

Presidential Documents

Title 3—

The President

Executive Order 12188 of January 2, 1980

International Trade Functions

By the authority vested in me by the Trade Agreements Act of 1979, the Trade Act of 1974, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, Reorganization Plan No. 3 of 1979, and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Section 1-101. *The United States Trade Representative.*

(a) Except as may be otherwise expressly provided by law, the United States Trade Representative (hereinafter referred to as the "Trade Representative") shall be chief representative of the United States for:

- (1) all activities of, or under the auspices of, the General Agreement on Tariffs and Trade;
- (2) discussions, meetings, and negotiations in the Organization for Economic Cooperation and Development when trade or commodity issues are the primary issues under consideration;
- (3) negotiations in the United Nations Conference on Trade and Development and other multilateral institutions when trade or commodity issues are the primary issues under consideration;
- (4) other bilateral or multilateral negotiations when trade, including East-West trade, or commodities is the primary issue under consideration;
- (5) negotiations under sections 704 and 734 of the Tariff Act of 1930 (19 U.S.C. 1671c and 1673c); and
- (6) negotiations concerning direct investment incentives and disincentives and bilateral investment issues concerning barriers to investment.

For purposes of this subsection, the term "negotiations" includes discussions and meetings with foreign governments and instrumentalities primarily concerning preparations for formal negotiations and policies regarding implementation of agreements resulting from such negotiations.

- (b) The Trade Representative, in consultation with the Trade Negotiating Committee, shall invite such members of the Trade Negotiating Committee and representatives of other departments or agencies as may be appropriate to participate in the negotiations and other activities listed in subsection (a).
- (c) The Trade Representative, in consultation with the Trade Negotiating Committee, may delegate to any member of the Trade Negotiating Committee, or to any other appropriate department or agency, primary responsibility for representing the United States in any of the negotiations and other activities set forth in subsection (a).
- (d) The Trade Representative, or any department or agency to which responsibility for representing the United States in a negotiation or other activity has been delegated pursuant to subsection (c), shall consult with the Trade Policy Committee and with any affected regulatory agencies on the policy issues arising in connection with the negotiations and other activities listed in subsection (a).

Section 1-102. *The Trade Policy Committee.*

(a) As provided by section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872), the Trade Policy Committee (hereinafter referred to as the "Committee")

is continued. The Committee shall have the functions specified by law or by the President, including those specified in section 1(b)(3) of Reorganization Plan No. 3 of 1979.

(b) The Committee shall be composed of the following:

- (1) The Trade Representative, who shall be Chair
- (2) The Secretary of Commerce, who shall be Vice Chair
- (3) The Secretary of State
- (4) The Secretary of the Treasury
- (5) The Secretary of Defense
- (6) The Attorney General
- (7) The Secretary of the Interior
- (8) The Secretary of Agriculture
- (9) The Secretary of Labor
- (10) The Secretary of Transportation
- (11) The Secretary of Energy
- (12) The Director of the Office of Management and Budget
- (13) The Chairman of the Council of Economic Advisers
- (14) The Assistant to the President for National Security Affairs
- (15) The Director of the United States International Development Cooperation Agency.

The Chair and any member of the Committee may designate a subordinate officer whose status is not below that of an Assistant Secretary to serve in his stead when he is unable to attend any meetings of the Committee. The Chair may invite representatives from other agencies to attend the meetings of the Committee.

(c)(1) There is established, as a subcommittee of the Committee, a Trade Negotiating Committee which shall advise the Trade Representative on the management of negotiations referred to in section 1-101(a) of this order. The members of such subcommittee shall be the Trade Representative (Chair), the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor.

(2) The Trade Representative, with the advice of the Committee, may create additional subcommittees thereof.

(d) In advising the President on international trade and related matters, the Trade Representative shall take into account and reflect the views of the members of the Committee and of other interested agencies.

Section 1-103. *Delegation of Functions.*

(a) The function vested in the President by section 412(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2542(b)) is delegated to the Secretary of Commerce with regard to the technical office established under section 412(a)(1) of such Act and to the Secretary of Agriculture with regard to the technical office established under section 412(a)(2) of such Act. In prescribing the functions of each technical office, the Secretary concerned shall consult with the Trade Representative and with all affected regulatory agencies. The functions delegated by this section shall be exercised in coordination with the Trade Representative.

(b) The functions of the President under sections 2(b) and 303 of the Trade Agreements Act of 1979 (19 U.S.C. 2503(b) and 2513) and section 701(b) of the Tariff Act of 1930 (19 U.S.C. 1671(b)) are delegated to the Trade Representative, who shall exercise such authority with the advice of the Trade Policy Committee.

Section 1-104. Authority Under the Foreign Service Act and Related Laws.

(a) The Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to establish a Foreign Commercial Service in the Department of Commerce, and a category of career officers of the Foreign Commercial Service to be known as Foreign Commercial Officers. For purposes of the utilization by the Secretary of the authorities granted to the Secretary under this section, the terms "Foreign Service" and "Foreign Service Officer" shall be construed to mean "Foreign Commercial Service" and "Foreign Commercial Officer," respectively.

(b)(1) Except as provided in paragraph (3), and except with regard to career ministers and career ambassadors, the Secretary is authorized to exercise, with respect to Foreign Service commercial officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees employed to perform the functions transferred under section 5(b)(1) of Reorganization Plan No. 3 of 1979 (hereinafter referred to as the "Plan"), all authority available to the Secretary of State under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.) or under any other existing or future provision of law applicable to the Foreign Service of the United States, Foreign Service staff officers and employees, and alien clerks and employees. Such authority shall include, but not be limited to, the prescription of regulations incident to the exercise of such authority.

(2) All provisions of the Foreign Service Act of 1946, as amended, or of any other existing or future law, that apply to Foreign Service officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, or alien clerks and employees of the Department of State shall be applicable to Foreign Commercial officers, Foreign Service officers, Foreign Service Reserve officers, Foreign staff officers and employees, or alien clerks and employees of the Department of Commerce.

(3) There are excluded from the authority granted to the Secretary by paragraph (1) the following powers now vested in or delegated to the Secretary of State:

(A) to issue regulations pertaining to overseas differentials and allowances;

(B) to administer the Foreign Service Retirement and Disability System under title VIII of the Foreign Service Act of 1946, as amended (22 U.S.C. 1061 et seq.); and

(C) to commission or to recommend that the President commission Foreign Service officers, Foreign Service Reserve officers, and Foreign Service staff officers as diplomatic and consular officers under sections 512, 514, 524, and 533 of the Foreign Service Act of 1946, as amended (22 U.S.C. 907, 909, 924, and 938).

(5) The Secretary is authorized to exercise, with regard to the functions transferred under section 5(b) of the Plan, the authority of the Secretary of State under section 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658) to promulgate such rules and regulations as may be necessary to the performance of such functions.

(c) The Board of the Foreign Service and the Board of Examiners for the Foreign Service established by Executive Order 11264 of December 31, 1965, as amended, shall exercise with respect to Foreign Service personnel of the Department of Commerce the functions delegated to them by that order with respect to Foreign Service personnel of the Department of State. The Boards shall perform such additional functions with respect to Foreign Service personnel of the Department of Commerce as the Secretary may from time to time delegate or otherwise assign, consistent with the functions of such boards.

Section 1-105. Prior Executive Orders and Determination.

(a) Section 1(b) of Executive Order 11269 of February 14, 1966, as amended, is amended by adding "the United States Trade Representative," after "the Secretary of State,".

(b)(1) Section 1 of Executive Order 11539 of June 30, 1970, is amended to read as follows:

"Section 1. The United States Trade Representative, with the concurrence of the Secretary of Agriculture and the Secretary of State, is authorized to negotiate bilateral agreements with representatives of governments of foreign countries limiting the export from the respective countries and the importation into the United States of—

- (1) fresh, chilled, or frozen cattle meat,
- (2) fresh, chilled, or frozen meat of goats and sheep (except lambs), and
- (3) prepared and preserved beef and veal (except sausage) if articles are prepared, whether fresh, chilled, or frozen, but not otherwise preserved, that are the products of such countries."

(2) Section 4 of such order is amended by striking out "the Secretary of State" and inserting in lieu thereof "the United States Trade Representative".

(c) The last sentence of section 1(a) of Executive Order 11651 of March 3, 1972, as amended, is amended to read as follows: "The United States Trade Representative, or his designee, also shall be a member of the Committee."

(d) The first sentence of section 3 of Executive Order 11703 of February 7, 1973, is amended to read as follows: "The Oil Policy Committee shall henceforth consist of the United States Trade Representative, chair, and the Secretaries of State, Treasury, Defense, the Interior, Commerce and Energy, the Attorney General, and the Chairman of the Council of Economic Advisers, as members."

(e) Sections 2(b) and 3(a), the first sentence of section 3(c), and sections 3(e), 3(f), and 6 of Executive Order 11846 of March 27, 1975, as amended, are revoked.

(f)(1) Section 1(a)(5) of Executive Order 11858 of May 7, 1975, is amended to read: "(5) The United States Trade Representative".

(2) Section 1(a)(6) of such order is amended to read: "(6) The Chairman of the Council of Economic Advisers".

(g) Executive Order 12096 of November 2, 1978, is revoked.

(h) The last paragraph of the Presidential Determination Regarding the Acceptance and Application of Certain International Trade Agreements (dated December 14, 1979) (44 FR 74781, at 74784; December 18, 1979), delegating functions under section 2(b) of the Trade Agreements Act of 1979 and section 701(b) of the Tariff Act of 1930, is revoked.

(i) Any reference to the Office of the Special Representative for Trade Negotiations or to the Special Representative for Trade Negotiations in any Executive order, Proclamation, or other document shall be deemed to refer to the Office of the United States Trade Representative or to the United States Trade Representative, respectively.

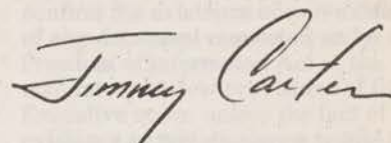
Section 1-106. *Incidental Transfers and Reassignments.*

So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions transferred or reassigned by the provisions of this order as the Director of the Office of Management and Budget shall determine shall be transferred or reassigned for use in connection with such functions.

Section 1-107. Effective Dates.

(a) Sections 1, 2(a), 2(b)(2), 2(c), 2(d), 3, 4, 5(a), 5(b)(2), 5(c) through (e), and 6 through 8 of Reorganization Plan No. 3 of 1979, and the provisions of this order, shall take effect as of January 2, 1980.

(b) Section 5(b)(1) of such plan shall take effect as of April 1, 1980.



THE WHITE HOUSE,

January 2, 1980.

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Editorial Note: The President's remarks of Jan. 2, 1980, on signing Executive Order 12188, are printed in the Weekly Compilation of Presidential Documents (vol. 16, No. 1).