(b) The Board shall perform such functions as are required by Section 411 of the Act [section 2441 of this title] and such other functions as the President may direct.

(c) The Board is authorized to promulgate such rules and regulations as are necessary or appropriate to carry out its responsibilities under the Act [this chapter] and this Order.

(d) The Secretary of State shall advise the President with respect to determinations required to be made in connection with Sections 402 and 409 of the Act (dealing with freedom of emigration) [sections 2432 and 2439 of this title] and Section 403 (dealing with United States personnel missing in action in Southeast Asia) [section 2433 of this title], and shall prepare, for the President's transmission to Congress, the reports and other documents required by Sections 402 and 409 of the Act.

(e) The President's Committee on East-West Trade Policy, established by Executive Order No. 11789 of June 25, 1974, as amended by Section 6(d) of Executive Order No. 11808 of September 30, 1974, is abolished and all of its records are transferred to the Board.

SEC. 8. *Generalized System of Preferences.*

(a) The Special Representative [now Trade Representative], in consultation with the Secretary of State, shall be responsible for the administration of the generalized system of preferences under Title V of the Act [section 2461 et seq. of this title].

(b) The Committee, through the Special Representative [now Trade Representative], shall advise the President as to which countries should be designated as beneficiary developing countries, and as to which articles should be designated as eligible articles for the purposes of the system of generalized preferences.

(c) The Committee, through the Special Representative [now Trade Representative], shall perform the functions of the President specified in Section 503(a) of the Act [section 2463(a) of this title], with respect to publishing and furnishing to the International Trade Commission lists of articles that may be considered for designation as eligible articles for purposes of the Generalized System of Preferences.

(d) The Committee, through the Special Representative [now Trade Representative], to the extent necessary to determine the applicability of the provisions of Section 504(d) of the Act [section 2464(d) of this title] to any eligible article, shall perform the functions of the President under Section 332(g) of the Tariff Act of 1930, as amended [section 1332(g) of this title], with respect to requests for investigations by, and reports from, the International Trade Commission.

SEC. 9. *Prior Executive Orders.*

(a) Executive Order No. 11789 of June 25, 1974, and Section 6(d) of Executive Order No. 11808 of September 30, 1974, relating to the President's Committee on East-West Trade Policy are hereby revoked.

(b)(1) Sections 5(b), 7, and 8 of Executive Order No. 11075 of January 15, 1963, are hereby revoked effective April 3, 1975; (2) the remainder of Executive Order No. 11075, and Executive Order No. 11106 of April 18, 1963 and Executive Order No. 11113 of June 13, 1963, are hereby revoked.

§ 2112. Barriers to and other distortions of trade

(a) Congressional findings; directives; disavowal of prior approval of legislation

The Congress finds that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of United States agriculture, industry, mining, and commerce, diminishing the intended mutual benefits of reciprocal trade concessions, adversely affecting the United States economy, preventing fair and equitable access to supplies, and preventing the development of open and nondiscriminatory trade among nations. The President is urged to take all appropriate and feasible steps within his power (including the full exercise of the rights of the United States under international agreements) to harmonize, reduce, or eliminate such barriers to (and other distortions of) international trade. The President is further urged to utilize the authority granted by subsection (b) to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the harmonization, reduction, or elimination of such barriers to (and other distortions of) international trade. Nothing in this subsection shall be construed as prior approval of any legislation which may be necessary to implement an agreement concerning barriers to (or other distortions of) international trade.

(b) Presidential determinations prerequisite to entry into trade agreements; trade with Israel

(1) Whenever the President determines that any barriers to (or other distortions of) international trade of any foreign country or the United States unduly burden and restrict the foreign trade of the United States or adversely affect the United States economy, or that the imposition of such barriers is likely to result in such a burden, restriction, or effect, and that the purposes of this chapter will be promoted thereby, the President, during the 13-year period beginning on January 3, 1975, may enter into trade agreements with foreign countries or instrumentalities providing for the harmonization, reduction, or elimination of such barriers (or other distortions) or providing for the prohibition of or limitations on the imposition of such barriers (or other distortions).

(2)(A) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel.

(B) The negotiation of any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States shall take fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country if the tariff preference on such product has been the subject of a challenge by the United States Government under the authority of section 2411 of this title and the General Agreement on Tariffs and Trade.

(C) Notwithstanding any other provision of this section, the requirements of subsections (c) and (e)(1) shall not apply to any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States.

(3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country that provides for the elimination or reduction of any duty imposed by the United States.

(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United

States may be entered into under paragraph (1) with any country other than Israel if—

(i) such country requested the negotiation of such an agreement, and

(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

(II) consults with such committees regarding the negotiation of such agreement.

(B) The provisions of section 2191 of this title shall not apply to an implementing bill (within the meaning of section 2191(b) of this title) if—

(i) such implementing bill contains a provision approving of any trade agreement which—

(I) is entered into under this section with any country other than Israel, and

(II) provides for the elimination or reduction of any duty imposed by the United States, and

(ii) either—

(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subparagraph (A)(ii)(I) with respect to the negotiation of such agreement.

(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.

(c) Presidential consultation with Congress prior to entry into trade agreements

Before the President enters into any trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and with each committee of the House and the Senate and each joint committee of the Congress which has jurisdiction over legislation involving subject matters which would be affected by such trade agreement. Such consultation shall include all matters relating to the implementation of such trade agreement as provided in subsections (d) and (e). If it is proposed to implement such trade agreement, together with one or more other trade agreements entered into under this section, in a single implementing bill, such consultation shall include the desirability and feasibility of such proposed implementation.

(d) Submission to Congress of agreements, drafts of implementing bills, and statements of proposed administrative action

Whenever the President enters into a trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall submit such agreement, together with a draft of an implementing bill (described in section 2191(b) of this title) and a statement of any administrative action proposed to implement such agreement, to the Congress as provided in subsection (e), and such agreement shall enter into force with respect to the United States only if the provisions of subsection (e) are complied with and the implementing bill submitted by the President is enacted into law.

(e) Steps prerequisite to entry into force of trade agreements

Each trade agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 90 days before the day on which he enters into such trade agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits a document to the House of Representatives and to the Senate containing a copy of the final legal text of such agreement together with—

(A) a draft of an implementing bill and a statement of any administrative action proposed to implement such agreement, and an explanation as to how the implementing bill and proposed administrative action change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interests of United States commerce and as to why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement; and

(3) the implementing bill is enacted into law.

(f) Obligations imposed upon foreign countries or instrumentalities receiving benefits under trade agreements

To insure that a foreign country or instrumentality which receives benefits under a trade agreement entered into under this section is subject to the obligations imposed by such agreement, the President may recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(g) Definitions

For purposes of this section—

(1) the term ''barrier'' includes—

(A) the American selling price basis of customs evaluation as defined in section 1401a or 1402 of this title, as appropriate, and

(B) any duty or other import restriction;

(2) the term ''distortion'' includes a subsidy; and

(3) the term ''international trade'' includes—

(A) trade in both goods and services, and

(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

(Pub. L. 93–618, title I, § 102, Jan. 3, 1975, 88 Stat. 1982; Pub. L. 96–39, title XI, §§ 1101, 1106(c)(1), July 26, 1979, 93 Stat. 307, 311; Pub. L. 98–573, title III, § 307(a), title IV, § 401(a)–(c)(1), Oct. 30, 1984, 98 Stat. 3012, 3013–3015; Pub. L. 99–47, § 8(b)(1), June 11, 1985, 99 Stat. 84; Pub. L. 99–514, title XVIII, § 1887(a)(1), Oct. 22, 1986, 100 Stat. 2923.)

Editorial Notes

References in Text

This chapter, referred to in subsec. (b)(1), was in the original ''this Act'', meaning Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

Section 1402 of this title, referred to in subsec. (g)(1)(A), was repealed by Pub. L. 96–39.

Amendments

1986—Subsec. (b)(4)(B)(ii)(II). Pub. L. 99–514 substituted ''subparagraph'' for ''subsection''.

1985—Subsec. (b)(3). Pub. L. 99–47 inserted ''that provides for the elimination or reduction of any duty imposed by the United States'' after ''such other country''.

1984—Subsec. (b). Pub. L. 98–573, § 401(a), designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (g)(1). Pub. L. 98–573, § 401(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (g)(3). Pub. L. 98–573, § 307(a), designated existing provisions as subpar. (A) and added subpar. (B).

1979—Subsec. (b). Pub. L. 96–39, § 1101, substituted ''13-year period'' for ''5-year period''.

Subsec. (e)(2). Pub. L. 96–39, § 1106(c)(1), substituted ''copy of the final legal text of such agreement'' for ''copy of such agreement''.

Statutory Notes and Related Subsidiaries

Effective Date of 1979 Amendment

Amendment of subsec. (b) of this section by section 1101 of Pub. L. 96–39 effective July 26, 1979, see section 1114 of Pub. L. 96–39, set out as an Effective Date note under section 2581 of this title.

Pub. L. 96–39, title XI, § 1106(c)(1), July 26, 1979, 93 Stat. 311, provided in part that the amendment of subsec. (e)(2) of this section by section 1106(c)(1) of Pub. L. 96–39 shall apply with respect to trade agreements submitted to the Congress under this section after July 26, 1979.

United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation

Pub. L. 118–13, Aug. 7, 2023, 137 Stat. 63, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act'.

''SEC. 2. FINDINGS.

''Congress finds the following:

''(1) As a leading democracy, Taiwan is a key partner of the United States in the Indo-Pacific region.

''(2) The United States and Taiwan share democratic values, deep commercial and economic ties, and strong people-to-people connections. Those links serve as the impetus for expanding engagement by the United States with Taiwan.

''(3) Taiwan is the eighth-largest trading partner of the United States and the United States is the second-largest trading partner of Taiwan.

''(4) Since 2020, the United States and Taiwan, under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), have held an economic prosperity partnership dialogue to enhance economic and commercial ties between the United States and Taiwan, including with respect to supply chain security and resiliency, investment screening, health, science, and technology, and the digital economy.

''(5) On June 1, 2022, the United States and Taiwan launched the United States-Taiwan Initiative on 21st-Century Trade to deepen our economic and trade relationship, advance mutual trade priorities based on shared values, promote innovation, and support inclusive economic growth for workers and businesses.

''(6) On August 17, 2022, the United States and Taiwan announced the negotiating mandate for formal trade negotiations under the United States-Taiwan Initiative on 21st-Century Trade and agreed to seek high-standard commitments.

''(7) Article I, section 8, clause 3 of the Constitution of the United States grants Congress authority over international trade. The President lacks the authority to enter into binding trade agreements absent approval from Congress.

''(8) Congressional approval of the United States-Taiwan Initiative on 21st-Century Trade First Agreement will ensure that the agreement, and the trade relationship between the United States and Taiwan more broadly, will be durable. A durable trade agreement will foster sustained economic growth and give workers, consumers, businesses, farmers, ranchers, and other stakeholders assurance that commercial ties between the United States and Taiwan will be long-lasting and reliable.

''SEC. 3. PURPOSE.

''The purpose of this Act is—

''(1) to approve and implement the Agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States regarding Trade between the United States of America and Taiwan, done on June 1, 2023;

''(2) to strengthen and develop economic relations between the United States and Taiwan for our mutual benefit;

''(3) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement; and

''(4) to establish transparency and consultation requirements with respect to Further Agreements.

''SEC. 4. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the Agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States regarding Trade between the United States of America and Taiwan approved by Congress under section 5.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Finance of the Senate; and

''(B) the Committee on Ways and Means of the House of Representatives.

''(3) FURTHER AGREEMENT.—The term 'Further Agreement' means—

''(A) any trade agreement, other than the Agreement approved by Congress under section 5, arising from or relating to the August 17, 2022, negotiating mandate relating to the United States-Taiwan Initiative on 21st-Century Trade; or

''(B) any nonministerial modification or nonministerial amendment to the Agreement.

''(4) NEGOTIATING TEXT.—The term 'negotiating text' means any document that proposes the consideration, examination, or adoption of a particular element or language in an international instrument.

''(5) STATE LAW.—The term 'State law' includes—

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

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

''(6) TRADE REPRESENTATIVE.—The term 'Trade Representative' means the United States Trade Representative.

''SEC. 5. APPROVAL OF AGREEMENT.

''Congress approves the Agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States regarding Trade between the United States of America and Taiwan, done on June 1, 2023.

''SEC. 6. ENTRY INTO FORCE OF AGREEMENT.

''(a) CONDITIONS FOR ENTRY INTO FORCE OF AGREEMENT.—The President may provide for the Agreement to enter into force not earlier than 30 days after the date on which the President submits to Congress a certification under subsection (c).

''(b) CONSULTATION AND REPORT.—The President, not later than 30 days before submitting a certification under subsection (c), shall—

''(1) consult with the appropriate congressional committees;

''(2) submit to the appropriate congressional committees a report that—

''(A) explains the basis of the determination of the President contained in that certification, including by providing specific reference to the measures the parties to the Agreement intend to use to comply with the obligations in the Agreement; and

''(B) describes, including through the use of economic estimates and analyses, how entry into force of the Agreement will further trade relations between the United States and Taiwan and advance the interests of workers, consumers, businesses, farmers, ranchers, and other stakeholders in the United States; and

''(3) answer in writing any questions that relate to potential compliance and implementation of the Agreement that are submitted by the appropriate congressional committees during the 15-day period beginning on the date of the submission of the report under paragraph (2).

''(c) CERTIFICATION.—A certification under this subsection is a certification in writing that—

''(1) indicates the President has determined Taiwan has taken measures necessary to comply with the provisions of the Agreement that are to take effect not later than the date on which the Agreement enters into force; and

''(2) identifies the anticipated date the President intends to exchange notes or take any other action to notify Taiwan that the United States has completed all procedures necessary to bring the Agreement into force.

''(d) REPORT ON IMPLEMENTATION.—

''(1) IN GENERAL.—Not later than 180 days after entry into force of the Agreement, the Trade Representative shall submit to the appropriate congressional committees a report providing an assessment of the implementation of the Agreement, including by identifying any provisions for which further progress is necessary to secure compliance.

''(2) FORM.—The report required by paragraph (1) shall be submitted with any confidential business information clearly identified or contained in a separate annex.

''(3) PUBLICATION.—Not later than 5 days after the report required by paragraph (1) is submitted to the appropriate congressional committees, the Trade Representative shall publish the report, with any confidential business information redacted, on a publicly available website of the Office of the United States Trade Representative.

''SEC. 7. TRANSPARENCY AND CONSULTATION WITH RESPECT TO FURTHER AGREEMENTS.

''(a) SENSE OF CONGRESS ON DEEPENING RELATIONSHIP WITH TAIWAN.—It is the sense of Congress that—

''(1) the United States should continue to deepen its relationship with Taiwan; and

''(2) any Further Agreements should be high-standard, enforceable, and meaningful to both the United States and Taiwan, as well as subject to robust requirements on public transparency and congressional consultation.

''(b) ACCESS TO TEXTS OF FURTHER AGREEMENTS.—The Trade Representative shall provide to the appropriate congressional committees the following with respect to a Further Agreement:

''(1) Negotiating text drafted by the United States prior to sharing the negotiating text with Taiwan or otherwise sharing the text outside the executive branch.

''(2) Negotiating text drafted by Taiwan not later than 3 days after receiving the text from Taiwan.

''(3) Any consolidated negotiating texts that the United States and Taiwan are considering, which shall include an attribution of the source of each provision contained in those texts to either the United States or Taiwan.

''(4) The final text not later than 45 days before the Trade Representative makes the text public or otherwise shares the text outside the executive branch.

''(c) REVIEW OF TEXTS.—

''(1) BRIEFING.—The Trade Representative shall schedule a briefing with the appropriate congressional committees to discuss the texts provided under subsection (b).

''(2) REVIEW.—The appropriate congressional committees shall have not less than—

''(A) 2 business days prior to the briefing under paragraph (1) to review the texts provided under subsection (b); and

''(B) 4 business days after the briefing to provide comments with respect to the texts before the Trade Representative transmits any such texts to Taiwan.

''(3) ADDITIONAL TIME TO REVIEW UNITED STATES NEGOTIATING TEXT.—If, during the period specified in paragraph (2)(B), two Members of Congress who are not of the same political party and each of whom is the Chair or Ranking Member of one of the appropriate congressional committees jointly request additional time to review the negotiating text provided under subsection (b)(1), the Trade Representative shall not transmit the text to Taiwan for a period of 15 business days following the request, unless the request indicates less time is necessary or such Members issue a subsequent joint notification to the Trade Representative that they have concluded their review sooner.

''(d) NOTIFICATION AND BRIEFING DURING NEGOTIATIONS.—The Trade Representative shall—

''(1) not later than one business day after scheduling any negotiating round with respect to a Further Agreement, promptly notify the appropriate congressional committees and provide those committees with the dates and locations for the negotiating round;

''(2) ensure that any individual described in section 104(c)(2)(C) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4203(c)(2)(C)) that attends a negotiating round is accredited as a member of the United States delegation during any such negotiating round; and

''(3) provide daily briefings to the individuals described in paragraph (2) during any such negotiating round regarding the status of those negotiations, including any tentative agreement to accept any aspect of negotiating text.

''(e) APPROVAL.—A Further Agreement shall not take effect unless—

''(1) the President, at least 60 days before the day on which the President enters into the Further Agreement, publishes the text of the Further Agreement on a publicly available website of the Office of the United States Trade Representative; and

''(2) a bill is enacted into law expressly approving the Further Agreement and, if necessary, making any required changes to United States law.

''SEC. 8. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF THE AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States, shall have effect.

''(2) INTERNAL REVENUE CODE.—The Agreement does not constitute a free trade agreement for purposes of section 30D(e)(1)(A)(i)(II) of the Internal Revenue Code of 1986 [26 U.S.C. 30D(e)(1)(A)(i)(II)].

''(3) CONSTRUCTION.—Unless specifically provided for in this Act, nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States; or

''(B) to limit any authority conferred under any law of the United States.

''(b) RELATIONSHIP OF THE AGREEMENT TO STATE LAW.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(c) EFFECT OF THE AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

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

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

UNITED STATES-JORDAN FREE TRADE AREA IMPLEMENTATION

Pub. L. 107–43, Sept. 28, 2001, 115 Stat. 243, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'United States-Jordan Free Trade Area Implementation Act'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to implement the agreement between the United States and Jordan establishing a free trade area;

''(2) to strengthen and develop the economic relations between the United States and Jordan for their mutual benefit; and

''(3) to establish free trade between the 2 nations through the removal of trade barriers.

''SEC. 3. DEFINITIONS.

''For purposes of this Act:

''(1) AGREEMENT.—The term 'Agreement' means the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area, entered into on October 24, 2000.

''(2) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''TITLE I—TARIFF MODIFICATIONS; RULES OF ORIGIN

''SEC. 101. TARIFF MODIFICATIONS.

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

''(1) such modifications or continuation of any duty;

''(2) such continuation of duty-free or excise treatment; or

''(3) such additional duties,

as the President determines to be necessary or appropriate to carry out article 2.1 of the Agreement and the schedule of duty reductions with respect to Jordan set out in Annex 2.1 of the Agreement.

''(b) OTHER TARIFF MODIFICATIONS.—The President may proclaim—

''(1) such modifications or continuation of any duty;

''(2) such continuation of duty-free or excise treatment; or

''(3) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Jordan provided for by the Agreement.

''SEC. 102. RULES OF ORIGIN.

''(a) IN GENERAL.—

''(1) ELIGIBLE ARTICLES.—

''(A) IN GENERAL.—The reduction or elimination of any duty imposed on any article by the United States provided for in the Agreement shall apply only if—

''(i) that article is imported directly from Jordan into the customs territory of the United States; and

''(ii) that article—

''(I) is wholly the growth, product, or manufacture of Jordan; or

''(II) is a new or different article of commerce that has been grown, produced, or manufactured in Jordan and meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—

''(i) GENERAL RULE.—The requirements of this subparagraph are that with respect to an article described in subparagraph (A)(ii)(II), the sum of—

''(I) the cost or value of the materials produced in Jordan, plus

''(II) the direct costs of processing operations performed in Jordan,

is not less than 35 percent of the appraised value of such article at the time it is entered.

''(ii) MATERIALS PRODUCED IN UNITED STATES.—If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in clause (i).

''(2) EXCLUSIONS.—No article may be considered to meet the requirements of paragraph (1)(A) by virtue of having merely undergone—

''(A) simple combining or packaging operations; or

''(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

''(b) DIRECT COSTS OF PROCESSING OPERATIONS.—

''(1) IN GENERAL.—As used in this section, the term 'direct costs of processing operations' includes, but is not limited to—

''(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the spe-

cific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel; and

''(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

''(2) EXCLUDED COSTS.—The term 'direct costs of processing operations' does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as—

''(A) profit; and

''(B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

''(c) TEXTILE AND APPAREL ARTICLES.—

''(1) IN GENERAL.—A textile or apparel article imported directly from Jordan into the customs territory of the United States shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) only if—

''(A) the article is wholly obtained or produced in Jordan;

''(B) the article is a yarn, thread, twine, cordage, rope, cable, or braiding, and—

''(i) the constituent staple fibers are spun in Jordan, or

''(ii) the continuous filament is extruded in Jordan;

''(C) the article is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in Jordan; or

''(D) the article is any other textile or apparel article that is wholly assembled in Jordan from its component pieces.

''(2) DEFINITION.—For purposes of paragraph (1), an article is 'wholly obtained or produced in Jordan' if it is wholly the growth, product, or manufacture of Jordan.

''(3) SPECIAL RULES.—

''(A) CERTAIN MADE-UP ARTICLES, TEXTILE ARTICLES IN THE PIECE, AND CERTAIN OTHER TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, subparagraph (A), (B), or (C) of paragraph (1), as appropriate, shall determine whether a good that is classified under one of the following headings or subheadings of the HTS shall be considered to meet the requirements of paragraph (1)(A) of subsection (a): 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6304, 6305, 6306, 6307.10, 6307.90, 6308, and 9404.90.

''(B) CERTAIN KNIT-TO-SHAPE TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, a textile or apparel article which is knit-to-shape in Jordan shall be considered to meet the requirements of paragraph (1)(A) of subsection (a).

''(C) CERTAIN DYED AND PRINTED TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D), a good classified under heading 6117.10, 6213.00, 6214.00. 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95 of the HTS, except for a good classified under any such heading as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the fabric in the good is both dyed and printed in Jordan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

''(D) FABRICS OF SILK, COTTON, MANMADE FIBER OR VEGETABLE FIBER.—Notwithstanding paragraph (1)(C), a fabric classified under the HTS as of silk, cotton, man-made fiber, or vegetable fiber shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the fabric is both dyed and printed in Jordan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

''(4) MULTICOUNTRY RULE.—If the origin of a textile or apparel article cannot be determined under paragraph (1) or (3), then that article shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if—

''(A) the most important assembly or manufacturing process occurs in Jordan; or

''(B) if the applicability of paragraph (1)(A) of subsection (a) cannot be determined under subparagraph (A), the last important assembly or manufacturing occurs in Jordan.

''(d) EXCLUSION.—A good shall not be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the good—

''(1) is imported into Jordan, and, at the time of importation, would be classified under heading 0805 of the HTS; and

''(2) is processed in Jordan into a good classified under any of subheadings 2009.11 through 2009.30 of the HTS.

''(e) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

''TITLE II—RELIEF FROM IMPORTS

''SUBTITLE A—GENERAL PROVISIONS

''SEC. 201. DEFINITIONS.

''As used in this title:

''(1) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(2) JORDANIAN ARTICLE.—The term 'Jordanian article' means an article that qualifies for reduction or elimination of a duty under section 102.

''SUBTITLE B—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 211. 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 Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 [19 U.S.C. 2252(a)].

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

''(b) INVESTIGATION AND DETERMINATION.—

''(1) IN GENERAL.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Jordanian article is being imported into the United States in such increased quantities,

in absolute terms or relative to domestic production, and under such conditions that imports of the Jordanian article alone constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) CAUSATION.—For purposes of this subtitle, a Jordanian article is being imported into the United States in increased quantities as a result of the reduction or elimination of a duty provided for under the Agreement if the reduction or elimination is a cause that contributes significantly to the increase in imports. Such cause need not be equal to or greater than any other cause.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (d).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Jordanian article if import relief has been provided under this subtitle with respect to that article.

''SEC. 212. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—By no later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 211(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, the Commission shall find, and recommend to the President in the report required under subsection (c), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 213(c).

''(c) REPORT TO PRESIDENT.—No later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that shall include—

''(1) a statement of the basis for the determination;

''(2) dissenting and separate views; and

''(3) any finding made under subsection (b) regarding import relief.

''(d) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (c), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''(e) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''SEC. 213. PROVISION OF RELIEF.

''(a) IN GENERAL.—No later than the date that is 30 days after the date on which the President receives the report of the Commission containing an affirmative determination of the Commission under section 212(a), the President shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to prevent or remedy the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition, unless the President determines that the provision of such relief is not in the national economic interest of the United States or, in extraordinary circumstances, that the provision of such relief would cause serious harm to the national security of the United States.

''(b) NATIONAL ECONOMIC INTEREST.—The President may determine under subsection (a) that providing import relief is not in the national economic interest of the United States only if the President finds that taking such action would have an adverse impact on the United States economy clearly greater than the benefits of taking such action.

''(c) NATURE OF RELIEF.—The import relief (including provisional relief) that the President is authorized to provide under this subtitle with respect to imports of an article is—

''(1) the suspension of any further reduction provided for under the United States Schedule to Annex 2.1 of the Agreement in the duty imposed on that article;

''(2) an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force; or

''(3) in the case of a duty applied on a seasonal basis to that article, an increase in the rate of duty imposed on the article to a level that does not exceed the column 1 general rate of duty imposed under the HTS on the article for the corresponding season occurring immediately before the date on which the Agreement enters into force.

''(d) PERIOD OF RELIEF.—The import relief that the President is authorized to provide under this section may not exceed 4 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this subtitle is terminated with respect to an article—

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which termination occurs shall be the rate that, according to the United States Schedule to Annex 2.1 of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the initiation of the import relief action under section 211; and

''(2) the tariff treatment for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

''(A) the rate of duty conforming to the applicable rate set out in the United States Schedule to Annex 2.1; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the United States Schedule to Annex 2.1 for the elimination of the tariff.

''SEC. 214. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Except as provided in subsection (b), no import relief may be provided under this subtitle after the date that is 15 years after the date on which the Agreement enters into force.

''(b) EXCEPTION.—Import relief may be provided under this subtitle in the case of a Jordanian article after the date on which such relief would, but for this subsection, terminate under subsection (a), but only if the Government of Jordan consents to such provision.

''SEC. 215. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 213 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 216. SUBMISSION OF PETITIONS.

''A petition for import relief may be submitted to the Commission under—

''(1) this subtitle;

''(2) chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.]; or

''(3) under both this subtitle and such chapter 1 at the same time, in which case the Commission shall consider such petitions jointly.

''SUBTITLE C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

''SEC. 221. FINDINGS AND ACTION ON JORDANIAN IMPORTS.

''(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 [19 U.S.C. 1330(d)]), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article from Jordan are a substantial cause of serious injury or threat thereof.

''(b) PRESIDENTIAL ACTION REGARDING JORDANIAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall determine whether imports from Jordan are a substantial cause of the serious injury found by the Commission and, if such determination is in the negative, may exclude from such action imports from Jordan.

''SEC. 222. TECHNICAL AMENDMENT.

[Amended section 2252 of this title.]

''TITLE III—TEMPORARY ENTRY

''SEC. 301. NONIMMIGRANT TRADERS AND INVESTORS.

''Upon the basis of reciprocity secured by the Agreement, an alien who is a national of Jordan (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) of the alien, if accompanying or following to join the alien) shall be considered as entitled to enter the United States under and in pursuance of the provisions of the Agreement as a nonimmigrant described in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), if the entry is solely for a purpose described in clause (i) or (ii) of such section and the alien is otherwise admissible to the United States as such a nonimmigrant.

''TITLE IV—GENERAL PROVISIONS

''SEC. 401. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States; or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

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

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

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

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

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement; or

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

''SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for each fiscal year after fiscal year 2001 to the Department of Commerce not more than $100,000 for the payment of the United States share of the expenses incurred in dispute settlement proceedings under article 17 of the Agreement.

''SEC. 403. IMPLEMENTING REGULATIONS.

''After the date of enactment of this Act [Sept. 28, 2001]—

''(1) the President may proclaim such actions; and

''(2) other appropriate officers of the United States may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

''SEC. 404. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force [Dec. 17, 2001].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Sept. 28, 2001].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection) and the amendments made by this Act, shall cease to be effective.''

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

PROTECTIVE ORDER PROVISIONS APPLICABLE WITH RESPECT TO COUNTERVAILING AND ANTIDUMPING DUTY INVESTIGATIONS INVOLVING PRODUCTS OF CANADIAN ORIGIN

Pub. L. 101–382, title I, §135(c), Aug. 20, 1990, 104 Stat. 652, provided that: ''For purposes of section 404 of the United States-Canada Free-Trade Agreement Implementation Act of 1988 [Pub. L. 100–449, set out in a note below], the amendments made by subsection (b) [amending section 1677f of this title] also apply with respect to investigations under title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.] involving products of Canadian origin.''

UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION

Pub. L. 100–449, Sept. 28, 1988, 102 Stat. 1851, as amended by Pub. L. 101–207, §1(b), Dec. 7, 1989, 103 Stat. 1833; Pub. L. 101–382, title I, §§103(b), 134(b), Aug. 20, 1990, 104 Stat. 635, 651; Pub. L. 103–182, title I, §107, title III, §308(a), title IV, §413, Dec. 8, 1993, 107 Stat. 2065, 2104, 2147; Pub. L. 104–66, title I, §1021(d), Dec. 21, 1995, 109 Stat. 712; Pub. L. 105–206, title V, §5003(b)(3), July 22, 1998, 112 Stat. 789; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210; Pub. L. 116–113, title VI, §602, Jan. 29, 2020, 134 Stat. 78, provided that:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act [enacting section 1584 of Title 28, Judiciary and Judicial Procedure, amending sections 58c, 81c, 1305, 1306, 1311, 1312, 1313, 1502, 1508, 1514, 1516a, 1562, 1677, 1677f, and 2518 of this title, sections 150bb, 150cc, 154, 156, 624, 1582, and 2803 of Title 7, Agriculture, section 1184 of Title 8, Aliens and Nationality, section 24 of Title 12, Banks and Banking, section 152 of Title 21, Food and Drugs, sections 1581, 2201, and 2643 of Title 28, section 2201 of Title 42, The Public Health and Welfare, section 4606 of Title 50, War and National Defense, enacting provisions set out as notes below, and amending provisions set out as a note under section 2253 of this title] may be cited as the 'United States-Canada Free-Trade Agreement Implementation Act of 1988'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free-Trade Agreement between the United States and Canada negotiated under the authority of section 102 of the Trade Act of 1974 [19 U.S.C. 2112];

''(2) to strengthen and develop economic relations between the United States and Canada for their mutual benefit;

''(3) to establish a free-trade area between the two nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

''TITLE I—APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT AND RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW

''SEC. 101. APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves—

''(1) the United States-Canada Free-Trade Agreement (hereinafter in this Act referred to as the 'Agreement') entered into on January 2, 1988, and submitted to the Congress on July 25, 1988;

''(2) the letters exchanged between the Governments of the United States and Canada—

''(A) dated January 2, 1988, relating to negotiations regarding articles 301 (Rules of Origin) and 401 (Tariff Elimination) of the Agreement, and

''(B) dated January 2, 1988, relating to negotiations regarding article 2008 (Plywood Standards) of the Agreement; and

''(3) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on July 25, 1988.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Canada has taken measures necessary to comply with the obligations of the Agreement, the President is authorized to exchange notes with the Government of Canada providing for the entry into force, on or after January 1, 1989, of the Agreement with respect to the United States.

''(c) REPORT ON CANADIAN PRACTICES.—Within 60 days after the date of the enactment of this Act [Sept. 28, 1988] (but not later than December 15, 1988), the United States Trade Representative shall submit to the Congress a report identifying, to the maximum extent practicable, major current Canadian practices (and the legal authority for such practices) that, in the opinion of the United States Trade Representative—

''(1) are not in conformity with the Agreement; and

''(2) require a change of Canadian law, regulation, policy, or practice to enable Canada to conform with its international obligations under the Agreement.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES LAW.

''(a) UNITED STATES LAWS TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is in conflict with any law of the United States shall have effect.

''(b) RELATIONSHIP OF AGREEMENT TO STATE AND LOCAL LAW.—

''(1) The provisions of the Agreement prevail over—

''(A) any conflicting State law; and

''(B) any conflicting application of any State law to any person or circumstance;

to the extent of the conflict.

''(2) Upon the enactment of this Act, the President shall, in accordance with section 306(c)(2)(A) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114c), initiate consultations with the State governments on the implementation of the obligations of the United States under the Agreement. Such consultations shall be held—

''(A) through the intergovernmental policy advisory committees on trade established under such section for the purpose of achieving conformity of State laws and practices with the Agreement; and

''(B) with the individual States as necessary to deal with particular questions that may arise.

''(3) The United States may bring an action challenging any provision of State law, or the application thereof to any person or circumstance, on the ground that the provision or application is inconsistent with the Agreement.

''(4) For purposes of this subsection, the term 'State law' includes—

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

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

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States shall—

''(1) have any cause of action or defense under the Agreement or by virtue of congressional approval thereof, or

''(2) challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

''(d) INITIAL IMPLEMENTING REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions proposed in the statement of administrative action submitted under section 101(a)(3) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement [Jan. 1, 1989]. In the case of any implementing action that takes effect after the date of entry into force of the Agreement, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''(e) CHANGES IN STATUTES TO IMPLEMENT A REQUIREMENT, AMENDMENT, OR RECOMMENDATION.—The provisions of section 3(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)) shall apply as if the Agreement were an agreement approved under section 2(a) of that Act [19 U.S.C. 2503(a)] whenever the President determines that it is necessary or appropriate to amend, repeal, or enact a statute of the United States in order to implement any requirement of, amendment to, or recommendation, finding or opinion under, the Agreement; but such provisions shall not apply to any bill to implement any such requirement, amendment, recommendation, finding, or opinion that is submitted to the Congress after the close of the 30th month after the month in which the Agreement enters into force [January 1989].

''SEC. 103. CONSULTATION AND LAY-OVER REQUIREMENTS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''(a) CONSULTATION AND LAY-OVER REQUIREMENTS.—If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and lay-over requirements of this section, such action may be proclaimed only if—

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

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 [19 U.S.C. 2155], and

''(B) the United States International Trade Commission;

''(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor, and

''(B) the advice obtained under paragraph (1);

''(3) a period of at least 60 calendar days that begins on the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action has expired; and

''(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

''(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—No action proclaimed by the President under the authority of this Act, if such action is not subject to the consultation and lay-over requirements under subsection (a), may take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''SEC. 104. HARMONIZED SYSTEM.

''(a) DEFINITION.—As used in this Act, the term 'Harmonized System' means the nomenclature system established under the International Convention on the Harmonized Commodity Description and Coding System (done at Brussels on June 14, 1983, and the protocol thereto, done at Brussels on June 24, 1986) as implemented under United States law.

''(b) INTERIM APPLICATION OF TSUS.—The following apply if the International Convention, and the protocol thereto, referred to in subsection (a) are not implemented under United States law before the Agreement enters into force:

''(1) The President, subject to subsection (c), shall proclaim such modifications to the Tariff Schedules of the United States (19 U.S.C. 1202) as may be necessary to give effect, until such time as such Convention and protocol are so implemented, to the rules of origin, schedule of rate reductions, and other provisions that would, but for the absence of such implementation, be proclaimed under the authority of this Act to, or in terms of, the Harmonized System to implement the obligations of the United States under the Agreement.

''(2) Until such time as such Convention and protocol are so implemented, any reference in this Act to the nomenclature of such Convention and protocol shall be treated as a reference to the corresponding nomenclature of the Tariff Schedules of the United States as modified under paragraph (1).

''(c) RESTRICTIONS.—

''(1) No modification described in subsection (b)(1) that is to take effect concurrently with the entry into force of the Agreement may be proclaimed unless the text of the modification is published in the Federal Register at least 30 days before the date of entry into force [Jan. 1, 1989].

''(2) All modifications proclaimed under the authority of subsection (b)(1) after the Agreement enters into force with respect to the United States are subject to the consultation and lay-over requirements of section 103(a).

''SEC. 105. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE.

''Subject to section 103 or 104(c), as appropriate, and any other applicable restriction or limitation in this Act on the proclaiming of actions or the issuing of regulations to carry out this Act or any amendment made by this Act, after the date of the enactment of this Act [Sept. 28, 1988]—

''(1) the President may proclaim such actions; and

''(2) other appropriate officers of the United States Government may issue such regulations;

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [Jan. 1, 1989] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

''TITLE II—TARIFF MODIFICATIONS, RULES OF ORIGIN, USER FEES, DRAWBACK, ENFORCEMENT, AND OTHER CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS SPECIFIED IN THE AGREEMENT.—The President may proclaim—

''(1) such modifications or continuance of any existing duty;

''(2) such continuance of existing duty-free or excise treatment; or

''(3) such additional duties;

as the President determines to be necessary or appropriate to carry out article 401 of the Agreement and the schedule of duty reductions with respect to Canada set forth in Annexes 401.2 and 401.7 to the Agreement, as approved under section 101(a)(1). For purposes of proclaiming necessary modifications under such Annex 401.2, any article covered under subheading 9813.00.05 (contained in the United States Schedule in such Annex) shall, unless such article is a drawback eligible good under section 204(a), be treated as being subject to any otherwise applicable customs duty if the article, or merchandise incorporating such article, is exported to Canada.

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and lay-over requirements of section 103(a), the President may proclaim—

''(1) such modifications as the United States and Canada may agree to regarding the staging of any duty treatment set forth in Annexes 401.2 and 401.7 of the Agreement;

''(2) such modifications or continuance of any existing duty;

''(3) such continuance of existing duty-free or excise treatment; or

''(4) such additional duties;

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Canada provided for by the Agreement.

''(c) MODIFICATIONS AFFECTING PLYWOOD.—

''(1) The Congress encourages the President to facilitate the preparation, and the implementation with Canada, of common performance standards for the use of softwood plywood and other structural panels in construction applications in the United States and Canada.

''(2) The President shall report to the Congress on the incorporation of common plywood performance standards into building codes in the United States and Canada and may implement the provisions of article 2008 of the Agreement when he determines that the necessary conditions have been met.

''(3) Any tariff reduction undertaken pursuant to paragraph (2) shall be in equal annual increments ending January 1, 1998, unless those reductions commence after January 1, 1991.

''SEC. 202. RULES OF ORIGIN.

''(a) IN GENERAL.—

''(1) For purposes of implementing the tariff treatment contemplated under the Agreement, goods originate in the territory of a Party if—

''(A) they are wholly obtained or produced in the territory of either Party or both Parties; or

''(B) they—

''(i) have been transformed in the territory of either Party or both Parties so as to be subject to a change in tariff classification as described in the Annex rules or to such other requirements as the Annex rules may provide when no change in tariff classifications occurs, and

''(ii) meet the other conditions set out in the Annex.

''(2) A good shall not be considered to originate in the territory of a party [Party] under paragraph (1)(B) merely by virtue of having undergone—

''(A) simple packaging or, except as expressly provided by the Annex rules, combining operations;

''(B) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

''(C) any process or work in respect of which it is established, or in respect of which the facts as ascertained clearly justify the presumption, that the sole object was to circumvent the provisions of chapter 3 of the Agreement.

''(3) Accessories, spare parts, or tools delivered with any piece of equipment, machinery, apparatus, or vehicle that form part of its standard equipment shall be treated as having the same origin as that equipment, machinery, apparatus, or vehicle if the quantities and values of such accessories, spare parts, or tools are customary for the equipment, machinery, apparatus, or vehicle.

''(b) TRANSSHIPMENT.—Goods exported from the territory of one Party originate in the territory of that Party only if—

''(1) the goods meet the applicable requirements of subsection (a) and are shipped to the territory of the other Party without having entered the commerce of any third country;

''(2) the goods, if shipped through the territory of a third country, do not undergo any operation other than unloading, reloading, or any operation necessary to transport them to the territory of the other Party or to preserve them in good condition; and

''(3) the documents related to the exportation and shipment of the goods from the territory of a Party show the territory of the other Party as their final destination.

''(c) INTERPRETATION.—In interpreting this section, the following apply:

''(1) Whenever the processing or assembly of goods in the territory of either Party or both Parties results in one of the changes in tariff classification described in the Annex rules, such goods shall be considered to have been transformed in the territory of that Party and shall be treated as goods originating in the territory of that Party if—

''(A) such processing or assembly occurs entirely within the territory of either Party or both Parties; and

''(B) such goods have not subsequently undergone any processing or assembly outside the territories of the Parties that improves the goods in condition or advances them in value.

''(2) Whenever the assembly of goods in the territory of a Party fails to result in a change of tariff classification because either—

''(A) the goods were imported into the territory of the Party in an unassembled or a disassembled form and were classified as unassembled or disassembled goods pursuant to General Rule of Interpretation 2(a) of the Harmonized System; or

''(B) the tariff subheading for the goods provides for both the goods themselves and their parts;

such goods shall not be treated as goods originating in the territory of a Party.

''(3) Notwithstanding paragraph (2), goods described in that paragraph shall be considered to have been transformed in the territory of a Party and be treated as goods originating in the territory of the Party if—

''(A) the value of materials originating in the territory of either Party or both Parties used or consumed in the production of the goods plus the direct cost of assembling the goods in the territory of either Party or both Parties constitute not less than 50 percent of the value of the goods when exported to the territory of the other Party; and

''(B) the goods have not subsequent to assembly undergone processing or further assembly in a third country and they meet the requirements of subsection (b).

''(4) The provisions of paragraph (3) shall not apply to goods of chapters 61–63 of the Harmonized System.

''(5) In making the determination required by paragraph (3)(A) and in making the same or a similar determination when required by the Annex rules, where materials originating in the territory of either Party or both Parties and materials obtained or produced in a third country are used or consumed together in the production of goods in the territory of a Party, the value of materials originating in the territory of either Party or both Parties may be treated as such only to the extent that it is directly attributable to the goods under consideration.

''(6) In applying the Annex rules, a specific rule shall take precedence over a more general rule.

''(d) ANNEX RULES.—

''(1) The President is authorized to proclaim, as a part of the Harmonized System, the rules set forth under the heading 'Rules' in Annex 301.2 of the Agreement. For purposes of carrying out this paragraph—

''(A) the phrase 'headings 2207–2209' in paragraph 7 of section IV of such Annex 301.2 shall be treated as a reference to headings 2203–2209; and

''(B) the phrase 'any other heading' in paragraph 11 of section XV in such Annex 301.2 shall be treated as a reference to any other heading of chapter 74 of the Harmonized System.

''(2) Subject to the consultation and lay-over requirements of section 103, the President is authorized to proclaim such modifications to the rules as may from time-to-time be agreed to by the United States and Canada.

''(e) AUTOMOTIVE PRODUCTS.—

''(1) The President is authorized to proclaim such modifications to the definition of Canadian articles (relating to the administration of the Automotive Products Trade Act of 1965 [19 U.S.C. 2001 et seq.]) in the general notes of the Harmonized System as may be necessary to conform that definition with chapter 3 of the Agreement.

''(2) For purposes of administering the value requirement (as defined in section 304(c)(3)) with respect to vehicles, the Secretary of the Treasury shall prescribe regulations governing the averaging of the value content of vehicles of the same class, or of sister vehicles, assembled in the same plant as an alternative to the calculation of the value content of each vehicle.

''(f) DEFINITIONS.—For purposes of this section:

''(1) The term 'Annex' means—

''(A) the interpretative guidelines set forth in subsection (c); and

''(B) the Annex rules.

''(2) The term 'Annex rules' means the rules proclaimed under subsection (d).

''(3) The term 'direct cost of processing or direct cost of assembling' means the costs directly incurred in, or that can reasonably be allocated to, the production of goods, including—

''(A) the cost of all labor, including benefits and on-the-job training, labor provided in connection with supervision, quality control, shipping, receiving, storage, packaging, management at the location of the process or assembly, and other like labor, whether provided by employees or independent contractors;

''(B) the cost of inspecting and testing the goods;

''(C) the cost of energy, fuel, dies, molds, tooling, and the depreciation and maintenance of machin-

ery and equipment, without regard to whether they originate within the territory of a Party;

''(D) development, design, and engineering costs;

''(E) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, taxes and the cost of utilities for real property used in the production of goods; and

''(F) royalty, licensing, or other like payments for the right to the goods;

but not including—

''(i) costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;

''(ii) brokerage charges relating to the importation and exportation of goods;

''(iii) the costs for telephone, mail, and other means of communication;

''(iv) packing costs for exporting the goods;

''(v) royalty payments related to a licensing agreement to distribute or sell the goods;

''(vi) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, taxes, and the cost of utilities for real property used by personnel charged with administrative functions; or

''(vii) profit on the goods.

''(4) The term 'goods wholly obtained or produced in the territory of either Party or both Parties' means—

''(A) mineral goods extracted in the territory of either Party or both Parties;

''(B) goods harvested in the territory of either Party or both Parties;

''(C) live animals born and raised in the territory of either Party or both Parties;

''(D) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;

''(E) goods produced on board factory ships from the goods referred to in subparagraph (D) provided such factory ships are registered or recorded with that Party and fly its flag;

''(F) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that Party has rights to exploit such seabed;

''(G) goods taken from space, provided they are obtained by a Party or a person of a Party and not processed in a third country;

''(H) waste and scrap derived from manufacturing operations and used goods, provided they were collected in the territory of either Party or both Parties and are fit only for the recovery of raw materials; and

''(I) goods produced in the territory of either Party or both Parties exclusively from goods referred to in subparagraphs (A) to (H) inclusive or from their derivatives, at any stage of production.

''(5) The term 'materials' means goods, other than those included as part of the direct cost of processing or assembling, used or consumed in the production of other goods.

''(6) The term 'Party' means Canada or the United States.

''(7) The term 'territory' means—

''(A) with respect to Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic laws, Canada may exercise rights with respect to the seabed and subsoil and their natural resources; and

''(B) with respect to the United States—

''(i) the customs territory of the United States, which includes the fifty States, the District of Columbia and the Commonwealth of Puerto Rico,

''(ii) the foreign trade zones located in the United States, and the Commonwealth of Puerto Rico, and

''(iii) any area beyond the territorial seas of the United States within which, in accordance with international law and its domestic laws, the United States may exercise rights with respect to the seabed and subsoil and their natural resources.

''(8) The term 'third country' means any country other than Canada or the United States or any territory not a part of the territory of either.

''(9) The term 'value of materials originating in the territory of either Party or both Parties' means the aggregate of—

''(A) the price paid by the producer of an exported good for materials originating in the territory of either Party or both Parties or for materials imported from a third country used or consumed in the production of such originating materials; and

''(B) when not included in that price, the following costs related thereto—

''(i) freight, insurance, packing, and all other costs incurred in transporting any of the materials referred to in subparagraph (A) to the location of the producer;

''(ii) duties, taxes, and brokerage fees on such materials paid in the territory of either Party or both Parties;

''(iii) the cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or byproduct; and

''(iv) the value of goods and services relating to such materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of article VII of the General Agreement on Tariffs and Trade.

''(10) The term 'value of the goods when exported to the territory of the other Party' means the aggregate of—

''(A) the price paid by the producer for all materials, whether or not the materials originate in either Party or both Parties, and, when not included in the price paid for the materials, the costs related to—

''(i) freight, insurance, packing, and all other costs incurred in transporting all materials to the location of the producer;

''(ii) duties, taxes, and brokerage fees on all materials paid in the territory of either Party or both Parties;

''(iii) the cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or byproduct; and

''(iv) the value of goods and services relating to all materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of article VII of the General Agreement on Tariffs and Trade; and

''(B) the direct cost of processing or the direct cost of assembling the goods.

''(g) SPECIAL PROVISION REGARDING APPLICATION OF RULES OF ORIGIN TO CERTAIN APPAREL.—The Secretary of Commerce is authorized to issue regulations governing the exportation to Canada of apparel products that are cut, or knit to shape, and sewn, or otherwise assembled, in either Party from fabric produced or obtained in a third country for the purpose of establishing which exports of such products shall be permitted to claim preferential tariff treatment under the rules of origin of the Agreement, to the extent that the Agreement provides for quantitative limits on the availability of preferential tariff treatment for such products.

''SEC. 203. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 204. DRAWBACK.

''(a) DEFINITION.—For purposes of this section, the term 'drawback eligible goods' means—

''(1) goods provided for under paragraph 8 of article 404 of the Agreement;

''(2) goods provided for under paragraphs 4 and 5 of such article; and

''(3) goods other than those referred to in paragraphs (1) and (2) that the United States and Canada agree are not subject to paragraphs 1, 2, and 3 of such article.

No drawback may be paid with respect to countervailing duties or antidumping duties imposed on drawback eligible goods.

''(b) IMPLEMENTATION OF ARTICLE 404.—The President is authorized—

''(1) to proclaim the identity, in accordance with the nomenclature of the Harmonized System, of goods referred to in subsection (a)(1); and

''(2) subject to the consultation and lay-over requirements of section 103(a), to proclaim—

''(A) the identity, in accordance with the nomenclature of the Harmonized System, of goods referred to in subsection (a)(3); and

''(B) a delay in the taking effect of article 404 of the Agreement to a date later than January 1, 1994, with respect to any merchandise if the United States and Canada agree to the delay under paragraph 7 of such article.

''(c) CONSEQUENTIAL AMENDMENTS.—

''(1) BONDED MANUFACTURING WAREHOUSES.—[Amended section 1311 of this title.]

''(2) BONDED SMELTING AND REFINING WAREHOUSES.—[Amended section 1312 of this title.]

''(3) DRAWBACK.—[Amended section 1313 of this title.]

''(4) MANIPULATION IN WAREHOUSE.—[Amended section 1562 of this title.]

''(5) FOREIGN TRADE ZONES.—[Amended section 81c of this title.]

''SEC. 205. ENFORCEMENT.

''(a) CERTIFICATIONS OF ORIGIN.—

''(1) Any person that certifies in writing that goods exported to Canada meet the rules of origin under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988 [section 202 of this note] shall provide, upon request by any customs official, a copy of that certification.

''(2) Any person that fails to provide a copy of a certification requested under paragraph (1) shall be liable to the United States for a civil penalty not to exceed $10,000.

''(3) Any person that certifies falsely that goods exported to Canada meet the rules of origin under such section 202 shall be liable to the United States for the same civil penalties provided under section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) for a violation of section 592(a) of such Act by fraud, gross negligence, or negligence, as the case may be. The procedures and provisions of section 592 of such Act that are applicable to a violation under section 592(a) of such Act shall apply with respect to such false certification.

''(b) HOUSEKEEPING REQUIREMENTS.—[Amended section 1508 of this title.]

''SEC. 206. EXEMPTION FROM LOTTERY TICKET EMBARGO

[Amended section 1305 of this title.]

''SEC. 207. PRODUCTION-BASED DUTY REMISSION PROGRAMS WITH RESPECT TO AUTOMOTIVE PRODUCTS.

''(a) USTR STUDY.—The United States Trade Representative shall—

''(1) undertake a study to determine whether any of the production-based duty remission programs of Canada with respect to automotive products is either—

''(A) inconsistent with the provisions of, or otherwise denies the benefits to the United States under, the General Agreement on Tariffs and Trade, or

''(B) being implemented inconsistently with the obligations under article 1002 of the Agreement not—

''(i) to expand the extent or the application, or

''(ii) to extend the duration,

of such programs; and

''(2) determine whether to initiate an investigation under section 302 of the Trade Act of 1974 [19 U.S.C. 2412] with respect to any of such production-based duty remission programs.

''(b) REPORT AND MONITORING.—

''(1) The United States Trade Representative shall submit a report to Congress no later than June 30, 1989 (or no later than September 30, 1989, if the Trade Representative considers an extension to be necessary) containing—

''(A) the results of the study under subsection (a)(1), as well as a description of the basis used for measuring and verifying compliance with the obligations referred to in subsection (a)(1)(B); and

''(B) any determination made under subsection (a)(2) and the reasons therefor.

''(2) Notwithstanding the submission of the report under paragraph (1), the Trade Representative shall continue to monitor the degree of compliance with the obligations referred to in subsection (a)(1)(B).

''TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

''SEC. 301. AGRICULTURE.

''(a) SPECIAL TARIFF PROVISIONS FOR FRESH FRUITS AND VEGETABLES.—

''(1) The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') may recommend to the President the imposition of a temporary duty on any Canadian fresh fruit or vegetable entered into the United States if the Secretary determines that both of the following conditions exist at the time that imposition of the duty is recommended:

''(A) For each of 5 consecutive working days the import price of the Canadian fresh fruit or vegetable is below 90 percent of the corresponding 5-year average monthly import price for such fruit or vegetable.

''(B) The planted acreage in the United States for the like fresh fruit or vegetable is no higher than the average planted acreage over the preceding 5 years, excluding the years with the highest and lowest acreage. For the purposes of applying this subparagraph, any acreage increase attributed directly to a reduction in the acreage that was planted to wine grapes as of October 4, 1987, shall be excluded.

Whenever the Secretary makes a determination that the conditions referred to in subparagraphs (A) and (B) regarding any Canadian fresh fruit or vegetable exist, the Secretary shall immediately submit for publication in the Federal Register notice of the determination.

''(2) No later than 6 days after publication in the Federal Register of the notice described in paragraph (1), the Secretary shall decide whether to recommend the imposition of a temporary duty to the President, and if the Secretary decides to make such a recommendation, the recommendation shall be forwarded immediately to the President.

''(3) In determining whether to recommend the imposition of a temporary duty to the President under paragraph (1), the Secretary shall consider whether the conditions in subparagraphs (A) and (B) of such paragraph have led to a distortion in trade between the United States and Canada of the fresh fruit or vegetable and, if so, whether the imposition of the duty is appropriate, including consideration of whether it would significantly correct this distortion.

''(4) Not later than 7 days after receipt of a recommendation of the Secretary under paragraph (1), the President, after taking into account the national economic interests of the United States, shall determine whether to impose a temporary duty on the Canadian fresh fruit or vegetable concerned. If the determination is affirmative, the President shall proclaim the imposition and the rate of the temporary duty, but such duty shall not apply to the entry of articles that were in transit to the United States on the first day on which the temporary duty is in effect.

''(5) A temporary duty imposed under paragraph (4) shall cease to apply with respect to articles that are entered on or after the earlier of—

''(A) the day following the last of 5 consecutive working days with respect to which the Secretary determines that the point of shipment price in Canada for the Canadian fruit or vegetable concerned exceeds 90 percent of the corresponding 5-year average monthly import price; or

''(B) the 180th day after the date on which the temporary duty first took effect.

''(6) No temporary duty may be imposed under this subsection on a Canadian fresh fruit or vegetable during such time as import relief is provided with respect to such fresh fruit or vegetable under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

''(7) For purposes of this subsection:

''(A) The term 'Canadian fresh fruit or vegetable' means any article originating in Canada (as determined in accordance with section 202) and classified within any of the following headings of the Harmonized System:

''(i) 07.01 (relating to potatoes, fresh or chilled);

''(ii) 07.02 (relating to tomatoes, fresh or chilled);

''(iii) 07.03 (relating to onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled);

''(iv) 07.04 (relating to cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled);

''(v) 07.05 (relating to lettuce (lactuca sativa) and chicory (cichorium spp.), fresh or chilled);

''(vi) 07.06 (relating to carrots, salad beets or beetroot, salsify, celeriac, radishes and similar edible roots (excluding turnips), fresh or chilled);

''(vii) 07.07 (relating to cucumbers and gherkins, fresh or chilled);

''(viii) 07.08 (relating to leguminous vegetables, shelled or unshelled, fresh or chilled);

''(ix) 07.09 (relating to other vegetables (excluding truffles), fresh or chilled);

''(x) 08.06.10 (relating to grapes, fresh);

''(xi) 08.08.20 (relating to pears and quinces, fresh);

''(xii) 08.09 (relating to apricots, cherries, peaches (including nectarines), plums and sloes, fresh); and

''(xiii) 08.10 (relating to other fruit (excluding cranberries and blueberries), fresh).

''(B) The term 'corresponding 5-year average monthly import price' for a particular day means the average import price of a Canadian fresh fruit or vegetable, for the calendar month in which that day occurs, for that month in each of the preceding 5 years, excluding the years with the highest and lowest monthly averages.

''(C) The term 'import price' has the meaning given such term in article 711 of the Agreement.

''(D) The rate of a temporary duty imposed under this subsection with respect to a Canadian fresh fruit or vegetable means a rate that, including the rate of any other duty in effect for such fruit or vegetable, does not exceed the lesser of—

''(i) the duty that was in effect for the fresh fruit or vegetable before January 1, 1989, under column one of the Tariff Schedules of the United States for the applicable season in which the temporary duty is applied; or

''(ii) the duty in effect for the fresh fruit or vegetable under column one of such Schedules, or column 1 (General) of the Harmonized System, at the time the temporary duty is applied.

''(8)(A) The Secretary shall, to the extent practicable, administer the provisions of this subsection to the 8-digit level of classification under the Harmonized System.

''(B) The Secretary may issue such regulations as may be necessary to implement the provisions of this subsection.

''(9) For purposes of assisting the Secretary in carrying out this subsection—

''(A) the Commissioner of U.S. Customs and Border Protection and the Director of the Bureau of Census shall cooperate in providing the Secretary with timely information and data relating to the importation of Canadian fresh fruits and vegetables, and

''(B) importers shall report such information relating to Canadian fresh fruits and vegetables to the Commissioner of U.S. Customs and Border Protection at such time and in such manner as the Commissioner requires.

''(10) The authority to impose temporary duties under this subsection expires on the 20th anniversary of the date on which the Agreement enters into force.

''(b) MEAT IMPORT ACT OF 1979.—[Amended section 2 of Pub. L. 88–482, set out as a note under section 2253 of this title.]

''(c) AGRICULTURAL ADJUSTMENT ACT.—[Amended section 624 of Title 7, Agriculture.]

''(d) IMPORTATION OF ANIMAL VACCINES.—[Amended section 152 of Title 21, Food and Drugs.]

''(e) IMPORTATION OF SEEDS.—[Amended section 1582 of Title 7, Agriculture.]

''(f) PLANT AND ANIMAL HEALTH REGULATIONS.—

''(1) [Amended section 150bb of Title 7.]

''(2) [Amended section 150cc of Title 7.]

''(3) [Amended sections 154 and 156 of Title 7.]

''(4) [Amended section 2803 of Title 7.]

''(5) [Amended section 1306 of this title.]

''SEC. 302. RELIEF FROM IMPORTS.

''(a) RELIEF FROM IMPORTS OF CANADIAN ARTICLES.—

''(1) A petition requesting action under this section for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the United States International Trade Commission (hereafter in this section referred to as the 'Commission') by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The Commission shall transmit a copy of any petition filed under this paragraph to the United States Trade Representative.

''(2)(A) Upon the filing of a petition under paragraph (1), the Commission shall promptly initiate an investigation to determine whether, as a result of a reduction or elimination of a duty provided for under the United States-Canada Free-Trade Agreement, an article originating in Canada is being imported into the United States in such increased quantities, in absolute terms, and under such conditions, so that imports of such Canadian article, alone, constitute a substantial cause of serious injury to the domestic industry producing an article like, or directly competitive with, the imported article.

''(B) The provisions of—

''(i) paragraphs (2), (3), (4), (6), and (7) of subsection (b), other than paragraph (2)(B), and

''(ii) subsection (c),

of section 201 of the Trade Act of 1974 (19 U.S.C. 2251), as in effect on June 1, 1988, shall apply with respect to any investigation initiated under subparagraph (A).

''(C) By no later than the date that is 120 days after the date on which an investigation is initiated under subparagraph (A), the Commission shall make a determination under subparagraph (A) with respect to such investigation.

''(D) If the determination made by the Commission under subparagraph (A) with respect to imports of an article is affirmative, the Commission shall find and recommend to the President the amount of import relief that is necessary to remedy the injury found by the Commission in such affirmative determination, which shall be limited to that set forth in paragraph (3)(C).

''(E)(i) By no later than the date that is 30 days after the date on which a determination is made

under subparagraph (A) with respect to an investigation, the Commission shall submit to the President a report on the determination and the basis for the determination. The report shall include any dissenting or separate views and a transcript of the hearings and any briefs which were submitted to the Commission in the course of the investigation initiated under subparagraph (A).

''(ii) Any finding made under subparagraph (D) shall be included in the report submitted to the President under clause (i).

''(F) Upon submitting a report to the President under subparagraph (E), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''(G) For purposes of this subsection—

''(i) The provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this paragraph as if such determinations and findings were made under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

''(ii) The determination of whether an article originates in Canada shall be made in accordance with section 202 (including any proclamations issued under section 202).

''(3)(A) By no later than the date that is 30 days after the date on which the President receives the report of the Commission containing an affirmative determination made by the Commission under paragraph (2)(A), the President shall provide relief from imports of the article originating in Canada that is the subject of such determination to the extent that, and for such time (not to exceed 3 years) as the President determines to be necessary to remedy the injury found by the Commission.

''(B) The President is not required to provide import relief by reason of this paragraph if the President determines that the provision of such import relief is not in the national economic interest.

''(C) The import relief that the President is authorized to provide by reason of this paragraph with respect to an article originating in Canada is limited to—

''(i) the suspension of any further reductions provided for under the Agreement in the duty imposed on such article originating in Canada,

''(ii) an increase in the rate of duty imposed on such article originating in Canada to a level that does not exceed the lesser of—

''(I) the general subcolumn of the column 1 rate of duty set forth in the Harmonized Tariff Schedule of the United States that is imposed by the United States on such article from any other foreign country at the time such import relief is provided, or

''(II) the general subcolumn of the column 1 rate of duty set forth in the Harmonized Tariff Schedule of the United States that is imposed by the United States on such article from any other foreign country on the day before the date on which the Agreement enters into force [Jan. 1, 1989], or

''(iii) in the case of a duty applied on a seasonal basis to such article originating in Canada, an increase in the rate of duty imposed on such article originating in Canada to a level that does not exceed the general subcolumn of the column 1 rate of duty set forth in the Harmonized Tariff Schedule of the United States imposed by the United States on such article originating in Canada for the corresponding season immediately prior to the date on which the Agreement enters into force.

''(4)(A) No investigation may be initiated under paragraph (2)(A) with respect to any article for which import relief has been provided under this subsection.

''(B) No import relief may be provided under this subsection after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 1989].

''(5) For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under paragraph (3) shall be treated as action taken under chapter I [1] of title II of such Act [19 U.S.C. 2251 et seq.].

''(b) RELIEF FROM IMPORTS FROM ALL COUNTRIES.—

''(1)(A) If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the Commission makes an affirmative determination (or a determination which is treated as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 [19 U.S.C. 1330(d)]) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry, the Commission shall also find (and report to the President at the time such injury determination is submitted to the President), whether imports from Canada of the article that is the subject of such investigation are substantial and are contributing importantly to such injury or threat thereof.

''(B)(i) In determining under subparagraph (A) whether imports of an article from Canada are substantial, the Commission shall not normally consider imports from Canada in the range of 5 to 10 percent or less of total imports of such article to be substantial.

''(ii) For purposes of this paragraph, the term 'contributing importantly' means an important cause, but not necessarily the most important cause, of the serious injury or threat thereof caused by imports.

''(2)(A) In determining whether to take action under chapter 1 of title II of the Trade Act of 1974 with respect to imports from Canada, the President shall determine whether imports from Canada of such article are substantial and contributing importantly to the serious injury or threat of serious injury found by the Commission.

''(B) In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall exclude from such action imports from Canada if the President has made a negative determination under subparagraph (A) regarding imports from Canada.

''(3)(A) If, under paragraph (2)(B), the President excludes imports from Canada from action taken under chapter 1 of title II of the Trade Act of 1974, the President may, if the President thereafter determines that a surge in imports from Canada of the article that is the subject of the action is undermining the effectiveness of the action, take appropriate action under such chapter with respect to such imports from Canada to include such imports in such action.

''(B)(i) If, under paragraph (2)(B), the President excludes imports from Canada from action taken under chapter 1 of title II of the Trade Act of 1974, any entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry for which such action is being taken under such chapter may request the Commission to conduct an investigation of imports from Canada of the article that is the subject of such action.

''(ii) Upon receiving a request under clause (i), the Commission shall conduct an investigation to determine whether a surge in imports from Canada of the article that is the subject of action being taken under chapter 1 of title II of the Trade Act of 1974 undermines the effectiveness of such action. The Commission shall submit the findings of such investigation to the President by no later than the date that is 30 days after the date on which such request is received by the Commission.

''(C) For purposes of this paragraph, the term 'surge' means a significant increase in imports over the trend for a reasonable, recent base period for which data are available.

''(c) Any entity that is representative of an industry may submit a petition for relief under subsection (a), under chapter 1 of title II of the Trade Act of 1974, or under both subsection (a) and such chapter at the same time. If petitions are submitted by such an entity under subsection (a) and such chapter at the same time, the Commission shall consider such petitions jointly.

''SEC. 303. ACTS IDENTIFIED IN NATIONAL TRADE ESTIMATES.

''With respect to any act, policy, or practice of Canada that is identified in the annual report submitted under section 181 of the Trade Act of 1974 (19 U.S.C. 2241), the United States Trade Representative shall include—

''(1) information with respect to the action taken regarding such act, policy, or practice, including but not limited to—

''(A) any action under section 301 of the Trade Act of 1974 [19 U.S.C. 2411] (including resolution through appropriate dispute settlement procedures),

''(B) any action under section 307 of the Trade and Tariff Act of 1984 [section 307 of Pub. L. 98–573, enacting section 2114d of this title and amending this section], and

''(C) negotiations or consultations, whether on a bilateral or multilateral basis; or

''(2) the reasons that no action was taken regarding such act, policy, or practice.

''SEC. 304. NEGOTIATIONS REGARDING CERTAIN SECTORS; BIENNIAL REPORTS.

''(a) IN GENERAL.—

''(1) The President is authorized to enter into negotiations with the Government of Canada for the purpose of concluding an agreement (including an agreement amending the Agreement) or agreements to—

''(A) liberalize trade in services in accordance with article 1405 of the Agreement;

''(B) liberalize investment rules;

''(C) improve the protection of intellectual property rights;

''(D) increase the value requirement applied for purposes of determining whether an automotive product is treated as originating in Canada or the United States; and

''(E) liberalize government procurement practices, particularly with regard to telecommunications.

''(2) As an exercise of the foreign relations powers of the President under the Constitution, the President will enter into immediate consultations with the Government of Canada to obtain the exclusion from the transport rates established under Canada's Western Grain Transportation Act of agricultural goods that originate in Canada and are shipped via east coast ports for consumption in the United States.

''(b) NEGOTIATING OBJECTIVES REGARDING SERVICES, INVESTMENT, AND INTELLECTUAL PROPERTY RIGHTS.—

''(1) The objectives of the United States in negotiations conducted under subsection (a)(1)(A) to liberalize trade in services include—

''(A) with respect to developing services sectors not covered in the Agreement, the elimination of those tariff, nontariff, and subsidy trade distortions that have potential to affect significant bilateral trade;

''(B) the elimination or reduction of measures grandfathered by the Agreement that deny or restrict national treatment in the provision of services;

''(C) the elimination of local presence requirements; and

''(D) the liberalization of government procurement of services.

In conducting such negotiations, the President shall consult with the services advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

''(2) The objectives of the United States in any negotiations conducted under subsection (a)(1)(B) to liberalize investment rules include—

''(A) the elimination of direct investment screening;

''(B) the extension of the principles of the Agreement to energy and cultural industries, to the extent such industries are not currently covered by the Agreement;

''(C) the elimination of technology transfer requirements and other performance requirements not currently barred by the Agreement; and

''(D) the subjection of all investment disputes to dispute resolution under chapter 18 of the Agreement.

In conducting such negotiations, the President shall consult with persons representing diverse interests in the United States in investment.

''(3) The objectives of the United States in any negotiations conducted under subsection (a)(1)(C) to improve the protection of intellectual property rights include—

''(A) the recognition and adequate protection of intellectual property, including copyrights, patents, process patents, trademarks, mask works, and trade secrets; and

''(B) the establishment of dispute resolution procedures and binational enforcement of intellectual property standards.

In conducting such negotiations, the President shall consult with persons representing diverse interests in the United States in intellectual property.

''(c) NEGOTIATING OBJECTIVES REGARDING AUTOMOTIVE PRODUCTS.—

''(1) In conducting negotiations under subsection (a)(1)(D) regarding the value requirement for automotive products, the President shall seek to conclude an agreement by no later than January 1, 1990, to increase the value requirement from 50 percent to at least 60 percent.

''(2) The President is authorized, through January 1, 1999, to proclaim any agreed increase in the value requirement.

''(3) As used in this section, the term 'value requirement' means the minimum percentage of the value of an automotive product that must be accounted for by the value of the materials in the product that originated in the United States or Canada, or both, plus the direct cost of processing or assembly performed in the United States or Canada, or both, with respect to the product.

''(d) NEGOTIATION OF LIMITATION ON POTATO TRADE.—

''(1) During the 5-year period beginning on the date of enactment of this Act [Sept. 28, 1988], the President is authorized to enter into negotiations with Canada for the purpose of obtaining an agreement to limit the exportation and importation of all potatoes between the United States and Canada, including seed potatoes, fresh, chilled or frozen potatoes, dried, desiccated or dehydrated potatoes, and potatoes otherwise prepared or preserved. Any agreement negotiated under this subsection shall provide for an annual limitation divided equally into each half of the year.

''(2) For the purpose of conducting negotiations under paragraph (1), the Secretary of Agriculture and the United States Trade Representative shall consult with representatives of the potato producing industry, including the Ad Hoc Potato Advisory Group and the United States/Canada Horticultural Industry Advisory Committee, to solicit their views on negotiations with Canada for reciprocal quantitative limits on the potato trade.

''(3) The President is authorized to direct the Secretary of the Treasury to—

''(A) carry out such actions as may be necessary or appropriate to ensure the attainment of the objectives of any agreement that is entered into under this section; and

''(B) enforce any quantitative limitation, restriction, and other terms contained in the agreement.

Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of any article that is subject to the agreement.

''(4) The provisions of section 1204 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736j) and the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c–3) shall not apply in the case of actions taken pursuant to this subsection.

''(e) CANADIAN CONTROLS ON FISH.—

''(1) Within 30 days of the application by Canada of export controls on unprocessed fish under statutes exempted from the Agreement under article 1203, or the application of landing requirements for fish caught in Canadian waters, the President shall take appropriate action to enforce United States rights under the General Agreement on Tariffs and Trade that are retained in article 1205 of the Agreement.

''(2) In enforcing the United States rights referred to in paragraph (1), the President has discretion to—

''(A) bring a challenge to the offending Canadian practices before the GATT;

''(B) retaliate against such offending practices;

''(C) seek resolution directly with Canada;

''(D) refer the matter for dispute resolution to the Canada-United States Trade Commission; or

''(E) take other action that the President considers appropriate to enforce such United States rights.

''(f) BIENNIAL REPORT.—The President shall submit to the Congress, at the close of each biennial period occurring after the date on which the Agreement enters into force [Jan. 1, 1989], a report regarding—

''(1) the status of the negotiations regarding agreements that the President is authorized to enter into with Canada under this section;

''(2) the effectiveness and operation of any agreement entered into under section 304 that is in force with respect to the United States;

''(3) the effectiveness of operation of the Agreement generally; and

''(4) the actions taken by the United States and Canada to implement further the objectives of the Agreement.

''SEC. 305. ENERGY.

''(a) ALASKAN OIL.—[Amended section 4606 of Title 50, War and National Defense.]

''(b) URANIUM.—[Amended section 2201 of Title 42, The Public Health and Welfare.]

''SEC. 306. LOWERED THRESHOLD FOR GOVERNMENT PROCUREMENT UNDER TRADE AGREEMENTS ACT OF 1979 IN THE CASE OF CERTAIN CANADIAN PRODUCTS.

[Amended section 2518 of this title.]

''SEC. 307. TEMPORARY ENTRY FOR BUSINESS PERSONS.

''(a) NONIMMIGRANT TRADERS AND INVESTORS.—Upon a basis of reciprocity secured by the United States-Canada Free-Trade Agreement, a citizen of Canada, and the spouse and children of any such citizen if accompanying or following to join such citizen, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Annex 1502.1 (United States of America), Part B—Traders and Investors, of such Agreement, but only if any such purpose shall have been specified in such Annex as of the date of entry into force of such Agreement [Jan. 1, 1989].

''(b) NONIMMIGRANT PROFESSIONALS.—[Amended section 1184 of Title 8, Aliens and Nationality.]

''SEC. 308. AMENDMENT TO SECTION 5136 OF THE REVISED STATUTES.

[Amended section 24 of Title 12, Banks and Banking.]

''SEC. 309. STEEL PRODUCTS.

''Nothing in this Act shall preclude any discussion or negotiation between the United States and Canada in order to conclude voluntary restraint agreements or mutually agreed quantitative restrictions on the volume of steel products entering the United States from Canada.

''TITLE IV—BINATIONAL PANEL DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES.

''SEC. 401. AMENDMENTS TO SECTION 516A OF THE TARIFF ACT OF 1930.

[Amended section 1516a of this title.]

''SEC. 402. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

''(a) JURISDICTION OF COURT OF INTERNATIONAL TRADE.—[Amended section 1581 of Title 28, Judiciary and Judicial Procedure.]

''(b) RELIEF IN COURT OF INTERNATIONAL TRADE.—[Amended section 2643 of Title 28.]

''(c) DECLARATORY JUDGMENTS.—[Amended section 2201 of Title 28.]

''(d) ACTIONS UNDER THE AGREEMENT.—[Enacted section 1584 of Title 28.]

''SEC. 403. CONFORMING AMENDMENTS TO THE TARIFF ACT OF 1930.

[Amended sections 1502, 1514, 1677, and 1677f of this title.]

''SEC. 404. AMENDMENTS TO ANTIDUMPING AND COUNTERVAILING DUTY LAW.

''Any amendment enacted after the Agreement enters into force with respect to the United States [Jan. 1, 1989] that is made to—

''(1) section 303 [19 U.S.C. 1303] or title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.], or any successor statute, or

''(2) any other statute which—

''(A) provides for judicial review of final determinations under such section, title, or statute, or

''(B) indicates the standard of review to be applied,

shall apply to Canada only to the extent specified in such amendment.

''SEC. 405. ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS REGARDING THE IMPLEMENTATION OF CHAPTERS 18 AND 19 OF THE AGREEMENT.

''(a) APPOINTMENT OF INDIVIDUALS TO PANELS AND COMMITTEES.—

''(1)(A) There is established within the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) an interagency group which shall—

''(i) be chaired by the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative'), and

''(ii) consist of such officers (or the designees thereof) of the Government of the United States as the Trade Representative considers appropriate.

''(B) The interagency group established under subparagraph (A) shall, in a manner consistent with chapter 19 of the Agreement—

''(i) prepare by January 3 of each calendar year—

''(I) a list of individuals who are qualified to serve as members of binational panels convened under chapter 19 of the Agreement, and

''(II) a list of individuals who are qualified to serve on extraordinary challenge committees convened under such chapter,

''(ii) if the Trade Representative makes a request under paragraph (5)(A)(i) with respect to a final candidate list during any calendar year, prepare by July 1 of such calendar year a list of those individuals who are qualified to be added to that final candidate list,

''(iii) exercise oversight of the administration of the United States Secretariat that is authorized to be established under subsection (e), and

''(iv) make recommendations to the Trade Representative regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement.

''(2)(A) The Trade Representative shall select individuals from the respective lists prepared by the interagency group under paragraph (1)(B)(i) for placement on a preliminary candidate list of individuals eligible to serve as members of binational panels under Annex 1901.2 of the Agreement and a preliminary candidate list of individuals eligible for selection as members of extraordinary challenge committees under Annex 1904.13 of the Agreement.

''(B) The selection of individuals for—

''(i) placement on lists prepared by the interagency group under clause (i) or (ii) of paragraph (1)(B),

''(ii) placement on preliminary candidate lists under subparagraph (A),

''(iii) placement on final candidate lists under paragraph (3),

''(iv) placement by the Trade Representative on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, and

''(v) appointment by the Trade Representative for service on binational panels and extraordinary challenge committees convened under chapter 19 of the Agreement,

shall be made on the basis of the criteria provided in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement and shall be made without regard to political affiliation.

''(C) For purposes of applying section 1001 of title 18, United States Code, the written or oral responses of individuals to inquiries of the interagency group established under paragraph (1) or the Trade Representative regarding their personal and professional qualifications, and financial and other relevant interests, that bear on their suitability for the placements and appointments described in subparagraph (B), shall be treated as matters within the jurisdiction of an agency of the United States.

''(3)(A) By no later than January 3 of each calendar year, the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the 'appropriate Congressional Committees') the preliminary candidate lists of those individuals selected by the Trade Representative under paragraph (2)(A) to be candidates eligible to serve on binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement during the 1-year period beginning on April 1 of such calendar year.

''(B) Upon submission of the preliminary candidate lists under subparagraph (A) to the appropriate Congressional Committees, the Trade Representative shall consult with the appropriate Congressional Committees with regard to the individuals listed on the preliminary candidate lists.

''(C) The Trade Representative may add or delete individuals from the preliminary candidate lists submitted under subparagraph (A) after consulting the appropriate Congressional Committees with regard to such addition or deletion. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the preliminary candidate lists.

''(4)(A) By no later than March 31 of each calendar year, the Trade Representative shall submit to the appropriate Congressional Committees the final candidate lists of those individuals selected by the Trade Representative to be candidates eligible to serve on binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the Agreement during the 1-year period beginning on April 1 of such calendar year. An individual may be included on a final candidate list only if written notice of the addition of such individual to the preliminary candidate list was submitted to the appropriate Congressional Committees at least 15 days before the date on which that final candidate list is submitted to the appropriate Congressional Committees under this subparagraph.

''(B) Except as provided in paragraph (5), no additions may be made to the final candidate lists after the final candidate lists are submitted to the appropriate Congressional Committees under subparagraph (A).

''(5)(A) If, after the Trade Representative has submitted the final candidate lists to the appropriate Congressional Committees under paragraph (4)(A) for a calendar year and before July 1 of such calendar year, the Trade Representative determines that additional individuals need to be added to a final candidate list, the Trade Representative shall—

''(i) request the interagency group established under paragraph (1)(A) to prepare a list of individuals who are qualified to be added to such candidate list,

''(ii) select individuals from the list prepared by the interagency group under paragraph (1)(B)(ii) to be included in a proposed amendment to such final candidate list, and

''(iii) by no later than July 1 of such calendar year, submit to the appropriate Congressional Committees the proposed amendments to such final candidate list developed by the Trade Representative under clause (ii).

''(B) Upon submission of a proposed amendment under subparagraph (A)(iii) to the appropriate Congressional Committees, the Trade Representative shall consult with the appropriate Congressional Committees with regard to the individuals included in the proposed amendment.

''(C) The Trade Representative may add or delete individuals from any proposed amendment submitted under subparagraph (A)(iii) after consulting the appropriate Congressional Committees with regard to such addition or deletion. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the proposed amendment.

''(D)(i) If the Trade Representative submits under subparagraph (A)(iii) in any calendar year a proposed amendment to a final candidate list, the Trade Representative shall, by no later than September 30 of such calendar year, submit to the appropriate Congressional Committees the final form of such amendment. On October 1 of such calendar year, such amendment shall take effect and the individuals included in the final form of such amendment shall be added to the final candidate list.

''(ii) An individual may be included in the final form of an amendment submitted under clause (i) only if written notice of the addition of such individual to the proposed form of such amendment was submitted to the appropriate Congressional Committees at least 15 days before the date on which the final form of such amendment is submitted under clause (i).

''(iii) Individuals added to a final candidate list under clause (i) shall be eligible to serve on binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement, as the case may be, during the 6-month period beginning on October 1 of the calendar year in which such addition occurs.

''(iv) No additions may be made to the final form of an amendment described in clause (i) after the final form of such amendment is submitted to the appropriate Congressional Committees under clause (i).

''(6)(A) The Trade Representative is the only officer of the Government of the United States authorized to act on behalf of the Government of the United States in making any selection or appointment of an individual to—

''(i) the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, or

''(ii) the binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement,

that is to be made solely or jointly by the Government of the United States under the terms of the Agreement.

''(B) Except as otherwise provided in paragraph (7)(B), the Trade Representative may—

''(i) select an individual for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement during the 1-year period beginning on April 1 of any calendar year,

''(ii) appoint an individual to serve as one of those members of any binational panel or extraordinary challenge committee convened pursuant to chapter 19 of the Agreement during such 1-year period who, under the terms of the Agreement, are to be appointed solely by the Government of the United States, or

''(iii) act to make a joint appointment with the Government of Canada, under the terms of the Agreement, of any individual who is a citizen or national of the United States to serve as any other member of such a panel or committee,

only if such individual is on the appropriate final candidate list that was submitted to the appropriate Congressional Committees under paragraph (4)(A) during such calendar year or on such list as it may be amended under paragraph (5)(D)(i).

''(7)(A) Except as otherwise provided in this paragraph, no individual may—

''(i) be selected by the Government of the United States for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, or

''(ii) be appointed solely or jointly by the Government of the United States to serve as a member of a binational panel or extraordinary challenge committee convened pursuant to chapter 19 of the Agreement,

during the 1-year period beginning on April 1 of any calendar year for which the Trade Representative has not met the requirements of this subsection.

''(B)(i) Notwithstanding paragraphs (3), (4), or (6)(B) (other than paragraph (3)(A)), individuals listed on the preliminary candidate lists submitted to the appropriate Congressional Committees under paragraph (3)(A) may—

''(I) be selected by the Trade Representative for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement during the 3-month period beginning on the date on which the Agreement enters into force, and

''(II) be appointed solely or jointly by the Trade Representative under the terms of the Agreement to serve as members of binational panels or extraordinary challenge committees that are convened pursuant to chapter 19 of the Agreement during such 3-month period.

''(ii) If the Agreement enters into force after January 3, 1989, the provisions of this subsection shall be applied with respect to the calendar year in which the Agreement enters into force—

''(I) by substituting 'the date that is 30 days after the date on which the Agreement enters into force' for 'January 3 of each calendar year' in paragraphs (1)(B)(i) and (3)(A), and

''(II) by substituting 'the date that is 3 months after the date on which the Agreement enters into force' for 'March 31 of each calendar year' in paragraph (4)(A).

''(b) STATUS OF PANELISTS.—Notwithstanding any other provision of law, individuals appointed by the United States to serve on panels or committees convened pursuant to chapter 19 of the Agreement, and individuals designated to assist such appointed individuals, shall not be considered to be employees or special employees of, or to be otherwise affiliated with, the Government of the United States.

''(c) IMMUNITY OF PANELISTS.—With the exception of acts described in section 777f(d)(3) [777(d)(3)] of the Tariff Act of 1930, as added by this Act [19 U.S.C. 1677f(d)(3)], individuals serving on panels or committees convened pursuant to chapter 19 of the Agreement, and individuals designated to assist the individuals serving on such panels or committees, shall be immune from suit and legal process relating to acts performed by such individuals in their official capacity and within the scope of their functions as such panelists or committee members or assistants to such panelists or committee members.

''(d) REGULATIONS.—The administering authority under title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.], the United States International Trade Commission, and the United States Trade Representative may promulgate such regulations as are necessary or appropriate to carry out actions in order to implement their respective responsibilities under chapters 18 and 19 of the Agreement. Initial regulations to carry out such functions shall be issued prior to the date of entry into force of the Agreement [Jan. 1, 1989].

''(e) ESTABLISHMENT OF UNITED STATES SECRETARIAT.—

''(1) The President is authorized to establish within any department or agency of the Federal Government a United States Secretariat which, subject to the oversight of the interagency group established under subsection (a)(1)(A), shall facilitate—

''(A) the operation of chapters 18 and 19 of the Agreement, and

''(B) the work of the binational panels and extraordinary challenge committees convened under chapters 18 and 19 of the Agreement.

''(2) The United States Secretariat established by the President under paragraph (1) shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''SEC. 406. AUTHORIZATION OF APPROPRIATIONS FOR THE SECRETARIAT, THE PANELS, AND THE COMMITTEES.

''(a) THE SECRETARIAT.—There are authorized to be appropriated to the department or agency within which the United States Secretariat described in chapter 19 of the Agreement is established the lesser of—

''(1) such sums as may be necessary, or

''(2) $5,000,000,

for each fiscal year succeeding fiscal year 1988 for the establishment and operations of such United States Secretariat and for the payment of the United States share of the expenses of the dispute settlement proceedings under chapter 18 of the Agreement.

''(b) PANELS AND COMMITTEES.—

''(1) There are authorized to be appropriated to the Office of the United States Trade Representative for fiscal year 1990, $1,492,000 to pay during such fiscal year the United States share of the expenses of binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the Agreement.

''(2) The United States Trade Representative is authorized to transfer to any department or agency of the United States, from sums appropriated pursuant to the authorization provided under paragraph (1) or section 141(g)(1) of the Trade Act of 1974 [19 U.S.C. 2171(g)(1)], such funds as may be necessary to facilitate the payment of the expenses described in paragraph (1).

''(3) Funds appropriated for the payment of expenses described in paragraph (1) during any fiscal year may be expended only to the extent such funds do not exceed the amount authorized to be appropriated under paragraph (1) for such fiscal year. This paragraph shall apply, notwithstanding any law enacted after the date of enactment of this Act [Sept. 28, 1988], unless such subsequent law specifically provides that this paragraph shall not apply and specifically cites this paragraph.

''(4) If the Canadian Secretariat described in chapter 19 of the Agreement provides funds during any fiscal year for the purpose of paying, in accordance with Annex 1901.2 of the Agreement, the Canadian share of the expenses of binational panels, the United States

Secretariat established under section 405(e)(1) may hereafter retain and use such funds for such purposes.

''SEC. 407. TESTIMONY AND PRODUCTION OF PAPERS IN EXTRAORDINARY CHALLENGES.

''(a) AUTHORITY OF EXTRAORDINARY CHALLENGE COMMITTEE TO OBTAIN INFORMATION.—If an extraordinary challenge committee (hereinafter referred to in this section as the 'committee') is convened pursuant to article 1904(13) of the Agreement, and the allegations before the committee include a matter referred to in article 1904(13)(a)(i) of the Agreement, for the purposes of carrying out its functions and duties under Annex 1904.13 of the Agreement, the committee—

''(1) shall have access to, and the right to copy, any document, paper, or record pertinent to the subject matter under consideration, in the possession of any individual, partnership, corporation, association, organization, or other entity,

''(2) may summon witnesses, take testimony, and administer oaths,

''(3) may require any individual, partnership, corporation, association, organization, or other entity to produce documents, books, or records relating to the matter in question, and

''(4) may require any individual, partnership, corporation, association, organization, or other entity to furnish in writing, in such detail and in such form as the committee may prescribe, information in its possession pertaining to the matter.

Any member of the committee may sign subpoenas, and members of the committee, when authorized by the committee, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

''(b) WITNESSES AND EVIDENCE.—The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subsection (a) may be required from any place in the United States at any designated place of hearing. In the case of disobedience to a subpoena authorized under subsection (a), the committee may request the Attorney General of the United States to invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization, or other entity, issue an order requiring such individual or entity to appear before the committee, or to produce documentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

''(c) MANDAMUS.—Any court referred to in subsection (b) shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this section or any order of the committee made in pursuance thereof.

''(d) DEPOSITIONS.—The committee may order testimony to be taken by deposition at any stage of the committee review. Such deposition may be taken before any person designated by the committee and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization or other entity may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the committee, as provided in this section.

''SEC. 408. REQUESTS FOR REVIEW OF CANADIAN ANTIDUMPING AND COUNTERVAILING DUTY DETERMINATIONS.

''(a) REQUESTS FOR REVIEW BY THE UNITED STATES.—In the case of a final antidumping or countervailing duty determination of a competent investigating authority of Canada, as defined in article 1911 of the Agreement, requests by the United States for binational panel review under article 1904 of the Agreement shall be made by the United States Secretary, described in article 1909(4) of the Agreement.

''(b) REQUESTS FOR REVIEW BY A PERSON.—In the case of a final antidumping or countervailing duty determination of a competent investigating authority of Canada, as defined in article 1911 of the Agreement, a person, within the meaning of article 1904(5) of the Agreement, may request a binational panel review of such determination by filing with the United States Secretary, described in article 1909(4) of the Agreement, such a request within the time limit provided for in article 1904(4) of the Agreement. The receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority shall prescribe by regulations. The request for such panel review shall not preclude the United States, Canada, or any other person from challenging before a binational panel the basis for a particular request for review.

''(c) SERVICE OF REQUEST FOR REVIEW.—Whenever binational panel review is requested under this section, the United States Secretary shall serve a copy of the request on all persons who would otherwise be entitled under Canadian law to commence procedures for judicial review of a final antidumping or countervailing duty determination made by a competent investigating authority of Canada.

''SEC. 409. SUBSIDIES.

''(a) NEGOTIATING AUTHORITY.—

''(1) The President is authorized to enter into an agreement with Canada, including an agreement to amend the Agreement, on rules applicable to trade between the United States and Canada that—

''(A) deal with unfair pricing and government subsidization, and

''(B) provide for increased discipline on subsidies.

''(2)(A) The objectives of the United States in negotiating an agreement under paragraph (1) include (but are not limited to)—

''(i) achievement, on an expedited basis, of increased discipline on government production and export subsidies that have a significant impact, directly or indirectly, on bilateral trade between the United States and Canada; and

''(ii) attainment of increased and more effective discipline on those Canadian Government (including provincial) subsidies having the most significant adverse impact on United States producers that compete with subsidized products of Canada in the markets of the United States and Canada.

''(B) Special emphasis should be given in negotiating an agreement under paragraph (1) to obtain discipline on Canadian subsidy programs that adversely affect United States industries which directly compete with subsidized imports.

''(3) The United States members of the working group established under article 1907 of the Agreement shall consult regularly with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and advisory committees established under section 135 of the Trade Act of 1974 [19 U.S.C. 2155] regarding—

''(A) the issues being considered by the working group; and

''(B) as appropriate, the objectives and strategy of the United States in the negotiations.

''(4) Notwithstanding any other provision of this Act or of any other law, the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall not apply to any bill or joint resolution that implements an agreement entered into under paragraph (1), unless the President determines and notifies the Congress that such agreement—

''(A) will provide greater discipline over government subsidies and no less discipline over unfair pricing practices by producers than that provided by the agreements described in paragraphs (5) and (6) of section 2[(c)] of the Trade Agreements Act of 1979 [19 U.S.C. 2503(c)(5), (6)] (the Subsidies Code and Antidumping Code), respectively, taking into account the effects of the Agreement, and

''(B) will neither undermine such multilateral discipline nor detract from United States efforts to increase such discipline on a multilateral basis in, or subsequent to, the Uruguay Round of multilateral trade negotiations.

''(b) IDENTIFICATION OF INDUSTRIES FACING SUBSIDIZED IMPORTS.—

''(1) Any entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a United States industry and has reason to believe that—

''(A)(i) as a result of implementation of provisions of the Agreement, the industry is likely to face increased competition from subsidized Canadian imports with which it directly competes; or

''(ii) the industry is likely to face increased competition from subsidized imports with which it directly competes from any other country designated by the President, following consultations with the Congress, as benefitting from a reduction of tariffs or other trade barriers under a trade agreement that enters into force after January 1, 1989; and

''(B) the industry is likely to experience a deterioration of its competitive position before rules and disciplines relating to the use of government subsidies have been developed with respect to such country;

may file a petition with the United States Trade Representative (hereafter referred to in this section as the 'Trade Representative') to be identified under this section.

''(2) Within 90 days of receipt of a petition under paragraph (1), the Trade Representative, in consultation with the Secretary of Commerce, shall decide whether to identify the industry on the basis that there is a reasonable likelihood that the industry may face both the subsidization described in paragraph (1)(A) and the deterioration described in paragraph (1)(B).

''(3) At the request of an entity that is representative of an industry identified under paragraph (2), the Trade Representative shall—

''(A) compile and make available to the industry information under section 308 of the Trade Act of 1974 [19 U.S.C. 2418],

''(B) recommend to the President that an investigation by the United States International Trade Commission be requested under section 332 of the Tariff Act of 1930 [19 U.S.C. 1332], or

''(C) take actions described in both subparagraphs (A) and (B).

The industry may request the Trade Representative to take appropriate action to update (as often as annually) any information obtained under subparagraph (A) or (B), or both, as the case may be, until an agreement on adequate rules and disciplines relating to government subsidies is reached.

''(4)(A) The Trade Representative and the Secretary of Commerce shall review information obtained under paragraph (3) and consult with the industry identified under paragraph (2) with a view to deciding whether any action is appropriate under section 301 of the Trade Act of 1974 [19 U.S.C. 2411], including the initiation of an investigation under section 302(c) of that Act [19 U.S.C. 2412(c)] (in the case of the Trade Representative), or under subtitle A of title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.], including the initiation of an investigation under section 702(a) of that Act [19 U.S.C. 1671a(a)] (in the case of the Secretary of Commerce).

''(B) In determining whether to initiate any investigation under section 301 of the Trade Act of 1974 [19 U.S.C. 2411] or any other trade law, other than title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.], the Trade Representative, after consultation with the Secretary of Commerce—

''(i) shall seek the advice of the advisory committees established under section 135 of the Trade Act of 1974 [19 U.S.C. 2155];

''(ii) shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives;

''(iii) shall coordinate with the interagency committee established under section 242 of the Trade Expansion Act of 1962 [19 U.S.C. 1872]; and

''(iv) may ask the President to request advice from the United States International Trade Commission.

''(C) In the event an investigation is initiated under section 302(c) of the Trade Act of 1974 [19 U.S.C. 2412(c)] as a result of a review under this paragraph and the President, following such investigation (including any applicable dispute settlement proceedings under the Agreement or any other trade agreement), determines to take action under section 301(a) of such Act [19 U.S.C. 2411(a)], the President shall give preference to actions that most directly affect the products that benefit from governmental subsidies and were the subject of the investigation, unless there are no significant imports of such products or the President otherwise determines that application of the action to other products would be more effective.

''(5) Any decision, whether positive or negative, or any action by the Trade Representative or the Secretary of Commerce under this section shall not in any way—

''(A) prejudice the right of any industry to file a petition under any trade law,

''(B) prejudice, affect, or substitute for, any proceeding, investigation, determination, or action by the Secretary of Commerce, the United States International Trade Commission, or the Trade Representative pursuant to such a petition,

''(C) prejudice, affect, substitute for, or obviate any proceeding, investigation, or determination under section 301 of the Trade Act of 1974 [19 U.S.C. 2411], title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.], or any other trade law.

''(6) Nothing in this subsection may be construed to alter in any manner the requirements in effect before the enactment of this Act [Sept. 28, 1988] for standing under any law of the United States or to add any additional requirements for standing under any law of the United States.

''SEC. 410. TERMINATION OF AGREEMENT.

''(a) IN GENERAL.—If—

''(1) no agreement is entered into between the United States and Canada on a substitute system of rules for antidumping and countervailing duties before the date that is 7 years after the date on which the Agreement enters into force [Jan. 1, 1989], and

''(2) the President decides not to exercise the rights of the United States under article 1906 of the Agreement to terminate the Agreement,

the President shall submit to the Congress a report on such decision which explains why continued adherence to the Agreement is in the national economic interest of the United States. In calculating the 7-year period referred to in paragraph (1), any time during which Canada is a NAFTA country (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act [19 U.S.C. 3301(4)]) shall be disregarded.

''(b) TRANSITION PROVISIONS.—

''(1) If on the date on which the Agreement should cease to be in force an investigation or enforcement proceeding concerning the violation of a protective order issued under section 777(d) of the Tariff Act of 1930 (as amended by this Act) [19 U.S.C. 1677f(d)] or a Canadian undertaking is pending, such investigation or proceeding shall continue and sanctions may con-

tinue to be imposed in accordance with the provisions of such section.

''(2) If on the date on which the Agreement should cease to be in force a binational panel review under article 1904 of the Agreement is pending, or has been requested, with respect to a determination to which section 516A(g)(2) of the Tariff Act of 1930 (as added by this Act) [19 U.S.C. 1516a(g)(2)] applies, such determination shall be reviewable under section 516A(a) of the Tariff Act of 1930. In the case of a determination to which the provisions of this paragraph apply, the time limits for commencing an action under section 516A(a)(2)(A) of the Tariff Act of 1930 shall not begin to run until the date on which the Agreement ceases to be in force.

''TITLE V—EFFECTIVE DATES AND SEVERABILITY

''SEC. 501. EFFECTIVE DATES.

''(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act, and the amendments made by this Act, shall take effect on the date the Agreement enters into force [Jan. 1, 1989].

[A Presidential Memorandum on the Canada-United States Free-Trade Agreement, dated Dec. 31, 1988, directing the Secretary of State to exchange notes with the Government of Canada to provide for the entry into force of the Agreement on Jan. 1, 1989, is set out in 24 Weekly Compilation of Presidential Documents 1688, Jan. 2, 1989. See, also, confirmation by Office of the United States Trade Representative, 54 F.R. 505.]

''(b) EXCEPTIONS.—Sections 1 and 2, title I, section 304 (except subsection (f)), section 309, this section and section 502 shall take effect on the date of enactment of this Act [Sept. 28, 1988].

''(c) TERMINATION OR SUSPENSION OF AGREEMENT.—

''(1) TERMINATION OF AGREEMENT.—On the date the Agreement ceases to be in force, the provisions of this Act (other than this paragraph and section 410(b)), and the amendments made by this Act, shall cease to have effect.

''(2) EFFECT OF AGREEMENT SUSPENSION.—An agreement by the United States and Canada to suspend the operation of the Agreement shall not be deemed to cause the Agreement to cease to be in force within the meaning of paragraph (1).

''(3) SUSPENSION RESULTING FROM USMCA.—On the date the United States and Canada agree to suspend the operation of the Agreement by reason of the entry into force of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act [19 U.S.C. 4502]), the following provisions of this Act are suspended and shall remain suspended until such time as the suspension of the Agreement may be terminated:

''(A) Sections 204(a) and (b) and 205(a).

''(B) Sections 302 and 304(f).

''(C) Sections 404, 409, and 410(b).

''SEC. 502. SEVERABILITY.

''If any provision of this Act, any amendment made by this Act, or the application of such a provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.''

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.]

[Amendment by section 107 of Pub. L. 103–182 to section 501(c) of Pub. L. 100–449, set out above, effective on the date the North American Free Trade Agreement enters into force between the United States and Canada (Jan. 1, 1994), see section 109(a)(2) of Pub. L. 103–182, formerly set out as an Effective Date; Termination of NAFTA Status note under former section 3311 of this title.]

[Pub. L. 103–182, title III, §308(b), Dec. 8, 1993, 107 Stat. 2105, which provided that the amendments made by section 308(a) of Pub. L. 103–182 to section 301(a) of Pub. L. 100–449, set out above, would take effect on Dec. 8, 1993, was repealed by Pub. L. 116–113, title VI, §601, Jan. 29, 2020, 134 Stat. 78, effective on the date the USMCA entered into force (July 1, 2020).]

[Amendment by section 413 of Pub. L. 103–182 to section 410(a) of Pub. L. 100–449, set out above, effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i) to (iii) of this title, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada before such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or any extraordinary challenge arising out of such review, that was commenced before such date, see section 416 of Pub. L. 103–182, formerly set out as an Effective Date note under former section 3431 of this title.]

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1801–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

UNITED STATES-ISRAEL FREE TRADE AREA IMPLEMENTATION

Pub. L. 99–47, June 11, 1985, 99 Stat. 82, as amended by Pub. L. 104–234, §1, Oct. 2, 1996, 110 Stat. 3058, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'United States-Israel Free Trade Area Implementation Act of 1985'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the agreement on the establishment of a free trade area between the United States and Israel negotiated under the authority of section 102 of the Trade Act of 1974 [19 U.S.C. 2112];

''(2) to strengthen and develop the economic relations between the United States and Israel for their mutual benefit; and

''(3) to establish free trade between the two nations through the removal of trade barriers.

''SEC. 3. APPROVAL OF A FREE TRADE AREA AGREEMENT.

''Pursuant to sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112; 2191), the Congress approves—

''(1) the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel (hereinafter in this Act referred to as 'the Agreement') entered into on April 22, 1985, and submitted to the Congress on April 29, 1985, and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on April 29, 1985.

''SEC. 4. PROCLAMATION AUTHORITY.

''(a) TARIFF MODIFICATIONS.—Except as provided in subsection (c), the President may proclaim—

''(1) such modifications or continuance of any existing duty,

''(2) such continuance of existing duty-free or excise treatment, or

''(3) such additional duties,

as the President determines to be required or appropriate to carry out the schedule of duty reductions with respect to Israel set forth in annex 1 of the Agreement.

''(b) ADDITIONAL TARIFF MODIFICATION AUTHORITY.—Except as provided in subsection (c), whenever the President determines that it is necessary to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the Agreement, the President may proclaim—

''(1) such withdrawal, suspension, modification, or continuance of any duty,

''(2) such continuance of existing duty-free or excise treatment, or

''(3) such additional duties,

as the President determines to be required or appropriate to carry out the Agreement.

''(c) EXCEPTION TO AUTHORITY.—No modification of any duty imposed on any article provided for in paragraph (4) of annex 1 of the Agreement that may be proclaimed under subsection (a) or (b) shall take effect prior to January 1, 1995.

''SEC. 5. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES LAW.

''(a) UNITED STATES STATUTES TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is in conflict with—

''(1) title IV of the Trade and Tariff Act of 1984 [title IV of Pub. L. 98–573, amending this section and enacting provisions set out below], or

''(2) any other statute of the United States,

shall be given effect under the laws of the United States.

''(b) IMPLEMENTING REGULATIONS.—Regulations that are necessary or appropriate to carry out actions proposed in any statement of proposed administrative action submitted to the Congress under section 102 of the Trade Act of 1974 (19 U.S.C. 2112) in order to implement the Agreement shall be prescribed. Initial regulations to carry out such action shall be issued within one year after the date of the entry into force of the Agreement.

''(c) CHANGES IN STATUTES TO IMPLEMENT A REQUIREMENT, AMENDMENT, OR RECOMMENDATION.—

''(1) Except as otherwise provided in paragraph (2), the provisions of section 3(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)) shall apply with respect to the Agreement and—

''(A) no requirement of, amendment to, or recommendation under the Agreement shall be implemented under United States law, and

''(B) no amendment, repeal, or enactment of a statute of the United States to implement any such requirement, amendment, or recommendation shall enter into force with respect to the United States,

unless there has been compliance with the provisions of section 3(c) of the Trade Agreements Act of 1979.

''(2) The provisions of section 3(c)(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)(4)) shall apply to any bill implementing any requirement of, amendment to, or recommendation made under, the Agreement that reduces or eliminates any duty imposed on any article provided for in paragraph (4) of Annex 1 of the Agreement only if—

''(A) any reduction of such duty provided in such bill—

''(i) takes effect after December 31, 1989, and

''(ii) takes effect gradually over the period that begins on January 1, 1990, and ends on December 31, 1994,

''(B) any elimination of such duty provided in such bill does not take effect prior to January 1, 1995, and

''(C) the consultations required under section 3(c)(1) of such Act occur at least ninety days prior to the date on which such bill is submitted to the Congress under section 3(c) of such Act.

''(d) PRIVATE REMEDIES NOT CREATED.—Neither the entry into force of the Agreement with respect to the United States, nor the enactment of this Act, shall be construed as creating any private right of action or remedy for which provision is not explicitly made under this Act or under the laws of the United States.

''SEC. 6. TERMINATION.

''The provisions of section 125(a) of the Trade Act of 1974 (19 U.S.C. 2135(a)) shall not apply to the Agreement.

''SEC. 7. LOWERED THRESHOLD FOR GOVERNMENT PROCUREMENT UNDER TRADE AGREEMENTS ACT OF 1979 IN THE CASE OF CERTAIN ISRAELI PRODUCTS.

[Section amended section 2518(4)(C) of this title.]

''SEC. 8. TECHNICAL AMENDMENTS.

[Section amended title IV of Pub. L. 98–573, set out as a note below, this section, and sections 2462 to 2464 of this title.]

''SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.

''(a) ELIMINATION OR MODIFICATIONS OF DUTIES.—The President is authorized to proclaim elimination or modification of any existing duty as the President determines is necessary to exempt any article from duty if—

''(1) that article is wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone;

''(2) that article is imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and

''(3) the sum of—

''(A) the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus

''(B) the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone,

is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

For purposes of determining the 35 percent content requirement contained in paragraph (3), the cost or value of materials which are used in the production of an article in the West Bank, the Gaza Strip, or a qualifying industrial zone, and are the products of the United States, may be counted in an amount up to 15 percent of the appraised value of the article.

''(b) APPLICABILITY OF CERTAIN PROVISIONS OF THE AGREEMENT.—

''(1) NONQUALIFYING OPERATIONS.—No article shall be considered a new or different article of commerce under this section, and no material shall be included for purposes of determining the 35 percent requirement of subsection (a)(3), by virtue of having merely undergone—

''(A) simple combining or packaging operations, or

''(B) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

''(2) REQUIREMENTS FOR NEW OR DIFFERENT ARTICLE OF COMMERCE.—For purposes of subsection (a)(1), an article is a 'new or different article of commerce' if it is substantially transformed into an article having a new name, character, or use.

''(3) COST OR VALUE OF MATERIALS.—(A) For purposes of this section, the cost or value of materials

produced in the West Bank, the Gaza Strip, or a qualifying industrial zone includes—

''(i) the manufacturer's actual cost for the materials;

''(ii) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

''(iii) the actual cost of waste or spoilage, less the value of recoverable scrap; and

''(iv) taxes or duties imposed on the materials by the West Bank, the Gaza Strip, or a qualifying industrial zone, if such taxes or duties are not remitted on exportation.

''(B) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of—

''(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

''(ii) an amount for profit; and

''(iii) freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

''(4) DIRECT COSTS OF PROCESSING OPERATIONS.—(A) For purposes of this section, the 'direct costs of processing operations performed in the West Bank, Gaza Strip, or a qualifying industrial zone' with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

''(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the article, including fringe benefits, on-the-job training, and costs of engineering, supervisory, quality control, and similar personnel.

''(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.

''(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the article.

''(iv) Costs of inspecting and testing the article.

''(B) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manufacturing the article. Such items include, but are not limited to—

''(i) profit; and

''(ii) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

''(5) IMPORTED DIRECTLY.—For purposes of this section—

''(A) articles are 'imported directly' if—

''(i) the articles are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel into the United States without passing through the territory of any intermediate country; or

''(ii) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

''(B) if articles are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they—

''(i) remain under the control of the customs authority in an intermediate country;

''(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

''(iii) have not been subjected to operations other than loading, unloading, or other activities necessary to preserve the article in good condition.

''(6) DOCUMENTATION REQUIRED.—An article is eligible for the duty exemption under this section only if—

''(A) the importer certifies that the article meets the conditions for the duty exemption; and

''(B) when requested by the Customs Service, the importer, manufacturer, or exporter submits a declaration setting forth all pertinent information with respect to the article, including the following:

''(i) A description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading.

''(ii) A description of the operations performed in the production of the article in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel and identification of the direct costs of processing operations.

''(iii) A description of any materials used in production of the article which are wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, a qualifying industrial zone, Israel or United States, and a statement as to the cost or value of such materials.

''(iv) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel.

''(v) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip, or a qualifying industrial zone.

''(c) SHIPMENT OF ARTICLES OF ISRAEL THROUGH WEST BANK OR GAZA STRIP.—The President is authorized to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

''(d) TREATMENT OF COST OR VALUE OF MATERIALS.—The President is authorized to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

''(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—For purposes of this section, a 'qualifying industrial zone' means any area that—

''(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

''(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

''(3) has been specified by the President as a qualifying industrial zone.''

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.]

TRADE AGREEMENTS WITH ISRAEL

Pub. L. 98–573, title IV, §§ 402–405, formerly §§ 402–404, 406, Oct. 30, 1984, 98 Stat. 3015–3017, as renumbered and amended by Pub. L. 99–47, § 8(a), June 11, 1985, 99 Stat. 84; Pub. L. 99–514, title XVIII, § 1889(6), Oct. 22, 1986, 100 Stat. 2926; Pub. L. 100–418, title I, §§ 1214(s)(4), 1401(b)(3), Aug. 23, 1988, 102 Stat. 1160, 1240, provided that:

''SEC. 402. CRITERIA FOR DUTY-FREE TREATMENT OF ARTICLES.

''(a)(1) The reduction or elimination of any duty imposed on any article by the United States provided for in a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)] shall apply only if—

''(A) that article is the growth, product, or manufacture of Israel or is a new or different article of commerce that has been grown, produced, or manufactured in Israel;

''(B) that article is imported directly from Israel into the customs territory of the United States; and

''(C) the sum of—

''(i) the cost of value of the materials produced in Israel, plus

''(ii) the direct costs of processing operations performed in Israel,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subsection applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (C).

''(2) No article may be considered to meet the requirements of paragraph (1)(A) by virtue of having merely undergone—

''(A) simple combining or packaging operations; or

''(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

''(b) As used in this section, the phrase 'direct costs of processing operations' includes, but is not limited to—

''(1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

''(2) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (A) profit, and (B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

''(c) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

''SEC. 403. APPLICATION OF CERTAIN OTHER TRADE LAW PROVISIONS.

''(a) SUSPENSION OF DUTY-FREE TREATMENT.—The President may by proclamation suspend the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under the authority of section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)] with respect to any article and may proclaim a duty rate for such article if such action is proclaimed under section 203 of the Trade Act of 1974 [19 U.S.C. 2253] or section 232 of the Trade Expansion Act of 1962 [19 U.S.C. 1862].

''(b) ITC REPORTS.—In any report by the United States International Trade Commission (hereinafter referred to in this title [this note] as the 'Commission') to the President under section 202(f) of the Trade Act of 1974 [19 U.S.C. 2252(f)] regarding any article for which a reduction or elimination of any duty is provided under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)], the Commission shall state whether and to what extent its findings and recommendations apply to such an article when imported from Israel.

''(c) For purposes of section 203 of the Trade Act of 1974 [19 U.S.C. 2253], the suspension of the reduction or elimination of a duty under subsection (a) shall be treated as an increase in duty.

''(d) No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under section 203 of the Trade Act of 1974 [19 U.S.C. 2253], unless the Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974 [19 U.S.C. 2252(b)], determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)].

''(e)(1) Any proclamation issued under section 203 of the Trade Act of 1974 [19 U.S.C. 2253] that is in effect when an agreement with Israel is entered into under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)] shall remain in effect until modified or terminated.

''(2) If any article is subject to import relief at the time an agreement is entered into with Israel under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)], the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of sections 203 and 204 of the Trade Act of 1974 [19 U.S.C. 2253, 2254].

''SEC. 404. FAST TRACK PROCEDURES FOR PERISHABLE ARTICLES.

''(a) If a petition is filed with the Commission under the provisions of section 202(a) of the Trade Act of 1974 [19 U.S.C. 2252(a)] regarding a perishable product which is subject to any reduction or elimination of a duty imposed by the United States under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)] and alleges injury from imports of that product, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

''(b) Within 14 days after the filing of a petition under subsection (a)—

''(1) if the Secretary of Agriculture has reason to believe that a perishable product from Israel is being imported into the United States in such increased

quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

''(2) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

''(c) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action under subsection (b), he shall issue a proclamation withdrawing the reduction or elimination of duty provided to the perishable product under any trade agreement provision entered into under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)] or publish a notice of his determination not to take emergency action.

''(d) The emergency action provided under subsection (c) shall cease to apply—

''(1) upon the taking of actions under section 203 of the Trade Act of 1974 [19 U.S.C. 2253];

''(2) on the day a determination of the President under section 203 of such Act [19 U.S.C. 2253] not to take action becomes final;

''(3) in the event of a report of the Commission containing a negative finding, on the day the Commission's report is submitted to the President; or

''(4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

''(e) For purposes of this section, the term 'perishable product' means any—

''(1) live plants and fresh cut flowers provided for in chapter 6 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202, hereinafter referred to as the 'HTS');

''(2) vegetables, edible nuts or fruit provided for in chapters 7 and 8, heading 1105, subheadings 1106.10.00 and 1106.30, heading 1202, subheadings 1214.90.00 and 1704.90.60, headings 2001 through 2008 (excluding subheadings 2001.90.20 and 2004.90.10) and subheading 2103.20.40 of the HTS;

''(3) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

''(f) No trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 [19 U.S.C. 2112(b)(1)] shall affect fees imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

''SEC. 405. CONSTRUCTION OF TITLE.

''Neither the taking effect of any trade agreement provision entered into with Israel under section 102(b)(1) [19 U.S.C. 2112(b)(1)], nor any proclamation issued to implement any such provision, may affect in any manner, or to any extent, the application to any Israeli articles of section 232 of the Trade Expansion Act of 1962 [19 U.S.C. 1862], section 337 of title VII [probably should be ''title III'' of the Tariff Act of 1930 [19 U.S.C. 1337], chapter 1 of title II and chapter 1 of title III of the Trade Act of 1974 [19 U.S.C. 2251 et seq., 2411 et seq.], or any other provision of law under which relief from injury caused by import competition or by unfair import trade practices may be sought.''

[Amendment of section 404 of Pub. L. 98–573 by section 1214(s)(4) of Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of this title.]

[Amendment of sections 403 and 404 of Pub. L. 98–573 by section 1401 of Pub. L. 100–418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§ 2251 et seq.) of subchapter II of this chapter on or after that date, see section 1401(c) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 2251 of this title.]

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

Executive Documents

PRESIDENTIAL DETERMINATION REGARDING MULTILATERAL TRADE NEGOTIATIONS

For provisions relating to Presidential determination regarding multilateral trade negotiations and Presidential determination regarding acceptance and application of certain international trade agreements, see notes set out under section 2503 of this title.

EX. ORD. NO. 12662. IMPLEMENTING UNITED STATES-CANADA FREE-TRADE IMPLEMENTATION ACT

Ex. Ord. No. 12662, Dec. 31, 1988, 54 F.R. 785, as amended by Ex. Ord. No. 12889, § 4(c), Dec. 27, 1993, 58 F.R. 69681, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Public Law 100–449, 102 Stat. 1851) (''FTA Implementation Act'') [set out as a note above], it is hereby ordered as follows:

SECTION 1. [Superseded by Ex. Ord. No. 12889, § 4(c), Dec. 27, 1993, 58 F.R. 69681, see 19 U.S.C. 3311 note.]

SEC. 2. *Establishment of United States Secretariat*. Pursuant to subsection 405(e) of the FTA Implementation Act, a ''United States Secretariat'' shall be established within the International Trade Administration of the Department of Commerce. The Secretariat shall facilitate:

(1) the operation of Chapters 18 and 19 of the Free-Trade Agreement, and

(2) the work of the binational panels and extraordinary challenge committees convened under those Chapters.

SEC. 3. *Acceptance by the President of Panel and Committee Decisions*. In accordance with subsection 401(c) of the FTA Implementation Act, in the event that the provisions of subparagraph 516A(g)(7)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. section 1516a(g)(7)(B), take effect, I accept, as a whole, all decisions of binational panels and extraordinary challenge committees.

SEC. 4. *Judicial Review*. This Order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. 5. *Effective Date*. This Order shall take effect upon the entry into force of the Free-Trade Agreement.

EX. ORD. NO. 13141. ENVIRONMENTAL REVIEW OF TRADE AGREEMENTS

Ex. Ord. No. 13141, Nov. 16, 1999, 64 F.R. 63169, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the environmental and trade policy goals of the United States, it is hereby ordered as follows:

SECTION 1. *Policy*. The United States is committed to a policy of careful assessment and consideration of the environmental impacts of trade agreements. The United States will factor environmental considerations into the development of its trade negotiating objectives. Responsible agencies will accomplish these goals through a process of ongoing assessment and evaluation, and, in certain instances, written environmental reviews.

SEC. 2. *Purpose and Need*. Trade agreements should contribute to the broader goal of sustainable development. Environmental reviews are an important tool to help identify potential environmental effects of trade agreements, both positive and negative, and to help facilitate consideration of appropriate responses to those effects whether in the course of negotiations, through other means, or both.

SEC. 3. (a) *Implementation*. The United States Trade Representative (Trade Representative) and the Chair of the Council on Environmental Quality shall oversee the implementation of this order, including the development of procedures pursuant to this order, in consultation with appropriate foreign policy, environmental, and economic agencies.

(b) *Conduct of Environmental Reviews*. The Trade Representative, through the interagency Trade Policy Staff Committee (TPSC), shall conduct the environmental reviews of the agreements under section 4 of this order.

SEC. 4. *Trade Agreements*.

(a) Certain agreements that the United States may negotiate shall require an environmental review. These include:

(i) comprehensive multilateral trade rounds;

(ii) bilateral or plurilateral free trade agreements; and

(iii) major new trade liberalization agreements in natural resource sectors.

(b) Agreements reached in connection with enforcement and dispute resolution actions are not covered by this order.

(c) For trade agreements not covered under subsections 4(a) and (b), environmental reviews will generally not be required. Most sectoral liberalization agreements will not require an environmental review. The Trade Representative, through the TPSC, shall determine whether an environmental review of an agreement or category of agreements is warranted based on such factors as the significance of reasonably foreseeable environmental impacts.

SEC. 5. *Environmental Reviews*.

(a) Environmental reviews shall be:

(i) written;

(ii) initiated through a Federal Register notice, outlining the proposed agreement and soliciting public comment and information on the scope of the environmental review of the agreement;

(iii) undertaken sufficiently early in the process to inform the development of negotiating positions, but shall not be a condition for the timely tabling of particular negotiating proposals;

(iv) made available in draft form for public comment, where practicable; and

(v) made available to the public in final form.

(b) As a general matter, the focus of environmental reviews will be impacts in the United States. As appropriate and prudent, reviews may also examine global and transboundary impacts.

SEC. 6. *Resources*. Upon request by the Trade Representative, with the concurrence of the Deputy Director for Management of the Office of Management and Budget, Federal agencies shall, to the extent permitted by law and subject to the availability of appropriations, provide analytical and financial resources and support, including the detail of appropriate personnel, to the Office of the United States Trade Representative to carry out the provisions of this order.

SEC. 7. *General Provisions*. This order is intended only to improve the internal management of the executive branch and does not create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

DELEGATION OF AUTHORITY UNDER SECTION 103(a) OF UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988

Memorandum of President of the United States, Feb. 11, 1991, 56 F.R. 6789, provided:

Memorandum for the United States Trade Representative

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, you are hereby delegated the authority to perform the functions necessary to fulfill the consultation and lay-over requirements set forth in section 103(a)(1) through (4) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (''the Act'') [Pub. L. 100–449, set out as a note above], including:

(1) obtaining advice from the appropriate advisory committees and the U.S. International Trade Commission on the proposed implementation of an action by Presidential proclamation;

(2) submitting a report on such action to the House Ways and Means and Senate Finance Committees; and

(3) consulting with such committees during the 60-day period following the date on which the requirements under (1) and (2) have been met.

The President retains the sole authority under the Act to implement an action by proclamation after the consultation and lay-over requirements set forth in section 103(a)(1) through (4) have been met.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

§ 2113. Overall negotiating objective

The overall United States negotiating objective under sections 2111 and 2112 of this title shall be to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices which distort trade or commerce. To the maximum extent feasible, the harmonization, reduction, or elimination of agricultural trade barriers and distortions shall be undertaken in conjunction with the harmonization, reduction, or elimination of industrial trade barriers and distortions.

(Pub. L. 93–618, title I, § 103, Jan. 3, 1975, 88 Stat. 1984.)

§ 2114. Sector negotiating objective

(a) Obtaining equivalent competitive opportunities

A principal United States negotiating objective under sections 2111 and 2112 of this title shall be to obtain, to the maximum extent feasible, with respect to appropriate product sectors of manufacturing, and with respect to the agricultural sector, competitive opportunities for United States exports to the developed countries of the world equivalent to the competitive opportunities afforded in United States markets to the importation of like or similar products, taking into account all barriers (including tariffs) to and other distortions of international trade affecting that sector.

(b) Conduct of negotiations on basis of appropriate product sectors of manufacturing

As a means of achieving the negotiating objective set forth in subsection (a), to the extent consistent with the objective of maximizing overall economic benefit to the United States (through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, through the development of fair and equitable market opportunities, and through open and nondiscriminatory world trade), negotiations shall, to the extent feasible be conducted on the basis of appropriate product sectors of manufacturing.

(c) Identification of appropriate product sectors of manufacturing

For the purposes of this section and section 2155 of this title, the United States Trade Rep-