade; investigations of injury caused by subsidized or dumped goods; import interference with agricultural programs; unfair practices in import trade; development of uniform statistical data; matters related to the U.S. tariff schedules; international trade studies; trade and tariff summaries.

Statutory authority for the Commission's responsibilities is provided primarily by the Tariff Act of 1930, the Agricultural Adjustment Act, the Trade Expansion Act of 1962, the Trade Act of 1974, the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, the Omnibus Trade and Competitiveness Act of 1988, and the Uruguay Round Agreements Act.

The Tariff Act of 1930 gives the Commission broad authority to conduct studies and investigations relating to the impact of international trade on U.S. industries. Various sections under title VII of the Tariff Act authorize the Commission to determine whether U.S. industries are materially injured by imports which benefit from subsidies or are priced below fair value.²¹ If the Secretary of Commerce decides to suspend an antidumping or countervailing duty investigation upon reaching an agreement to eliminate the injury caused by the subsidized or dumped imports, the Commission is authorized to study whether or not the injury in fact is being eliminated. Section 337 of the Tariff Act authorizes the ITC to investigate whether unfair methods of competition or unfair acts are being committed in the

¹⁹ 39 Stat. 795.

²⁰ 19 U.S.C. 2231.

²¹ Sections 704, 734, and 751; 19 U.S.C. 1671c, 1673c, and 1675c.

importation of goods into the United States.²² The Commission is authorized to order actions to remedy any such violations, subject to presidential disapproval.

Upon the request of the President, the House Committee on Ways and Means, the Senate Committee on Finance, or on its own motion, the ITC conducts studies and investigations under section 332 of the Tariff Act of 1930 on a wide range of trade-related issues.²³ Public reports generally are issued following such studies and investigations. The ITC also publishes summaries outlining the types of products entering the United States, their importance in U.S. consumption, production, and trade, and other relevant information. The ITC also is required to establish and maintain statistics on U.S. trade and to review the international commodity code for classifying products and reporting trade statistics among countries.²⁴

The Trade Expansion Act of 1962 and the Trade Act of 1974 expanded the duties of the ITC. Both laws require the Commission to review developments within an industry receiving import protection and to advise the President on the probable impact of reducing or eliminating the protection.²⁵

The Trade Act of 1974 gives the Commission a presidential advisory role on the probable domestic economic effects of trade concessions proposed during trade negotiations.²⁶ The ITC performs a similar advisory role in relation to duty-free treatment under the Generalized System of Preferences.²⁷ Under section 201 of the 1974 Trade Act,²⁸ the Commission conducts investigations to determine whether increased imports are causing or threatening serious injury to the competing domestic industry and reports its findings and recommendations for relief to the President.

Sections 406 and 410²⁹ of the 1974 Trade Act provide for ITC monitoring and investigation of various aspects of trade with nonmarket economics.

Section 221 of the Trade and Tariff Act of 1984, amended by section 1614 of the Omnibus Trade and Competitiveness Act of 1988, established a separate Trade Remedy Assistance Office within the ITC to provide information to the public on remedies and benefits available under U.S. trade laws and on the procedures and filing dates for relief petitions.

Private or Public Sector Advisory Committees

The first formal mechanism providing for ongoing advice from the private sector on international trade matters was authorized by section 135 of the Trade

²² 19 U.S.C. 1337.

²³ 19 U.S.C. 1332.

²⁴ 19 U.S.C. 1484(e).

²⁵ 19 U.S.C. 1981, 2253.

²⁶ 19 U.S.C. 2151.

²⁷ 19 U.S.C. 2151, 2163.

²⁸ 19 U.S.C. 2251.

²⁹ 19 U.S.C. 2240, 2436.

Act of 1974.³⁰ In view of the positive contribution of the advisory committees to the Tokyo Round of multilateral trade negotiations and to passage of the implementing legislation—the Trade Agreements Act of 1979—Congress provided for continuation of the advisory committee structure in section 1631 of the Omnibus Trade and Competitiveness Act of 1988. Congress also expanded the committees' responsibilities by authorizing them to provide advice on the priorities and direction of U.S. trade policy, in addition to their previous responsibilities.

The U.S. Trade Representative manages the advisory committees in cooperation with the Departments of Agriculture, Commerce, Labor, and other departments. The committee structure is three-tiered, with the most senior level represented by the Advisory Committee for Trade Policy and Negotiations (ACTPN). The ACTPN is a 45-member body composed of presidential-appointed representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, nongovernmental environmental and conservation organizations, consumer interests, and the general public. The group provides overall guidance on trade policy matters, including trade agreements and negotiations, and is chaired by a chairman elected by the committee. The group convenes at the call of the U.S. Trade Representative.

The second tier is made up of policy advisory committees representing overall sectors of the economy (e.g., industry, agriculture, labor, services) whose role is to advise the government of the impact of various trade measures on their respective sectors.

The third tier is composed of sector advisory committees consisting of experts from various fields. Their role is to provide specific, technical information and advice on trade issues involving their particular sector. Members of the second and third tier are appointed by the U.S. Trade Representative and the Secretary of the relevant department or agency.

Although Section 14 of the Federal Advisory Committee Act generally limits the term of this and other committees to two years, Congress extended the term for trade advisory committees to four years in Section 2004 of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108-429).

³⁰ 19 U.S.C. 2155.