

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4759**

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**AN ACT**

To implement the United States-Australia Free  
Trade Agreement.



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## AN ACT

To implement the United States-Australia Free Trade  
Agreement.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “United States-Australia Free Trade Agreement Imple-  
 4 mentation Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING  
TO, THE AGREEMENT

- Sec. 101. Approval and entry into force of the Agreement.
- Sec. 102. Relationship of the Agreement to United States and State law.
- Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
- Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
- Sec. 105. Administration of dispute settlement proceedings.
- Sec. 106. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Additional duties on certain agricultural goods.
- Sec. 203. Rules of origin.
- Sec. 204. Customs user fees.
- Sec. 205. Disclosure of incorrect information.
- Sec. 206. Enforcement relating to trade in textile and apparel goods.
- Sec. 207. Regulations.

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

- Sec. 311. Commencing of action for relief.
- Sec. 312. Commission action on petition.
- Sec. 313. Provision of relief.
- Sec. 314. Termination of relief authority.
- Sec. 315. Compensation authority.
- Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

- Sec. 321. Commencement of action for relief.
- Sec. 322. Determination and provision of relief.
- Sec. 323. Period of relief.
- Sec. 324. Articles exempt from relief.

- Sec. 325. Rate after termination of import relief.
- Sec. 326. Termination of relief authority.
- Sec. 327. Compensation authority.
- Sec. 328. Business confidential information.

Subtitle C—Cases Under Title II of the Trade Act of 1974

- Sec. 331. Findings and action on goods from Australia.

TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to approve and implement the Free Trade  
 4 Agreement between the United States and Australia,  
 5 entered into under the authority of section 2103(b)  
 6 of the Bipartisan Trade Promotion Authority Act of  
 7 2002 (19 U.S.C. 3803(b));

8 (2) to strengthen and develop economic rela-  
 9 tions between the United States and Australia for  
 10 their mutual benefit;

11 (3) to establish free trade between the 2 nations  
 12 through the reduction and elimination of barriers to  
 13 trade in goods and services and to investment; and

14 (4) to lay the foundation for further coopera-  
 15 tion to expand and enhance the benefits of such  
 16 Agreement.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **AGREEMENT.**—The term “Agreement”  
 20 means the United States-Australia Free Trade

1 Agreement approved by Congress under section  
2 101(a)(1).

3 (2) HTS.—The term “HTS” means the Har-  
4 monized Tariff Schedule of the United States.

5 (3) TEXTILE OR APPAREL GOOD.—The term  
6 “textile or apparel good” means a good listed in the  
7 Annex to the Agreement on Textiles and Clothing  
8 referred to in section 101(d)(4) of the Uruguay  
9 Round Agreements Act (19 U.S.C. 3511(d)(4)).

10 **TITLE I—APPROVAL OF, AND**  
11 **GENERAL PROVISIONS RE-**  
12 **LATING TO, THE AGREEMENT**

13 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**  
14 **AGREEMENT.**

15 (a) APPROVAL OF AGREEMENT AND STATEMENT OF  
16 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of  
17 the Bipartisan Trade Promotion Authority Act of 2002  
18 (19 U.S.C. 3805) and section 151 of the Trade Act of  
19 1974 (19 U.S.C. 2191), Congress approves—

20 (1) the United States-Australia Free Trade  
21 Agreement entered into on May 18, 2004, with the  
22 Government of Australia and submitted to Congress  
23 on July 6, 2004; and

1           (2) the statement of administrative action pro-  
2           posed to implement the Agreement that was sub-  
3           mitted to Congress on July 6, 2004.

4           (b) **CONDITIONS FOR ENTRY INTO FORCE OF THE**  
5 **AGREEMENT.**—At such time as the President determines  
6 that Australia has taken measures necessary to bring it  
7 into compliance with those provisions of the Agreement  
8 that are to take effect on the date on which the Agreement  
9 enters into force, the President is authorized to exchange  
10 notes with the Government of Australia providing for the  
11 entry into force, on or after January 1, 2005, of the  
12 Agreement with respect to the United States.

13 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**  
14 **STATES AND STATE LAW.**

15           (a) **RELATIONSHIP OF AGREEMENT TO UNITED**  
16 **STATES LAW.**—

17           (1) **UNITED STATES LAW TO PREVAIL IN CON-**  
18 **FLICT.**—No provision of the Agreement, nor the ap-  
19 plication of any such provision to any person or cir-  
20 cumstance, which is inconsistent with any law of the  
21 United States shall have effect.

22           (2) **CONSTRUCTION.**—Nothing in this Act shall  
23 be construed—

24                   (A) to amend or modify any law of the  
25           United States, or

1 (B) to limit any authority conferred under  
2 any law of the United States,  
3 unless specifically provided for in this Act.

4 (b) RELATIONSHIP OF AGREEMENT TO STATE  
5 LAW.—

6 (1) LEGAL CHALLENGE.—No State law, or the  
7 application thereof, may be declared invalid as to  
8 any person or circumstance on the ground that the  
9 provision or application is inconsistent with the  
10 Agreement, except in an action brought by the  
11 United States for the purpose of declaring such law  
12 or application invalid.

13 (2) DEFINITION OF STATE LAW.—For purposes  
14 of this subsection, the term “State law” includes—

15 (A) any law of a political subdivision of a  
16 State; and

17 (B) any State law regulating or taxing the  
18 business of insurance.

19 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-  
20 VATE REMEDIES.—No person other than the United  
21 States—

22 (1) shall have any cause of action or defense  
23 under the Agreement or by virtue of congressional  
24 approval thereof; or



1           (2) may challenge, in any action brought under  
2 any provision of law, any action or inaction by any  
3 department, agency, or other instrumentality of the  
4 United States, any State, or any political subdivision  
5 of a State, on the ground that such action or inac-  
6 tion is inconsistent with the Agreement.

7 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**  
8                           **ENTRY INTO FORCE AND INITIAL REGULA-**  
9                           **TIONS.**

10 (a) IMPLEMENTING ACTIONS.—

11           (1) PROCLAMATION AUTHORITY.—After the  
12 date of the enactment of this Act—

13                   (A) the President may proclaim such ac-  
14 tions, and

15                   (B) other appropriate officers of the  
16 United States Government may issue such reg-  
17 ulations,

18 as may be necessary to ensure that any provision of  
19 this Act, or amendment made by this Act, that takes  
20 effect on the date the Agreement enters into force  
21 is appropriately implemented on such date, but no  
22 such proclamation or regulation may have an effec-  
23 tive date earlier than the date on which the Agree-  
24 ment enters into force.

1           (2) EFFECTIVE DATE OF CERTAIN PROCLAIMED  
2           ACTIONS.—Any action proclaimed by the President  
3           under the authority of this Act that is not subject  
4           to the consultation and layover provisions under sec-  
5           tion 104, may not take effect before the 15th day  
6           after the date on which the text of the proclamation  
7           is published in the Federal Register.

8           (3) WAIVER OF 15-DAY RESTRICTION.—The 15-  
9           day restriction in paragraph (2) on the taking effect  
10          of proclaimed actions is waived to the extent that  
11          the application of such restriction would prevent the  
12          taking effect on the date the Agreement enters into  
13          force of any action proclaimed under this section.

14          (b) INITIAL REGULATIONS.—Initial regulations nec-  
15          essary or appropriate to carry out the actions required by  
16          or authorized under this Act or proposed in the statement  
17          of administrative action submitted under section  
18          101(a)(2) to implement the Agreement shall, to the max-  
19          imum extent feasible, be issued within 1 year after the  
20          date on which the Agreement enters into force. In the case  
21          of any implementing action that takes effect on a date  
22          after the date on which the Agreement enters into force,  
23          initial regulations to carry out that action shall, to the  
24          maximum extent feasible, be issued within 1 year after  
25          such effective date.

1 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**  
2 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**  
3 **TIONS.**

4 If a provision of this Act provides that the implemen-  
5 tation of an action by the President by proclamation is  
6 subject to the consultation and layover requirements of  
7 this section, such action may be proclaimed only if—

8 (1) the President has obtained advice regarding  
9 the proposed action from—

10 (A) the appropriate advisory committees  
11 established under section 135 of the Trade Act  
12 of 1974 (19 U.S.C. 2155); and

13 (B) the United States International Trade  
14 Commission;

15 (2) the President has submitted a report to the  
16 Committee on Finance of the Senate and the Com-  
17 mittee on Ways and Means of the House of Rep-  
18 resentatives that sets forth—

19 (A) the action proposed to be proclaimed  
20 and the reasons therefor; and

21 (B) the advice obtained under paragraph  
22 (1);

23 (3) a period of 60 calendar days, beginning on  
24 the first day on which the requirements set forth in  
25 paragraphs (1) and (2) have been met has expired;  
26 and

1           (4) the President has consulted with such Com-  
2           mittees regarding the proposed action during the pe-  
3           riod referred to in paragraph (3).

4 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**  
5 **CEEDINGS.**

6           (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—  
7           The President is authorized to establish or designate with-  
8           in the Department of Commerce an office that shall be  
9           responsible for providing administrative assistance to pan-  
10          els established under chapter 21 of the Agreement. The  
11          office may not be considered to be an agency for purposes  
12          of section 552 of title 5, United States Code.

13          (b) AUTHORIZATION OF APPROPRIATIONS.—There  
14          are authorized to be appropriated for each fiscal year after  
15          fiscal year 2004 to the Department of Commerce such  
16          sums as may be necessary for the establishment and oper-  
17          ations of the office under subsection (a) and for the pay-  
18          ment of the United States share of the expenses of panels  
19          established under chapter 21 of the Agreement.

20 **SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION.**

21          (a) EFFECTIVE DATES.—Except as provided in sub-  
22          section (b), the provisions of this Act and the amendments  
23          made by this Act take effect on the date on which the  
24          Agreement enters into force.

1 (b) EXCEPTIONS.—Sections 1 through 3 and this  
2 title take effect on the date of the enactment of this Act.

3 (c) TERMINATION OF THE AGREEMENT.—On the  
4 date on which the Agreement terminates, the provisions  
5 of this Act (other than this subsection) and the amend-  
6 ments made by this Act shall cease to be effective.

## 7 **TITLE II—CUSTOMS PROVISIONS**

### 8 **SEC. 201. TARIFF MODIFICATIONS.**

9 (a) TARIFF MODIFICATIONS PROVIDED FOR IN THE  
10 AGREEMENT.—The President may proclaim—

11 (1) such modifications or continuation of any  
12 duty,

13 (2) such continuation of duty-free or excise  
14 treatment, or

15 (3) such additional duties,

16 as the President determines to be necessary or appropriate  
17 to carry out or apply articles 2.3, 2.5, and 2.6, and Annex  
18 2–B of the Agreement.

19 (b) OTHER TARIFF MODIFICATIONS.—Subject to the  
20 consultation and layover provisions of section 104, the  
21 President may proclaim—

22 (1) such modifications or continuation of any  
23 duty,

24 (2) such modifications as the United States  
25 may agree to with Australia regarding the staging of

1 any duty treatment set forth in Annex 2–B of the  
2 Agreement,

3 (3) such continuation of duty-free or excise  
4 treatment, or

5 (4) such additional duties,

6 as the President determines to be necessary or appropriate  
7 to maintain the general level of reciprocal and mutually  
8 advantageous concessions with respect to Australia pro-  
9 vided for by the Agreement.

10 (c) CONVERSION TO AD VALOREM RATES.—For pur-  
11 poses of subsections (a) and (b), with respect to any good  
12 for which the base rate in the Schedule of the United  
13 States to Annex 2–B of the Agreement is a specific or  
14 compound rate of duty, the President may substitute for  
15 the base rate an ad valorem rate that the President deter-  
16 mines to be equivalent to the base rate.

17 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**  
18 **TURAL GOODS.**

19 (a) GENERAL PROVISIONS.—

20 (1) APPLICABILITY OF SUBSECTION.—This sub-  
21 section applies to additional duties assessed under  
22 subsections (b), (c), and (d).

23 (2) APPLICABLE NTR (MFN) RATE OF DUTY.—  
24 For purposes of subsections (b), (c), and (d), the  
25 term “applicable NTR (MFN) rate of duty” means,

1 with respect to a safeguard good, a rate of duty that  
2 is the lesser of—

3 (A) the column 1 general rate of duty that  
4 would have been imposed under the HTS on the  
5 same safeguard good entered, without a claim  
6 for preferential treatment, at the time the addi-  
7 tional duty is imposed under subsection (b), (c),  
8 or (d), as the case may be; or

9 (B) the column 1 general rate of duty that  
10 would have been imposed under the HTS on the  
11 same safeguard good entered, without a claim  
12 for preferential treatment, on December 31,  
13 2004.

14 (3) SCHEDULE RATE OF DUTY.—For purposes  
15 of subsections (b) and (c), the term “schedule rate  
16 of duty” means, with respect to a safeguard good,  
17 the rate of duty for that good set out in the Sched-  
18 ular of the United States to Annex 2–B of the Agree-  
19 ment.

20 (4) SAFEGUARD GOOD.—In this subsection, the  
21 term “safeguard good” means—

22 (A) a horticulture safeguard good de-  
23 scribed subsection (b)(1)(B); or

24 (B) a beef safeguard good described in  
25 subsection (c)(1) or subsection (d)(1)(A).

1           (5) EXCEPTIONS.—No additional duty shall be  
2 assessed on a good under subsection (b), (c), or (d)  
3 if, at the time of entry, the good is subject to import  
4 relief under—

5                   (A) subtitle A of title III of this Act; or

6                   (B) chapter 1 of title II of the Trade Act  
7 of 1974 (19 U.S.C. 2251 et seq.).

8           (6) TERMINATION.—The assessment of an ad-  
9 ditional duty on a good under subsection (b) or (c),  
10 whichever is applicable, shall cease to apply to that  
11 good on the date on which duty-free treatment must  
12 be provided to that good under the Schedule of the  
13 United States to Annex 2–B of the Agreement.

14           (7) NOTICE.—Not later than 60 days after the  
15 date on which the Secretary of the Treasury assesses  
16 an additional duty on a good under subsection (b),  
17 (c), or (d), the Secretary shall notify the Govern-  
18 ment of Australia in writing of such action and shall  
19 provide to that Government data supporting the as-  
20 sessment of the additional duty.

21           (b) ADDITIONAL DUTIES ON HORTICULTURE SAFE-  
22 GUARD GOODS.—

23                   (1) DEFINITIONS.—In this subsection:

24                           (A) F.O.B.—The term “F.O.B.” means  
25 free on board, regardless of the mode of trans-



1 portation, at the point of direct shipment by the  
2 seller to the buyer.

3 (B) HORTICULTURE SAFEGUARD GOOD.—

4 The term “horticulture safeguard good” means  
5 a good—

6 (i) that qualifies as an originating  
7 good under section 203;

8 (ii) that is included in the United  
9 States Horticulture Safeguard List set  
10 forth in Annex 3–A of the Agreement; and

11 (iii) for which a claim for preferential  
12 treatment under the Agreement has been  
13 made.

14 (C) UNIT IMPORT PRICE.—The “unit im-  
15 port price” of a good means the price of the  
16 good determined on the basis of the F.O.B. im-  
17 port price of the good, expressed in either dol-  
18 lars per kilogram or dollars per liter, whichever  
19 unit of measure is indicated for the good in the  
20 United States Horticulture Safeguard List set  
21 forth in Annex 3–A of the Agreement.

22 (D) TRIGGER PRICE.—The “trigger price”  
23 for a good is the trigger price indicated for that  
24 good in the United States Horticulture Safe-

1 guard List set forth in Annex 3–A of the  
 2 Agreement or any amendment thereto.

3 (2) ADDITIONAL DUTIES.—In addition to any  
 4 duty proclaimed under subsection (a) or (b) of sec-  
 5 tion 201, and subject to subsection (a) of this sec-  
 6 tion, the Secretary of the Treasury shall assess a  
 7 duty on a horticulture safeguard good, in the  
 8 amount determined under paragraph (3), if the Sec-  
 9 retary determines that the unit import price of the  
 10 good when it enters the United States is less than  
 11 the trigger price for that good.

12 (3) CALCULATION OF ADDITIONAL DUTY.—The  
 13 additional duty assessed under this subsection on a  
 14 horticulture safeguard good shall be an amount de-  
 15 termined in accordance with the following table:

<b>If the excess of the trigger price over the unit import price is:</b>	<b>The additional duty is an amount equal to:</b>
Not more than 10 percent of the trigger price	0.
More than 10 percent but not more than 40 percent of the trigger price .....	30 percent of the excess of the appli- cable NTR (MFN) rate of duty over the schedule rate of duty.
More than 40 percent but not more than 60 percent of the trigger price .....	50 percent of such excess.
More than 60 percent but not more than 75 percent of the trigger price .....	70 percent of such excess.
More than 75 percent of the trigger price .....	100 percent of such excess.

16 (c) ADDITIONAL DUTIES ON BEEF SAFEGUARD  
 17 GOODS BASED ON QUANTITY OF IMPORTS.—

18 (1) DEFINITION.—In this subsection, the term  
 19 “beef safeguard good” means a good—

1 (A) that qualifies as an originating good  
2 under section 203;

3 (B) that is listed in paragraph 3 of Annex  
4 I of the General Notes to the Schedule of the  
5 United States to Annex 2–B of the Agreement;  
6 and

7 (C) for which a claim for preferential  
8 treatment under the Agreement has been made.

9 (2) ADDITIONAL DUTIES.—In addition to any  
10 duty proclaimed under subsection (a) or (b) of sec-  
11 tion 201, and subject to subsection (a) of this sec-  
12 tion and paragraphs (4) and (5) of this subsection,  
13 the Secretary of the Treasury shall assess a duty, in  
14 the amount determined under paragraph (3), on a  
15 beef safeguard good imported into the United States  
16 in a calendar year if the Secretary determines that,  
17 prior to such importation, the total volume of beef  
18 safeguard goods imported into the United States in  
19 that calendar year is equal to or greater than 110  
20 percent of the volume set out for beef safeguard  
21 goods in the corresponding year in the table con-  
22 tained in paragraph 3(a) of Annex I of the General  
23 Notes to the Schedule of the United States to Annex  
24 2–B of the Agreement. For purposes of this sub-  
25 section, the years 1 through 19 set out in the table

1 contained in paragraph 3(a) of such Annex I cor-  
2 respond to the calendar years 2005 through 2023.

3 (3) CALCULATION OF ADDITIONAL DUTY.—The  
4 additional duty on a beef safeguard good under this  
5 subsection shall be an amount equal to 75 percent  
6 of the excess of the applicable NTR (MFN) rate of  
7 duty over the schedule rate of duty.

8 (4) WAIVER.—

9 (A) IN GENERAL.—The United States  
10 Trade Representative is authorized to waive the  
11 application of this subsection, if the Trade Rep-  
12 resentative determines that extraordinary mar-  
13 ket conditions demonstrate that the waiver  
14 would be in the national interest of the United  
15 States, after the requirements of subparagraph  
16 (B) are met.

17 (B) NOTICE AND CONSULTATIONS.—

18 Promptly after receiving a request for a waiver  
19 of this subsection, the Trade Representative  
20 shall notify the Committee on Ways and Means  
21 of the House of Representatives and the Com-  
22 mittee on Finance of the Senate, and may make  
23 the determination provided for in subparagraph  
24 (A) only after consulting with—

1 (i) appropriate private sector advisory  
2 committees established under section 135  
3 of the Trade Act of 1974 (19 U.S.C.  
4 2155); and

5 (ii) the Committee on Ways and  
6 Means of the House of Representatives  
7 and the Committee on Finance of the Sen-  
8 ate regarding—

9 (I) the reasons supporting the  
10 determination to grant the waiver;  
11 and

12 (II) the proposed scope and dura-  
13 tion of the waiver.

14 (C) NOTIFICATION OF THE SEC-  
15 RETARY OF THE TREASURY AND PUBLICA-  
16 TION.—Upon granting a waiver under this  
17 paragraph, the Trade Representative shall  
18 promptly notify the Secretary of the Treas-  
19 ury of the period in which the waiver will  
20 be in effect, and shall publish notice of the  
21 waiver in the Federal Register.

22 (5) EFFECTIVE DATES.—This subsection takes  
23 effect on January 1, 2013, and shall not be effective  
24 after December 31, 2022.

1 (d) ADDITIONAL DUTIES ON BEEF SAFEGUARD  
2 GOODS BASED ON PRICE.—

3 (1) DEFINITIONS.—In this subsection:

4 (A) BEEF SAFEGUARD GOOD.—The term  
5 “beef safeguard good” means a good—

6 (i) that qualifies as an originating  
7 good under section 203;

8 (ii) that is classified under subheading  
9 0201.10.50, 0201.20.80, 0201.30.80,  
10 0202.10.50, 0202.20.80, or 0202.30.80 of  
11 the HTS; and

12 (iii) for which a claim for preferential  
13 treatment under the Agreement has been  
14 made.

15 (B) CALENDAR QUARTER.—

16 (i) IN GENERAL.—The term “calendar  
17 quarter” means any 3-month period begin-  
18 ning on January 1, April 1, July 1, or Oc-  
19 tober 1 of a calendar year.

20 (ii) FIRST CALENDAR QUARTER.—The  
21 term “first calendar quarter” means the  
22 calendar quarter beginning on January 1.

23 (iii) SECOND CALENDAR QUARTER.—  
24 The term “second calendar quarter”

1 means the calendar quarter beginning on  
2 April 1.

3 (iv) THIRD CALENDAR QUARTER.—

4 The term “third calendar quarter” means  
5 the calendar quarter beginning on July 1.

6 (v) FOURTH CALENDAR QUARTER.—

7 The term “fourth calendar quarter” means  
8 the calendar quarter beginning on October  
9 1.

10 (C) MONTHLY AVERAGE INDEX PRICE.—

11 The term “monthly average index price” means  
12 the simple average, as determined by the Sec-  
13 retary of Agriculture, for a calendar month of  
14 the daily average index prices for Wholesale  
15 Boxed Beef Cut-Out Value Select 1–3 Central  
16 U.S. 600–750 lbs., or its equivalent, as such  
17 simple average is reported by the Agricultural  
18 Marketing Service of the Department of Agri-  
19 culture in Report LM–XB459 or any equivalent  
20 report.

21 (D) 24-MONTH TRIGGER PRICE.—The term

22 “24-month trigger price” means, with respect  
23 to any calendar month, the average of the  
24 monthly average index prices for the 24 pre-  
25 ceding calendar months, multiplied by 0.935.

1           (2) ADDITIONAL DUTIES.—In addition to any  
2 duty proclaimed under subsection (a) or (b) of sec-  
3 tion 201, and subject to subsection (a) of this sec-  
4 tion and paragraphs (4) through (6) of this sub-  
5 section, the Secretary of the Treasury shall assess a  
6 duty, in the amount determined under paragraph  
7 (3), on a beef safeguard good imported into the  
8 United States if—

9           (A)(i) the good is imported in the first cal-  
10 endar quarter, second calendar quarter, or third  
11 calendar quarter of a calendar year; and

12           (ii) the monthly average index price, in any  
13 2 calendar months of the preceding calendar  
14 quarter, is less than the 24-month trigger price;  
15 or

16           (B)(i) the good is imported in the fourth  
17 calendar quarter of a calendar year; and

18           (ii)(I) the monthly average index price, in  
19 any 2 calendar months of the preceding cal-  
20 endar quarter, is less than the 24-month trigger  
21 price; or

22           (II) the monthly average index price, in  
23 any of the 4 calendar months preceding Janu-  
24 ary 1 of the succeeding calendar year, is less  
25 than the 24-month trigger price.



1           (3) CALCULATION OF ADDITIONAL DUTY.—The  
2 additional duty on a beef safeguard good under this  
3 subsection shall be an amount equal to 65 percent  
4 of the applicable NTR (MFN) rate of duty for that  
5 good.

6           (4) LIMITATION.—An additional duty shall be  
7 assessed under this subsection on a beef safeguard  
8 good imported into the United States in a calendar  
9 year only if, prior to the importation of that good,  
10 the total quantity of beef safeguard goods imported  
11 into the United States in that calendar year is equal  
12 to or greater than the sum of—

13           (A) the quantity of goods of Australia eli-  
14 gible to enter the United States in that year  
15 specified in Additional United States Note 3 to  
16 Chapter 2 of the HTS; and

17           (B)(i) in 2023, 70,420 metric tons; or

18           (ii) in 2024, and in each year thereafter,  
19 a quantity that is 0.6 percent greater than the  
20 quantity provided for in the preceding year  
21 under this subparagraph.

22           (5) WAIVER.—

23           (A) IN GENERAL.—The United States  
24 Trade Representative is authorized to waive the  
25 application of this subsection, if the Trade Rep-

1           representative determines that extraordinary mar-  
2           ket conditions demonstrate that the waiver  
3           would be in the national interest of the United  
4           States, after the requirements of subparagraph  
5           (B) are met.

6           (B) NOTICE AND CONSULTATIONS.—

7           Promptly after receiving a request for a waiver  
8           of this subsection, the Trade Representative  
9           shall notify the Committee on Ways and Means  
10          of the House of Representatives and the Com-  
11          mittee on Finance of the Senate, and may make  
12          the determination provided for in subparagraph  
13          (A) only after consulting with—

14                 (i) appropriate private sector advisory  
15                 committees established under section 135  
16                 of the Trade Act of 1974 (19 U.S.C.  
17                 2155); and

18                 (ii) the Committee on Ways and  
19                 Means of the House of Representatives  
20                 and the Committee on Finance of the Sen-  
21                 ate regarding—

22                         (I) the reasons supporting the  
23                         determination to grant the waiver;  
24                         and

1 (II) the proposed scope and dura-  
2 tion of the waiver.

3 (C) NOTIFICATION OF THE SEC-  
4 RETARY OF THE TREASURY AND PUBLICA-  
5 TION.—Upon granting a waiver under this  
6 paragraph, the Trade Representative shall  
7 promptly notify the Secretary of the Treas-  
8 ury of the period in which the waiver will  
9 be in effect, and shall publish notice of the  
10 waiver in the Federal Register.

11 (6) EFFECTIVE DATE.—This subsection takes  
12 effect on January 1, 2023.

13 **SEC. 203. RULES OF ORIGIN.**

14 (a) APPLICATION AND INTERPRETATION.—In this  
15 section:

16 (1) TARIFF CLASSIFICATION.—The basis for  
17 any tariff classification is the HTS.

18 (2) REFERENCE TO HTS.—Whenever in this  
19 section there is a reference to a heading or sub-  
20 heading, such reference shall be a reference to a  
21 heading or subheading of the HTS.

22 (3) COST OR VALUE.—Any cost or value re-  
23 ferred to in this section shall be recorded and main-  
24 tained in accordance with the generally accepted ac-  
25 counting principles applicable in the territory of the

1 country in which the good is produced (whether Aus-  
2 tralia or the United States).

3 (b) ORIGINATING GOODS.—For purposes of this Act  
4 and for purposes of implementing the preferential treat-  
5 ment provided for under the Agreement, a good is an orig-  
6 inating good if—

7 (1) the good is a good wholly obtained or pro-  
8 duced entirely in the territory of Australia, the  
9 United States, or both;

10 (2) the good—

11 (A) is produced entirely in the territory of  
12 Australia, the United States, or both, and—

13 (i) each of the nonoriginating mate-  
14 rials used in the production of the good  
15 undergoes an applicable change in tariff  
16 classification specified in Annex 4–A or  
17 Annex 5–A of the Agreement;

18 (ii) the good otherwise satisfies any  
19 applicable regional value-content require-  
20 ment referred to in Annex 5–A of the  
21 Agreement; or

22 (iii) the good meets any other require-  
23 ments specified in Annex 4–A or Annex 5–  
24 A of the Agreement; and

1 (B) the good satisfies all other applicable  
2 requirements of this section;

3 (3) the good is produced entirely in the terri-  
4 tory of Australia, the United States, or both, exclu-  
5 sively from materials described in paragraph (1) or  
6 (2); or

7 (4) the good otherwise qualifies as an origi-  
8 nating good under this section.

9 (c) DE MINIMIS AMOUNTS OF NONORIGINATING MA-  
10 TERIALS.—

11 (1) IN GENERAL.—Except as provided in para-  
12 graphs (2) and (3), a good that does not undergo a  
13 change in tariff classification pursuant to Annex 5-  
14 A of the Agreement is an originating good if—

15 (A) the value of all nonoriginating mate-  
16 rials that—

17 (i) are used in the production of the  
18 good, and

19 (ii) do not undergo the required  
20 change in tariff classification,

21 does not exceed 10 percent of the adjusted  
22 value of the good;

23 (B) the good meets all other applicable re-  
24 quirements of this section; and

1           (C) the value of such nonoriginating mate-  
2           rials is included in the value of nonoriginating  
3           materials for any applicable regional value-con-  
4           tent requirement for the good.

5           (2) EXCEPTIONS.—Paragraph (1) does not  
6           apply to the following:

7           (A) A nonoriginating material provided for  
8           in chapter 4 of the HTS or in subheading  
9           1901.90 that is used in the production of a  
10          good provided for in chapter 4 of the HTS.

11          (B) A nonoriginating material provided for  
12          in chapter 4 of the HTS or in subheading  
13          1901.90 that is used in the production of a  
14          good provided for in subheading 1901.10,  
15          1901.20, or 1901.90, heading 2105, or sub-  
16          heading 2106.90, 2202.90, or 2309.90.

17          (C) A nonoriginating material provided for  
18          in heading 0805 or any of subheadings 2009.11  
19          through 2009.39 that is used in the production  
20          of a good provided for in any of subheadings  
21          2009.11 through 2009.39, or in subheading  
22          2106.90 or 2202.90.

23          (D) A nonoriginating material provided for  
24          in chapter 15 of the HTS that is used in the  
25          production of a good provided for in any of

1 headings 1501.00.00 through 1508, or in head-  
2 ing 1512, 1514, or 1515.

3 (E) A nonoriginating material provided for  
4 in heading 1701 that is used in the production  
5 of a good provided for in any of headings 1701  
6 through 1703.

7 (F) A nonoriginating material provided for  
8 in chapter 17 of the HTS or heading  
9 1805.00.00 that is used in the production of a  
10 good provided for in subheading 1806.10.

11 (G) A nonoriginating material provided for  
12 in any of headings 2203 through 2208 that is  
13 used in the production of a good provided for  
14 in heading 2207 or 2208.

15 (H) A nonoriginating material used in the  
16 production of a good provided for in any of  
17 chapters 1 through 21 of the HTS unless the  
18 nonoriginating material is provided for in a dif-  
19 ferent subheading than the good for which ori-  
20 gin is being determined under this section.

21 (3) TEXTILE AND APPAREL GOODS.—

22 (A) IN GENERAL.—Except as provided in  
23 subparagraph (B), a textile or apparel good  
24 that is not an originating good because certain  
25 fibers or yarns used in the production of the

1 component of the good that determines the tar-  
2 iff classification of the good do not undergo an  
3 applicable change in tariff classification set out  
4 in Annex 4–A of the Agreement shall be consid-  
5 ered to be an originating good if the total  
6 weight of all such fibers or yarns in that com-  
7 ponent is not more than 7 percent of the total  
8 weight of that component.

9 (B) CERTAIN TEXTILE OR APPAREL  
10 GOODS.—A textile or apparel good containing  
11 elastomeric yarns in the component of the good  
12 that determines the tariff classification of the  
13 good shall be considered to be an originating  
14 good only if such yarns are wholly formed in  
15 the territory of Australia or the United States.

16 (C) YARN, FABRIC, OR FIBER.—For pur-  
17 poses of this paragraph, in the case of a textile  
18 or apparel good that is a yarn, fabric, or group  
19 of fibers, the term “component of the good that  
20 determines the tariff classification of the good”  
21 means all of the fibers in the yarn, fabric, or  
22 group of fibers.

23 (d) ACCUMULATION.—

24 (1) ORIGINATING MATERIALS USED IN PRODUC-  
25 TION OF GOODS OF OTHER COUNTRY.—Originating



1 materials from the territory of Australia or the  
2 United States that are used in the production of a  
3 good in the territory of the other country shall be  
4 considered to originate in the territory of the other  
5 country.

6 (2) MULTIPLE PROCEDURES.—A good that is  
7 produced in the territory of Australia, the United  
8 States, or both, by 1 or more producers, is an origi-  
9 nating good if the good satisfies the requirements of  
10 subsection (b) and all other applicable requirements  
11 of this section.

12 (e) REGIONAL VALUE-CONTENT.—

13 (1) IN GENERAL.—For purposes of subsection  
14 (b)(2), the regional value-content of a good referred  
15 to in Annex 5–A of the Agreement, except for goods  
16 to which paragraph (4) applies, shall be calculated  
17 by the importer, exporter, or producer of the good,  
18 on the basis of the build-down method described in  
19 paragraph (2) or the build-up method described in  
20 paragraph (3).

21 (2) BUILD-DOWN METHOD.—

22 (A) IN GENERAL.—The regional value-con-  
23 tent of a good may be calculated on the basis  
24 of the following build-down method:

$$\text{RVC} = \frac{\text{AV}}{\text{AV}} \times 100$$

1 (B) DEFINITIONS.—In subparagraph (A):

2 (i) RVC.—The term “RVC” means  
3 the regional value-content of the good, ex-  
4 pressed as a percentage.

5 (ii) AV.—The term “AV” means the  
6 adjusted value of the good.

7 (iii) VNM.—The term “VNM” means  
8 the value of nonoriginating materials that  
9 are acquired and used by the producer in  
10 the production of the good, but does not  
11 include the value of a material that is self-  
12 produced.

13 (3) BUILD-UP METHOD.—

14 (A) IN GENERAL.—The regional value-con-  
15 tent of a good may be calculated on the basis  
16 of the following build-up method:

$$\text{RVC} = \frac{\text{VOM}}{\text{AV}} \times 100$$

17 (B) DEFINITIONS.—In subparagraph (A):

18 (i) RVC.—The term “RVC” means  
19 the regional value-content of the good, ex-  
20 pressed as a percentage.

1 (ii) AV.—The term “AV” means the  
2 adjusted value of the good.

3 (iii) VOM.—The term “VOM” means  
4 the value of originating materials that are  
5 acquired or self-produced, and used by the  
6 producer in the production of the good.

7 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE  
8 GOODS.—

9 (A) IN GENERAL.—For purposes of sub-  
10 section (b)(2), the regional value-content of an  
11 automotive good referred to in Annex 5–A of  
12 the Agreement shall be calculated by the im-  
13 porter, exporter, or producer of the good, on the  
14 basis of the following net cost method:

$$\text{RVC} = \frac{\text{NC-VNM}}{\text{NC}} \times 100$$

15 (B) DEFINITIONS.—In subparagraph (A):

16 (i) AUTOMOTIVE GOOD.—The term  
17 “automotive good” means a good provided  
18 for in any of subheadings 8407.31 through  
19 8407.34, subheading 8408.20, heading  
20 8409, or in any of headings 8701 through  
21 8708.

1 (ii) RVC.—The term “RVC” means  
2 the regional value-content of the auto-  
3 motive good, expressed as a percentage.

4 (iii) NC.—The term “NC” means the  
5 net cost of the automotive good.

6 (iv) VNM.—The term “VNM” means  
7 the value of nonoriginating materials that  
8 are acquired and used by the producer in  
9 the production of the automotive good, but  
10 does not include the value of a material  
11 that is self-produced.

12 (C) MOTOR VEHICLES.—

13 (i) BASIS OF CALCULATION.—For  
14 purposes of determining the regional value-  
15 content under subparagraph (A) for an  
16 automotive good that is a motor vehicle  
17 provided for in any of headings 8701  
18 through 8705, an importer, exporter, or  
19 producer may average the amounts cal-  
20 culated under the formula contained in  
21 subparagraph (A), over the producer’s fis-  
22 cal year—

23 (I) with respect to all motor vehi-  
24 cles in any one of the categories de-  
25 scribed in clause (ii); or

1 (II) with respect to all motor ve-  
2 hicles in any such category that are  
3 exported to the territory of the United  
4 States or Australia.

5 (ii) CATEGORIES.—A category is de-  
6 scribed in this clause if it—

7 (I) is the same model line of  
8 motor vehicles, is in the same class of  
9 vehicles, and is produced in the same  
10 plant in the territory of Australia or  
11 the United States, as the good de-  
12 scribed in clause (i) for which regional  
13 value-content is being calculated;

14 (II) is the same class of motor  
15 vehicles, and is produced in the same  
16 plant in the territory of Australia or  
17 the United States, as the good de-  
18 scribed in clause (i) for which regional  
19 value-content is being calculated; or

20 (III) is the same model line of  
21 motor vehicles produced in either the  
22 territory of Australia or the United  
23 States, as the good described in clause  
24 (i) for which regional value-content is  
25 being calculated.

1           (D) OTHER AUTOMOTIVE GOODS.—For  
2 purposes of determining the regional value-con-  
3 tent under subparagraph (A) for automotive  
4 goods provided for in any of subheadings  
5 8407.31 through 8407.34, in subheading  
6 8408.20, or in heading 8409, 8706, 8707, or  
7 8708, that are produced in the same plant, an  
8 importer, exporter, or producer may—

9           (i) average the amounts calculated  
10 under the formula contained in subpara-  
11 graph (A) over—

12           (I) the fiscal year of the motor  
13 vehicle producer to whom the auto-  
14 motive goods are sold,

15           (II) any quarter or month, or

16           (III) its own fiscal year,

17 if the goods were produced during the fis-  
18 cal year, quarter, or month that is the  
19 basis for the calculation;

20           (ii) determine the average referred to  
21 in clause (i) separately for such goods sold  
22 to one or more motor vehicle producers; or

23           (iii) make a separate determination  
24 under clause (i) or (ii) for automotive

1 goods that are exported to the territory of  
2 the United States or Australia.

3 (E) CALCULATING NET COST.—Consistent  
4 with the provisions regarding allocation of costs  
5 set out in generally accepted accounting prin-  
6 ciples, the net cost of the automotive good  
7 under subparagraph (B) shall be calculated  
8 by—

9 (i) calculating the total cost incurred  
10 with respect to all goods produced by the  
11 producer of the automotive good, sub-  
12 tracting any sales promotion, marketing  
13 and after-sales service costs, royalties,  
14 shipping and packing costs, and nonallow-  
15 able interest costs that are included in the  
16 total cost of all such goods, and then rea-  
17 sonably allocating the resulting net cost of  
18 those goods to the automotive good;

19 (ii) calculating the total cost incurred  
20 with respect to all goods produced by that  
21 producer, reasonably allocating the total  
22 cost to the automotive good, and then sub-  
23 tracting any sales promotion, marketing  
24 and after-sales service costs, royalties,  
25 shipping and packing costs, and nonallow-

1           able interest costs that are included in the  
2           portion of the total cost allocated to the  
3           automotive good; or

4           (iii) reasonably allocating each cost  
5           that forms part of the total cost incurred  
6           with respect to the automotive good so that  
7           the aggregate of these costs does not in-  
8           clude any sales promotion, marketing and  
9           after-sales service costs, royalties, shipping  
10          and packing costs, or nonallowable interest  
11          costs.

12          (f) VALUE OF MATERIALS.—

13           (1) IN GENERAL.—For the purpose of calcu-  
14          lating the regional value-content of a good under  
15          subsection (e), and for purposes of applying the de-  
16          minimis rules under subsection (c), the value of a  
17          material is—

18           (A) in the case of a material that is im-  
19          ported by the producer of the good, the ad-  
20          justed value of the material;

21           (B) in the case of a material acquired in  
22          the territory in which the good is produced, the  
23          value, determined in accordance with Articles 1  
24          through 8, article 15, and the corresponding in-  
25          terpretive notes of the Agreement on Implemen-



1           tation of Article VII of the General Agreement  
2           on Tariffs and Trade 1994 referred to in sec-  
3           tion 101(d)(8) of the Uruguay Round Agree-  
4           ments Act, as set forth in regulations promul-  
5           gated by the Secretary of the Treasury pro-  
6           viding for the application of such Articles in the  
7           absence of an importation; or

8           (C) in the case of a material that is self-  
9           produced, the sum of—

10                   (i) all expenses incurred in the pro-  
11                   duction of the material, including general  
12                   expenses; and

13                   (ii) an amount for profit equivalent to  
14                   the profit added in the normal course of  
15                   trade.

16           (2) FURTHER ADJUSTMENTS TO THE VALUE OF  
17           MATERIALS.—

18           (A) ORIGINATING MATERIAL.—The fol-  
19           lowing expenses, if not included in the value of  
20           an originating material calculated under para-  
21           graph (1), may be added to the value of the  
22           originating material:

23                   (i) The costs of freight, insurance,  
24                   packing, and all other costs incurred in  
25                   transporting the material within or be-

1           tween the territory of Australia, the United  
2           States, or both, to the location of the pro-  
3           ducer.

4           (ii) Duties, taxes, and customs broker-  
5           age fees on the material paid in the terri-  
6           tory of Australia, the United States, or  
7           both, other than duties or taxes that are  
8           waived, refunded, refundable, or otherwise  
9           recoverable, including credit against duty  
10          or tax paid or payable.

11          (iii) The cost of waste and spoilage re-  
12          sulting from the use of the material in the  
13          production of the good, less the value of  
14          renewable scrap or byproducts.

15          (B) NONORIGINATING MATERIAL.—The  
16          following expenses, if included in the value of a  
17          nonoriginating material calculated under para-  
18          graph (1), may be deducted from the value of  
19          the nonoriginating material:

20          (i) The costs of freight, insurance,  
21          packing, and all other costs incurred in  
22          transporting the material within or be-  
23          tween the territory of Australia, the United  
24          States, or both, to the location of the pro-  
25          ducer.

1 (ii) Duties, taxes, and customs broker-  
2 age fees on the material paid in the terri-  
3 tory of Australia, the United States, or  
4 both, other than duties or taxes that are  
5 waived, refunded, refundable, or otherwise  
6 recoverable, including credit against duty  
7 or tax paid or payable.

8 (iii) The cost of waste and spoilage re-  
9 sulting from the use of the material in the  
10 production of the good, less the value of  
11 renewable scrap or byproducts.

12 (iv) The cost of processing incurred in  
13 the territory of Australia, the United  
14 States, or both, in the production of the  
15 nonoriginating material.

16 (v) The cost of originating materials  
17 used in the production of the nonorigi-  
18 nating material in the territory of Aus-  
19 tralia, the United States, or both.

20 (g) ACCESSORIES, SPARE PARTS, OR TOOLS.—

21 (1) IN GENERAL.—Subject to paragraph (2),  
22 accessories, spare parts, or tools delivered with a  
23 good that form part of the good's standard acces-  
24 sories, spare parts, or tools shall—

1 (A) be treated as originating goods if the  
2 good is an originating good; and

3 (B) be disregarded in determining whether  
4 all the nonoriginating materials used in the pro-  
5 duction of the good undergo the applicable  
6 change in tariff classification set out in Annex  
7 5–A of the Agreement.

8 (2) CONDITIONS.—Paragraph (1) shall apply  
9 only if—

10 (A) the accessories, spare parts, or tools  
11 are not invoiced separately from the good;

12 (B) the quantities and value of the acces-  
13 sories, spare parts, or tools are customary for  
14 the good; and

15 (C) if the good is subject to a regional  
16 value-content requirement, the value of the ac-  
17 cessories, spare parts, or tools is taken into ac-  
18 count as originating or nonoriginating mate-  
19 rials, as the case may be, in calculating the re-  
20 gional value-content of the good.

21 (h) FUNGIBLE GOODS AND MATERIALS.—

22 (1) IN GENERAL.—

23 (A) CLAIM FOR PREFERENTIAL TREAT-  
24 MENT.—A person claiming that a fungible good  
25 or fungible material is an originating good may

1 base the claim either on the physical segrega-  
2 tion of the fungible good or fungible material or  
3 by using an inventory management method with  
4 respect to the fungible good or fungible mate-  
5 rial.

6 (B) INVENTORY MANAGEMENT METHOD.—

7 In this subsection, the term “inventory manage-  
8 ment method” means—

- 9 (i) averaging;  
10 (ii) “last-in, first-out”;  
11 (iii) “first-in, first-out”; or  
12 (iv) any other method—

13 (I) recognized in the generally  
14 accepted accounting principles of the  
15 country in which the production is  
16 performed (whether Australia or the  
17 United States); or

18 (II) otherwise accepted by that  
19 country.

20 (2) ELECTION OF INVENTORY METHOD.—A

21 person selecting an inventory management method  
22 under paragraph (1) for a particular fungible good  
23 or fungible material shall continue to use that meth-  
24 od for that fungible good or fungible material  
25 throughout the fiscal year of that person.

1           (i) PACKAGING MATERIALS AND CONTAINERS FOR  
2 RETAIL SALE.—Packaging materials and containers in  
3 which a good is packaged for retail sale, if classified with  
4 the good, shall be disregarded in determining whether all  
5 the nonoriginating materials used in the production of the  
6 good undergo the applicable change in tariff classification  
7 set out in Annex 4–A or Annex 5–A of the Agreement,  
8 and, if the good is subject to a regional value-content re-  
9 quirement, the value of such packaging materials and con-  
10 tainers shall be taken into account as originating or non-  
11 originating materials, as the case may be, in calculating  
12 the regional value-content of the good.

13           (j) PACKING MATERIALS AND CONTAINERS FOR  
14 SHIPMENT.—Packing materials and containers for ship-  
15 ment shall be disregarded in determining whether—

16               (1) the nonoriginating materials used in the  
17               production of a good undergo the applicable change  
18               in tariff classification set out in Annex 4–A or  
19               Annex 5–A of the Agreement; and

20               (2) the good satisfies a regional value-content  
21               requirement.

22           (k) INDIRECT MATERIALS.—An indirect material  
23 shall be treated as an originating material without regard  
24 to where it is produced, and its value shall be the cost

1 registered in the accounting records of the producer of the  
2 good.

3 (l) THIRD COUNTRY OPERATIONS.—A good that has  
4 undergone production necessary to qualify as an origi-  
5 nating good under subsection (b) shall not be considered  
6 to be an originating good if, subsequent to that produc-  
7 tion, the good undergoes further production or any other  
8 operation outside the territory of Australia or the United  
9 States, other than unloading, reloading, or any other oper-  
10 ation necessary to preserve the good in good condition or  
11 to transport the good to the territory of Australia or the  
12 United States.

13 (m) TEXTILE AND APPAREL GOODS CLASSIFIABLE  
14 AS GOODS PUT UP IN SETS.—Notwithstanding the rules  
15 set forth in Annex 4–A of the Agreement, textile or ap-  
16 parel goods classifiable as goods put up in sets for retail  
17 sale as provided for in General Rule of Interpretation 3  
18 of the HTS shall not be considered to be originating goods  
19 unless each of the goods in the set is an originating good  
20 or the total value of the nonoriginating goods in the set  
21 does not exceed 10 percent of the value of the set deter-  
22 mined for purposes of assessing customs duties.

23 (n) DEFINITIONS.—In this section:

24 (1) ADJUSTED VALUE.—The term “adjusted  
25 value” means the value determined under Articles 1

1 through 8, Article 15, and the corresponding inter-  
2 pretive notes of the Agreement on Implementation of  
3 Article VII of the General Agreement on Tariffs and  
4 Trade 1994 referred to in section 101(d)(8) of the  
5 Uruguay Round Agreements Act, adjusted to ex-  
6 clude any costs, charges, or expenses incurred for  
7 transportation, insurance, and related services inci-  
8 dent to the international shipment of the good from  
9 the country of exportation to the place of importa-  
10 tion.

11 (2) CLASS OF MOTOR VEHICLES.—The term  
12 “class of motor vehicles” means any one of the fol-  
13 lowing categories of motor vehicles:

14 (A) Motor vehicles provided for in sub-  
15 heading 8701.20, 8704.10, 8704.22, 8704.23,  
16 8704.32, or 8704.90, or heading 8705 or 8706,  
17 or motor vehicles for the transport of 16 or  
18 more persons provided for in subheading  
19 8702.10 or 8702.90.

20 (B) Motor vehicles provided for in sub-  
21 heading 8701.10 or any of subheadings  
22 8701.30 through 8701.90.

23 (C) Motor vehicles for the transport of 15  
24 or fewer persons provided for in subheading



1           8702.10 or 8702.90, or motor vehicles provided  
2           for in subheading 8704.21 or 8704.31.

3           (D) Motor vehicles provided for in any of  
4           subheadings 8703.21 through 8703.90.

5           (3) FUNGIBLE GOOD OR FUNGIBLE MATE-  
6           RIAL.—The term “fungible good” or “fungible mate-  
7           rial” means a good or material, as the case may be,  
8           that is interchangeable with another good or mate-  
9           rial for commercial purposes and the properties of  
10          which are essentially identical to such other good or  
11          material.

12          (4) GENERALLY ACCEPTED ACCOUNTING PRIN-  
13          CIPLES.—The term “generally accepted accounting  
14          principles” means the recognized consensus or sub-  
15          stantial authoritative support in the territory of Aus-  
16          tralia or the United States, as the case may be, with  
17          respect to the recording of revenues, expenses, costs,  
18          assets, and liabilities, the disclosure of information,  
19          and the preparation of financial statements. These  
20          standards may encompass broad guidelines of gen-  
21          eral application as well as detailed standards, prac-  
22          tices, and procedures.

23          (5) GOOD WHOLLY OBTAINED OR PRODUCED  
24          ENTIRELY IN THE TERRITORY OF AUSTRALIA, THE  
25          UNITED STATES, OR BOTH.—The term “good wholly

1 obtained or produced entirely in the territory of Aus-  
2 tralia, the United States, or both” means—

3 (A) a mineral good extracted in the terri-  
4 tory of Australia, the United States, or both;

5 (B) a vegetable good, as such goods are  
6 provided for in the HTS, harvested in the terri-  
7 tory of Australia, the United States, or both;

8 (C) a live animal born and raised in the  
9 territory of Australia, the United States, or  
10 both;

11 (D) a good obtained from hunting, trap-  
12 ping, fishing, or aquaculture conducted in the  
13 territory of Australia, the United States, or  
14 both;

15 (E) a good (fish, shellfish, and other ma-  
16 rine life) taken from the sea by vessels reg-  
17 istered or recorded with Australia or the United  
18 States and flying the flag of that country;

19 (F) a good produced exclusively from prod-  
20 ucts referred to in subparagraph (E) on board  
21 factory ships registered or recorded with Aus-  
22 tralia or the United States and flying the flag  
23 of that country;

24 (G) a good taken by Australia or the  
25 United States or a person of Australia or the

1 United States from the seabed or beneath the  
2 seabed outside territorial waters, if Australia or  
3 the United States has rights to exploit such  
4 seabed;

5 (H) a good taken from outer space, if such  
6 good is obtained by Australia or the United  
7 States or a person of Australia or the United  
8 States and not processed in the territory of a  
9 country other than Australia or the United  
10 States;

11 (I) waste and scrap derived from—

12 (i) production in the territory of Aus-  
13 tralia, the United States, or both; or

14 (ii) used goods collected in the terri-  
15 tory of Australia, the United States, or  
16 both, if such goods are fit only for the re-  
17 covery of raw materials;

18 (J) a recovered good derived in the terri-  
19 tory of Australia or the United States from  
20 goods that have passed their life expectancy, or  
21 are no longer usable due to defects, and utilized  
22 in the territory of that country in the produc-  
23 tion of remanufactured goods; or

1           (K) a good produced in the territory of  
2           Australia, the United States, or both,  
3           exclusively—

4                   (i) from goods referred to in any of  
5                   subparagraphs (A) through (I), or

6                   (ii) from the derivatives of goods re-  
7                   ferred to in clause (i),  
8           at any stage of production.

9           (6) INDIRECT MATERIAL.—The term “indirect  
10           material” means a good used in the production, test-  
11           ing, or inspection of a good but not physically incor-  
12           porated into the good, or a good used in the mainte-  
13           nance of buildings or the operation of equipment as-  
14           sociated with the production of a good, including—

15                   (A) fuel and energy;

16                   (B) tools, dies, and molds;

17                   (C) spare parts and materials used in the  
18           maintenance of equipment or buildings;

19                   (D) lubricants, greases, compounding ma-  
20           terials, and other materials used in production  
21           or used to operate equipment or buildings;

22                   (E) gloves, glasses, footwear, clothing,  
23           safety equipment, and supplies;

24                   (F) equipment, devices, and supplies used  
25           for testing or inspecting the good;

1 (G) catalysts and solvents; and

2 (H) any other goods that are not incor-  
3 porated into the good but the use of which in  
4 the production of the good can reasonably be  
5 demonstrated to be a part of that production.

6 (7) MATERIAL.—The term “material” means a  
7 good that is used in the production of another good.

8 (8) MATERIAL THAT IS SELF-PRODUCED.—The  
9 term “material that is self-produced” means an orig-  
10 inating material that is produced by a producer of  
11 a good and used in the production of that good.

12 (9) MODEL LINE.—The term “model line”  
13 means a group of motor vehicles having the same  
14 platform or model name.

15 (10) NONALLOWABLE INTEREST COSTS.—The  
16 term “nonallowable interest costs” means interest  
17 costs incurred by a producer that exceed 700 basis  
18 points above the applicable official interest rate for  
19 comparable maturities of the country (whether Aus-  
20 tralia or the United States).

21 (11) NONORIGINATING MATERIAL.—The term  
22 “nonoriginating material” means a material that  
23 does not qualify as originating under this section.

24 (12) PREFERENTIAL TREATMENT.—The term  
25 “preferential treatment” means the customs duty

1 rate, and the treatment under article 2.12 of the  
2 Agreement, that are applicable to an originating  
3 good pursuant to the Agreement.

4 (13) PRODUCER.—The term “producer” means  
5 a person who engages in the production of a good  
6 in the territory of Australia or the United States.

7 (14) PRODUCTION.—The term “production”  
8 means growing, raising, mining, harvesting, fishing,  
9 trapping, hunting, manufacturing, processing, as-  
10 sembling, or disassembling a good.

11 (15) REASONABLY ALLOCATE.—The term “rea-  
12 sonably allocate” means to apportion in a manner  
13 that would be appropriate under generally accepted  
14 accounting principles.

15 (16) RECOVERED GOODS.—The term “recov-  
16 ered goods” means materials in the form of indi-  
17 vidual parts that result from—

18 (A) the complete disassembly of goods  
19 which have passed their life expectancy, or are  
20 no longer usable due to defects, into individual  
21 parts; and

22 (B) the cleaning, inspecting, or testing, or  
23 other processing that is necessary for improve-  
24 ment to sound working condition of such indi-  
25 vidual parts.

1           (17) REMANUFACTURED GOOD.—The term “re-  
2           manufactured good” means an industrial good that  
3           is assembled in the territory of Australia or the  
4           United States, that is classified under chapter 84,  
5           85, or 87 of the HTS or heading 9026, 9031, or  
6           9032, other than a good classified under heading  
7           8418 or 8516 or any of headings 8701 through  
8           8706, and that—

9                   (A) is entirely or partially comprised of re-  
10                   covered goods;

11                   (B) has a similar life expectancy to, and  
12                   meets the same performance standards as, a  
13                   like good that is new; and

14                   (C) enjoys a factory warranty similar to a  
15                   like good that is new.

16           (18) TOTAL COST.—The term “total cost”  
17           means all product costs, period costs, and other  
18           costs for a good incurred in the territory of Aus-  
19           tralia, the United States, or both.

20           (19) USED.—The term “used” means used or  
21           consumed in the production of goods.

22           (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

23                   (1) IN GENERAL.—The President is authorized  
24                   to proclaim, as part of the HTS—

1 (A) the provisions set out in Annex 4–A  
2 and Annex 5–A of the Agreement; and

3 (B) any additional subordinate category  
4 necessary to carry out this title consistent with  
5 the Agreement.

6 (2) MODIFICATIONS.—

7 (A) IN GENERAL.—Subject to the consulta-  
8 tion and layover provisions of section 104, the  
9 President may proclaim modifications to the  
10 provisions proclaimed under the authority of  
11 paragraph (1)(A), other than provisions of  
12 chapters 50 through 63 of the HTS, as in-  
13 cluded in Annex 4–A of the Agreement.

14 (B) ADDITIONAL PROCLAMATIONS.—Not-  
15 withstanding subparagraph (A), and subject to  
16 the consultation and layover provisions of sec-  
17 tion 104, the President may proclaim—

18 (i) modifications to the provisions pro-  
19 claimed under the authority of paragraph  
20 (1)(A) as are necessary to implement an  
21 agreement with Australia pursuant to arti-  
22 cle 4.2.5 of the Agreement; and

23 (ii) before the end of the 1-year period  
24 beginning on the date of the enactment of  
25 this Act, modifications to correct any typo-



1 graphical, clerical, or other nonsubstantive  
2 technical error regarding the provisions of  
3 chapters 50 through 63 of the HTS, as in-  
4 cluded in Annex 4–A of the Agreement.

5 **SEC. 204. CUSTOMS USER FEES.**

6 Section 13031(b) of the Consolidated Omnibus Budg-  
7 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is  
8 amended by adding after paragraph (13) the following:

9 “(14) No fee may be charged under subsection (a)  
10 (9) or (10) with respect to goods that qualify as origi-  
11 nating goods under section 203 of the United States-Aus-  
12 tralia Free Trade Agreement Implementation Act. Any  
13 service for which an exemption from such fee is provided  
14 by reason of this paragraph may not be funded with  
15 money contained in the Customs User Fee Account.”.

16 **SEC. 205. DISCLOSURE OF INCORRECT INFORMATION.**

17 Section 592(c) of the Tariff Act of 1930 (19 U.S.C.  
18 1592(c)) is amended—

19 (1) by redesignating paragraph (8) as para-  
20 graph (9); and

21 (2) by inserting after paragraph (7) the fol-  
22 lowing new paragraph:

23 “(8) PRIOR DISCLOSURE REGARDING CLAIMS  
24 UNDER THE UNITED STATES-AUSTRALIA FREE  
25 TRADE AGREEMENT.—

1           “(A) IN GENERAL.—An importer shall not  
2           be subject to penalties under subsection (a) for  
3           making an incorrect claim that a good qualifies  
4           as an originating good under section 203 of the  
5           United States-Australia Free Trade Agreement  
6           Implementation Act if the importer, in accord-  
7           ance with regulations issued by the Secretary of  
8           the Treasury, voluntarily and promptly makes a  
9           corrected declaration and pays any duties  
10          owing.

11          “(B) TIME PERIODS FOR MAKING CORREC-  
12          TIONS.—In the regulations referred to in sub-  
13          paragraph (A), the Secretary of the Treasury is  
14          authorized to prescribe time periods for making  
15          a corrected declaration and paying duties owing  
16          under subparagraph (A), if such periods are not  
17          shorter than 1 year following the date on which  
18          the importer makes the incorrect claim.”.

19 **SEC. 206. ENFORCEMENT RELATING TO TRADE IN TEXTILE**  
20 **AND APPAREL GOODS.**

21          (a) ACTION DURING VERIFICATION.—

22                (1) IN GENERAL.—If the Secretary of the  
23                Treasury requests the Government of Australia to  
24                conduct a verification pursuant to article 4.3 of the  
25                Agreement for purposes of making a determination

1 under paragraph (2), the President may direct the  
2 Secretary to take appropriate action described in  
3 subsection (b) while the verification is being con-  
4 ducted.

5 (2) DETERMINATION.—A determination under this  
6 paragraph is a determination—

7 (A) that an exporter or producer in Aus-  
8 tralia is complying with applicable customs  
9 laws, regulations, procedures, requirements, or  
10 practices affecting trade in textile or apparel  
11 goods; or

12 (B) that a claim that a textile or apparel  
13 good exported or produced by such exporter or  
14 producer—

15 (i) qualifies as an originating good  
16 under section 203 of this Act; or

17 (ii) is a good of Australia,  
18 is accurate.

19 (b) APPROPRIATE ACTION DESCRIBED.—Appropriate  
20 action under subsection (a)(1) includes—

21 (1) suspension of liquidation of the entry of any  
22 textile or apparel good exported or produced by the  
23 person that is the subject of a verification under  
24 subsection (a)(1) regarding compliance described in  
25 subsection (a)(2)(A), in a case in which the request

1 for verification was based on a reasonable suspicion  
2 of unlawful activity related to such goods; and

3 (2) suspension of liquidation of the entry of a  
4 textile or apparel good for which a claim has been  
5 made that is the subject of a verification under sub-  
6 section (a)(1) regarding a claim described in sub-  
7 section (a)(2)(B).

8 (c) ACTION WHEN INFORMATION IS INSUFFI-  
9 CIENT.—If the Secretary of the Treasury determines that  
10 the information obtained within 12 months after making  
11 a request for a verification under subsection (a)(1) is in-  
12 sufficient to make a determination under subsection  
13 (a)(2), the President may direct the Secretary to take ap-  
14 propriate action described in subsection (d) until such  
15 time as the Secretary receives information sufficient to  
16 make a determination under subsection (a)(2) or until  
17 such earlier date as the President may direct.

18 (d) APPROPRIATE ACTION DESCRIBED.—Appro-  
19 priate action referred to in subsection (c) includes—

20 (1) publication of the name and address of the  
21 person that is the subject of the verification;

22 (2) denial of preferential tariff treatment under  
23 the Agreement to—

24 (A) any textile or apparel good exported or  
25 produced by the person that is the subject of a

1 verification under subsection (a)(1) regarding  
2 compliance described in subsection (a)(2)(A); or

3 (B) a textile or apparel good for which a  
4 claim has been made that is the subject of a  
5 verification under subsection (a)(1) regarding a  
6 claim described in subsection (a)(2)(B); and

7 (3) denial of entry into the United States of—

8 (A) any textile or apparel good exported or  
9 produced by the person that is the subject of a  
10 verification under subsection (a)(1) regarding  
11 compliance described in subsection (a)(2)(A); or

12 (B) a textile or apparel good for which a  
13 claim has been made that is the subject of a  
14 verification under subsection (a)(1) regarding a  
15 claim described in subsection (a)(2)(B).

16 **SEC. 207. REGULATIONS.**

17 The Secretary of the Treasury shall prescribe such  
18 regulations as may be necessary to carry out—

19 (1) subsections (a) through (n) of section 203  
20 and section 204;

21 (2) amendments to existing law made by the  
22 sections referred to in paragraph (1); and

23 (3) proclamations issued under section 203(o).

# **TITLE III—RELIEF FROM IMPORTS**

## **SEC. 301. DEFINITIONS.**

As used in this title:

(1) AUSTRALIAN ARTICLE.—The term “Australian article” means an article that qualifies as an originating good under section 203(b) of this Act.

(2) AUSTRALIAN TEXTILE OR APPAREL ARTICLE.—The term “Australian textile or apparel article” means an article—

(A) that is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

(B) that is an Australian article.

(3) COMMISSION.—The term “Commission” means the United States International Trade Commission.

## **Subtitle A—Relief From Imports Benefiting From the Agreement**

### **SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

(a) FILING OF PETITION.—

(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the

1 Agreement may be filed with the Commission by an  
2 entity, including a trade association, firm, certified  
3 or recognized union, or group of workers, that is  
4 representative of an industry. The Commission shall  
5 transmit a copy of any petition filed under this sub-  
6 section to the United States Trade Representative.

7 (2) PROVISIONAL RELIEF.—An entity filing a  
8 petition under this subsection may request that pro-  
9 visional relief be provided as if the petition had been  
10 filed under section 202(a) of the Trade Act of 1974  
11 (19 U.S.C. 2252(a)).

12 (3) CRITICAL CIRCUMSTANCES.—Any allegation  
13 that critical circumstances exist shall be included in  
14 the petition.

15 (b) INVESTIGATION AND DETERMINATION.—Upon  
16 the filing of a petition under subsection (a), the Commis-  
17 sion, unless subsection (d) applies, shall promptly initiate  
18 an investigation to determine whether, as a result of the  
19 reduction or elimination of a duty provided for under the  
20 Agreement, an Australian article is being imported into  
21 the United States in such increased quantities, in absolute  
22 terms or relative to domestic production, and under such  
23 conditions that imports of the Australian article constitute  
24 a substantial cause of serious injury or threat thereof to

1 the domestic industry producing an article that is like, or  
2 directly competitive with, the imported article.

3 (c) APPLICABLE PROVISIONS.—The following provi-  
4 sions of section 202 of the Trade Act of 1974 (19 U.S.C.  
5 2252) apply with respect to any investigation initiated  
6 under subsection (b):

7 (1) Paragraphs (1)(B) and (3) of subsection  
8 (b).

9 (2) Subsection (c).

10 (3) Subsection (d).

11 (4) Subsection (i).

12 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No  
13 investigation may be initiated under this section with re-  
14 spect to any Australian article if, after the date on which  
15 the Agreement enters into force, import relief has been  
16 provided with respect to that Australian article under this  
17 subtitle.

18 **SEC. 312. COMMISSION ACTION ON PETITION.**

19 (a) DETERMINATION.—Not later than 120 days (180  
20 days if critical circumstances have been alleged) after the  
21 date on which an investigation is initiated under section  
22 311(b) with respect to a petition, the Commission shall  
23 make the determination required under that section.

24 (b) APPLICABLE PROVISIONS.—For purposes of this  
25 subtitle, the provisions of paragraphs (1), (2), and (3) of



1 section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
2 1330(d) (1), (2), and (3)) shall be applied with respect  
3 to determinations and findings made under this section  
4 as if such determinations and findings were made under  
5 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

6 (c) ADDITIONAL FINDING AND RECOMMENDATION IF  
7 DETERMINATION AFFIRMATIVE.—If the determination  
8 made by the Commission under subsection (a) with respect  
9 to imports of an article is affirmative, or if the President  
10 may consider a determination of the Commission to be an  
11 affirmative determination as provided for under paragraph  
12 (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
13 1330(d)), the Commission shall find, and recommend to  
14 the President in the report required under subsection (d),  
15 the amount of import relief that is necessary to remedy  
16 or prevent the injury found by the Commission in the de-  
17 termination and to facilitate the efforts of the domestic  
18 industry to make a positive adjustment to import competi-  
19 tion. The import relief recommended by the Commission  
20 under this subsection shall be limited to that described in  
21 section 313(c). Only those members of the Commission  
22 who voted in the affirmative under subsection (a) are eligi-  
23 ble to vote on the proposed action to remedy or prevent  
24 the injury found by the Commission. Members of the Com-  
25 mission who did not vote in the affirmative may submit,

1 in the report required under subsection (d), separate views  
2 regarding what action, if any, should be taken to remedy  
3 or prevent the injury.

4 (d) REPORT TO PRESIDENT.—Not later than the  
5 date that is 30 days after the date on which a determina-  
6 tion is made under subsection (a) with respect to an inves-  
7 tigation, the Commission shall submit to the President a  
8 report that includes—

9 (1) the determination made under subsection  
10 (a) and an explanation of the basis for the deter-  
11 mination;

12 (2) if the determination under subsection (a) is  
13 affirmative, any findings and recommendations for  
14 import relief made under subsection (c) and an ex-  
15 planation of the basis for each recommendation; and

16 (3) any dissenting or separate views by mem-  
17 bers of the Commission regarding the determination  
18 and recommendation referred to in paragraphs (1)  
19 and (2).

20 (e) PUBLIC NOTICE.—Upon submitting a report to  
21 the President under subsection (d), the Commission shall  
22 promptly make public such report (with the exception of  
23 information which the Commission determines to be con-  
24 fidential) and shall cause a summary thereof to be pub-  
25 lished in the Federal Register.

1 **SEC. 313. PROVISION OF RELIEF.**

2 (a) IN GENERAL.—Not later than the date that is  
3 30 days after the date on which the President receives the  
4 report of the Commission in which the Commission’s de-  
5 termination under section 312(a) is affirmative, or which  
6 contains a determination under section 312(a) that the  
7 President considers to be affirmative under paragraph (1)  
8 of section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
9 1330(d)(1)), the President, subject to subsection (b), shall  
10 provide relief from imports of the article that is the subject  
11 of such determination to the extent that the President de-  
12 termines necessary to remedy or prevent the injury found  
13 by the Commission and to facilitate the efforts of the do-  
14 mestic industry to make a positive adjustment to import  
15 competition.

16 (b) EXCEPTION.—The President is not required to  
17 provide import relief under this section if the President  
18 determines that the provision of the import relief will not  
19 provide greater economic and social benefits than costs.

20 (c) NATURE OF RELIEF.—

21 (1) IN GENERAL.—The import relief (including  
22 provisional relief) that the President is authorized to  
23 provide under this section with respect to imports of  
24 an article is as follows:

1 (A) The suspension of any further reduc-  
2 tion provided for under Annex 2–B of the  
3 Agreement in the duty imposed on such article.

4 (B) An increase in the rate of duty im-  
5 posed on such article to a level that does not  
6 exceed the lesser of—

7 (i) the column 1 general rate of duty  
8 imposed under the HTS on like articles at  
9 the time the import relief is provided; or

10 (ii) the column 1 general rate of duty  
11 imposed under the HTS on like articles on  
12 the day before the date on which the  
13 Agreement enters into force.

14 (C) In the case of a duty applied on a sea-  
15 sonal basis to such article, an increase in the  
16 rate of duty imposed on the article to a level  
17 that does not exceed the lesser of—

18 (i) the column 1 general rate of duty  
19 imposed under the HTS on like articles for  
20 the immediately preceding corresponding  
21 season; or

22 (ii) the column 1 general rate of duty  
23 imposed under the HTS on like articles on  
24 the day before the date on which the  
25 Agreement enters into force.

1           (2) PROGRESSIVE LIBERALIZATION.—If the pe-  
2           riod for which import relief is provided under this  
3           section is greater than 1 year, the President shall  
4           provide for the progressive liberalization (described  
5           in article 9.2.7 of the Agreement) of such relief at  
6           regular intervals during the period in which the re-  
7           lief is in effect.

8           (d) PERIOD OF RELIEF.—

9           (1) IN GENERAL.—Subject to paragraph (2),  
10          any import relief that the President provides under  
11          this section may not be in effect for more than 2  
12          years.

13          (2) EXTENSION.—

14                (A) IN GENERAL.—Subject to subpara-  
15                graph (C), the President, after receiving an af-  
16                firmative determination from the Commission  
17                under subparagraph (B), may extend the effec-  
18                tive period of any import relief provided under  
19                this section if the President determines that—

20                       (i) the import relief continues to be  
21                       necessary to remedy or prevent serious in-  
22                       jury and to facilitate adjustment by the do-  
23                       mestic industry to import competition; and

1                   (ii) there is evidence that the industry  
2                   is making a positive adjustment to import  
3                   competition.

4                   (B) ACTION BY COMMISSION.—(i) Upon a  
5                   petition on behalf of the industry concerned  
6                   that is filed with the Commission not earlier  
7                   than the date which is 9 months, and not later  
8                   than the date which is 6 months, before the  
9                   date any action taken under subsection (a) is to  
10                  terminate, the Commission shall conduct an in-  
11                  vestigation to determine whether action under  
12                  this section continues to be necessary to remedy  
13                  or prevent serious injury and whether there is  
14                  evidence that the industry is making a positive  
15                  adjustment to import competition.

16                  (ii) The Commission shall publish notice of  
17                  the commencement of any proceeding under  
18                  this subparagraph in the Federal Register and  
19                  shall, within a reasonable time thereafter, hold  
20                  a public hearing at which the Commission shall  
21                  afford interested parties and consumers an op-  
22                  portunity to be present, to present evidence,  
23                  and to respond to the presentations of other  
24                  parties and consumers, and otherwise to be  
25                  heard.

1           (iii) The Commission shall transmit to the  
2           President a report on its investigation and de-  
3           termination under this subparagraph not later  
4           than 60 days before the action under subsection  
5           (a) is to terminate, unless the President speci-  
6           fies a different date.

7           (C) PERIOD OF IMPORT RELIEF.—Any im-  
8           port relief provided under this section, including  
9           any extensions thereof, may not, in the aggre-  
10          gate, be in effect for more than 4 years.

11          (e) RATE AFTER TERMINATION OF IMPORT RE-  
12          LIEF.—When import relief under this section is termi-  
13          nated with respect to an article—

14               (1) the rate of duty on that article after such  
15               termination and on or before December 31 of the  
16               year in which such termination occurs shall be the  
17               rate that, according to the Schedule of the United  
18               States to Annex 2–B of the Agreement for the  
19               staged elimination of the tariff, would have been in  
20               effect 1 year after the provision of relief under sub-  
21               section (a); and

22               (2) the rate of duty for that article after De-  
23               cember 31 of the year in which termination occurs  
24               shall be, at the discretion of the President, either—

1 (A) the applicable NTR (MFN) rate of  
2 duty for that article set out in the Schedule of  
3 the United States to Annex 2–B of the Agree-  
4 ment; or

5 (B) the rate of duty resulting from the  
6 elimination of the tariff in equal annual stages  
7 ending on the date set out in the Schedule of  
8 the United States to Annex 2–B of the Agree-  
9 ment for the elimination of the tariff.

10 (f) ARTICLES EXEMPT FROM RELIEF.—No import  
11 relief may be provided under this section on any article  
12 that—

13 (1) is subject to—

14 (A) import relief under subtitle B; or

15 (B) an assessment of additional duty  
16 under subsection (b), (c), or (d) of section 202;  
17 or

18 (2) has been subject to import relief under this  
19 subtitle after the date on which the Agreement en-  
20 ters into force.

21 **SEC. 314. TERMINATION OF RELIEF AUTHORITY.**

22 (a) GENERAL RULE.—Subject to subsection (b), no  
23 import relief may be provided under this subtitle after the  
24 date that is 10 years after the date on which the Agree-  
25 ment enters into force.



1           (b) EXCEPTION.—If an article for which relief is pro-  
2 vided under this subtitle is an article for which the period  
3 for tariff elimination, set out in the Schedule of the United  
4 States to Annex 2–B of the Agreement, is greater than  
5 10 years, no relief under this subtitle may be provided for  
6 that article after the date on which such period ends.

7           (c) PRESIDENTIAL DETERMINATION.—Import relief  
8 may be provided under this subtitle in the case of an Aus-  
9 tralian article after the date on which such relief would,  
10 but for this subsection, terminate under subsection (a) or  
11 (b), if the President determines that Australia has con-  
12 sented to such relief.

13 **SEC. 315. COMPENSATION AUTHORITY.**

14           For purposes of section 123 of the Trade Act of 1974  
15 (19 U.S.C. 2133), any import relief provided by the Presi-  
16 dent under section 313 shall be treated as action taken  
17 under chapter 1 of title II of such Act.

18 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

19           Section 202(a)(8) of the Trade Act of 1974 (19  
20 U.S.C. 2252(a)(8)) is amended in the first sentence—

21                   (1) by striking “and”; and

22                   (2) by inserting before the period at the end “,  
23 and title III of the United States-Australia Free  
24 Trade Agreement Implementation Act”.

1       **Subtitle B—Textile and Apparel**  
2                   **Safeguard Measures**

3       **SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.**

4           (a) IN GENERAL.—A request under this subtitle for  
5 the purpose of adjusting to the obligations of the United  
6 States under the Agreement may be filed with the Presi-  
7 dent by an interested party. Upon the filing of a request,  
8 the President shall review the request to determine, from  
9 information presented in the request, whether to com-  
10 mence consideration of the request.

11          (b) ALLEGATION OF CRITICAL CIRCUMSTANCES.—An  
12 interested party filing a request under this section may—

13               (1) allege that critical circumstances exist such  
14 that delay in the provision of relief would cause  
15 damage that would be difficult to repair; and

16               (2) based on such allegation, request that relief  
17 be provided on a provisional basis.

18          (c) PUBLICATION OF REQUEST.—If the President de-  
19 termines that the request under subsection (a) provides  
20 the information necessary for the request to be considered,  
21 the President shall cause to be published in the Federal  
22 Register a notice of commencement of consideration of the  
23 request, and notice seeking public comments regarding the  
24 request. The notice shall include a summary of the request

1 and the dates by which comments and rebuttals must be  
2 received.

3 **SEC. 322. DETERMINATION AND PROVISION OF RELIEF.**

4 (a) DETERMINATION.—

5 (1) IN GENERAL.—If a positive determination is  
6 made under section 321(c), the President shall de-  
7 termine whether, as a result of the reduction or  
8 elimination of a duty under the Agreement, an Aus-  
9 tralian textile or apparel article is being imported  
10 into the United States in such increased quantities,  
11 in absolute terms or relative to the domestic market  
12 for that article, and under such conditions as to  
13 cause serious damage, or actual threat thereof, to a  
14 domestic industry producing an article that is like,  
15 or directly competitive with, the imported article.

16 (2) SERIOUS DAMAGE.—In making a deter-  
17 mination under paragraph (1), the President—

18 (A) shall examine the effect of increased  
19 imports on the domestic industry, as reflected  
20 in changes in such relevant economic factors as  
21 output, productivity, utilization of capacity, in-  
22 ventories, market share, exports, wages, em-  
23 ployment, domestic prices, profits, and invest-  
24 ment, none of which is necessarily decisive; and

1           (B) shall not consider changes in tech-  
2           nology or consumer preference as factors sup-  
3           porting a determination of serious damage or  
4           actual threat thereof.

5           (b) PROVISION OF RELIEF.—

6           (1) IN GENERAL.—If a determination under  
7           subsection (a) is affirmative, the President may pro-  
8           vide relief from imports of the article that is the  
9           subject of such determination, as described in para-  
10          graph (2), to the extent that the President deter-  
11          mines necessary to remedy or prevent the serious  
12          damage and to facilitate adjustment by the domestic  
13          industry to import competition.

14          (2) NATURE OF RELIEF.—The relief that the  
15          President is authorized to provide under this sub-  
16          section with respect to imports of an article is an in-  
17          crease in the rate of duty imposed on the article to  
18          a level that does not exceed the lesser of—

19                (A) the column 1 general rate of duty im-  
20                posed under the HTS on like articles at the  
21                time the import relief is provided; or

22                (B) the column 1 general rate of duty im-  
23                posed under the HTS on like articles on the  
24                day before the date on which the Agreement en-  
25                ters into force.

1 (c) CRITICAL CIRCUMSTANCES.—

2 (1) PRESIDENTIAL DETERMINATION.—When a  
3 request filed under section 321(a) contains an alle-  
4 gation of critical circumstances and a request for  
5 provisional relief under section 321(b), the President  
6 shall, not later than 60 days after the request is  
7 filed, determine, on the basis of available informa-  
8 tion, whether—

9 (A) there is clear evidence that—

10 (i) imports from Australia have in-  
11 creased as the result of the reduction or  
12 elimination of a customs duty under the  
13 Agreement; and

14 (ii) such imports are causing serious  
15 damage, or actual threat thereof, to the  
16 domestic industry producing an article like  
17 or directly competitive with the imported  
18 article; and

19 (B) delay in taking action under this sub-  
20 title would cause damage to that industry that  
21 would be difficult to repair.

22 (2) EXTENT OF PROVISIONAL RELIEF.—If the  
23 determinations under subparagraphs (A) and (B) of  
24 paragraph (1) are affirmative, the President shall  
25 determine the extent of provisional relief that is nec-

1        essary to remedy or prevent the serious damage. The  
2        nature of the provisional relief available shall be the  
3        relief described in subsection (b)(2). Within 30 days  
4        after making affirmative determinations under sub-  
5        paragraphs (A) and (B) of paragraph (1), the Presi-  
6        dent, if the President considers provisional relief to  
7        be warranted, shall provide, for a period not to ex-  
8        ceed 200 days, such provisional relief that the Presi-  
9        dent considers necessary to remedy or prevent the  
10       serious damage.

11            (3) SUSPENSION OF LIQUIDATION.—If provi-  
12        sional relief is provided under paragraph (2), the  
13        President shall order the suspension of liquidation of  
14        all imported articles subject to the affirmative deter-  
15        minations under subparagraphs (A) and (B) of para-  
16        graph (1) that are entered, or withdrawn from ware-  
17        house for consumption, on or after the date of the  
18        determinations.

19            (4) TERMINATION OF PROVISIONAL RELIEF.—

20            (A) IN GENERAL.—Any provisional relief  
21        implemented under this subsection with respect  
22        to an imported article shall terminate on the  
23        day on which—

24            (i) the President makes a negative de-  
25        termination under subsection (a) regarding

1                   serious damage or actual threat thereof by  
2                   imports of such article;

3                   (ii) action described in subsection (b)  
4                   takes effect with respect to such article;

5                   (iii) a decision by the President not to  
6                   take any action under subsection (b) with  
7                   respect to such article becomes final; or

8                   (iv) the President determines that, be-  
9                   cause of changed circumstances, such relief  
10                  is no longer warranted.

11                  (B) SUSPENSION OF LIQUIDATION.—Any  
12                  suspension of liquidation ordered under para-  
13                  graph (3) with respect to an imported article  
14                  shall terminate on the day on which provisional  
15                  relief is terminated under subparagraph (A)  
16                  with respect to the article.

17                  (C) RATES OF DUTY.—If an increase in, or  
18                  the imposition of, a duty that is provided under  
19                  subsection (b) on an imported article is dif-  
20                  ferent from a duty increase or imposition that  
21                  was provided for such an article under this sub-  
22                  section, then the entry of any such article for  
23                  which liquidation was suspended under para-  
24                  graph (3) shall be liquidated at whichever of  
25                  such rates of duty is lower.

1           (D) RATE OF DUTY IF PROVISIONAL RE-  
2           LIEF.—If provisional relief is provided under  
3           this subsection with respect to an imported arti-  
4           cle and neither a duty increase nor a duty im-  
5           position is provided under subsection (b) for  
6           such article, the entry of any such article for  
7           which liquidation was suspended under para-  
8           graph (3) shall be liquidated at the rate of duty  
9           that applied before the provisional relief was  
10          provided.

11 **SEC. 323. PERIOD OF RELIEF.**

12          (a) IN GENERAL.—Subject to subsection (b), the im-  
13          port relief that the President provides under subsections  
14          (b) and (c) of section 322 may not, in the aggregate, be  
15          in effect for more than 2 years.

16          (b) EXTENSION.—

17               (1) IN GENERAL.—Subject to paragraph (2),  
18          the President may extend the effective period of any  
19          import relief provided under this subtitle for a pe-  
20          riod of not more than 2 years, if the President de-  
21          termines that—

22                       (A) the import relief continues to be nec-  
23                       essary to remedy or prevent serious damage  
24                       and to facilitate adjustment by the domestic in-  
25                       dustry to import competition; and



1           (B) there is evidence that the industry is  
2           making a positive adjustment to import com-  
3           petition.

4           (2) LIMITATION.—Any relief provided under  
5           this subtitle, including any extensions thereof, may  
6           not, in the aggregate, be in effect for more than 4  
7           years.

8 **SEC. 324. ARTICLES EXEMPT FROM RELIEF.**

9           The President may not provide import relief under  
10          this subtitle with respect to any article if—

11           (1) import relief previously has been provided  
12          under this subtitle with respect to that article; or

13           (2) the article is subject to import relief  
14          under—

15           (A) subtitle A; or

16           (B) chapter 1 of title II of the Trade Act  
17          of 1974 (19 U.S.C. 2251 et seq.).

18 **SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.**

19          When import relief under this subtitle is terminated  
20          with respect to an article, the rate of duty on that article  
21          shall be the rate that would have been in effect, but for  
22          the provision of such relief, on the date the relief termi-  
23          nates.

1 **SEC. 326. TERMINATION OF RELIEF AUTHORITY.**

2 No import relief may be provided under this subtitle  
3 with respect to any article after the date that is 10 years  
4 after the date on which duties on the article are eliminated  
5 pursuant to the Agreement.

6 **SEC. 327. COMPENSATION AUTHORITY.**

7 For purposes of section 123 of the Trade Act of 1974  
8 (19 U.S.C. 2133), any import relief provided by the Presi-  
9 dent under this subtitle shall be treated as action taken  
10 under chapter 1 of title II of such Act.

11 **SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.**

12 The President may not release information which is  
13 submitted in a proceeding under this subtitle and which  
14 the President considers to be confidential business infor-  
15 mation unless the party submitting the confidential busi-  
16 ness information had notice, at the time of submission,  
17 that such information would be released, or such party  
18 subsequently consents to the release of the information.  
19 To the extent a party submits confidential business infor-  
20 mation to the President in a proceeding under this sub-  
21 title, the party also shall submit a nonconfidential version  
22 of the information, in which the confidential business in-  
23 formation is summarized or, if necessary, deleted.

1 **Subtitle C—Cases Under Title II of**  
2 **the Trade Act of 1974**

3 **SEC. 331. FINDINGS AND ACTION ON GOODS FROM AUS-**  
4 **TRALIA.**

5 (a) EFFECT OF IMPORTS.—If, in any investigation  
6 initiated under chapter 1 of title II of the Trade Act of  
7 1974 (19 U.S.C. 2251 et seq.), the Commission makes an  
8 affirmative determination (or a determination which the  
9 President may treat as an affirmative determination under  
10 such chapter by reason of section 330(d) of the Tariff Act  
11 of 1930), the Commission shall also find (and report to  
12 the President at the time such injury determination is sub-  
13 mitted to the President) whether imports of the article  
14 from Australia are a substantial cause of serious injury  
15 or threat thereof.

16 (b) PRESIDENTIAL DETERMINATION REGARDING  
17 AUSTRALIAN IMPORTS.—In determining the nature and  
18 extent of action to be taken under chapter 1 of title II  
19 of the Trade Act of 1974, the President shall determine  
20 whether imports from Australia are a substantial cause  
21 of the serious injury or threat thereof found by the Com-  
22 mission and, if such determination is in the negative, may  
23 exclude from such action imports from Australia.

1           **TITLE IV—PROCUREMENT**

2   **SEC. 401. ELIGIBLE PRODUCTS.**

3           Section 308(4)(A) of the Trade Agreements Act of  
4 1979 (19 U.S.C. 2518(4)(A)) is amended—

5           (1) by striking “or” at the end of clause (i);

6           (2) by striking the period at the end of clause  
7 (ii) and inserting “; or”; and

8           (3) by adding at the end the following new  
9 clause:

10                           “(iii) a party to a free trade agree-  
11                           ment that entered into force with respect  
12                           to the United States after December 31,  
13                           2003, and before January 2, 2005, a prod-  
14                           uct or service of that country or instru-  
15                           mentality which is covered under the free  
16                           trade agreement for procurement by the  
17                           United States.”.

Passed the House of Representatives July 14, 2004.

Attest:

*Clerk.*