108TH CONGRESS 2D SESSION

H. R. 4759

To implement the United States-Australia Free Trade Agreement.

IN THE HOUSE OF REPRESENTATIVES

July 6, 2004

Mr. Delay (for himself and Mr. Rangel) (both by request): introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To implement the United States-Australia Free Trade Agreement.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
- 4 (a) Short Title.—This Act may be cited as the
- 5 "United States-Australia Free Trade Agreement Imple-
- 6 mentation Act".
- 7 (b) Table of Contents for
- 8 this Act is as follows:
 - Sec. 1. Short title; table of contents.
 - Sec. 2. Purposes.
 - Sec. 3. Definitions.

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

TITLE II—CUSTOMS PROVISIONS

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

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

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

Subtitle B—Textile and Apparel Safeguard Measures

- Sec. 321. Commencement of action for relief.
- Sec. 322. Determination and provision of relief.
- Sec. 323. Period of relief.
- Sec. 324. Articles exempt from relief.
- Sec. 325. Rate after termination of import relief.
- Sec. 326. Termination of relief authority.
- Sec. 327. Compensation authority.
- Sec. 328. Business confidential information.

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

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

TITLE IV—PROCUREMENT

Sec. 401. Eligible products.

1 SEC. 2. PURPOSES.

2 The purposes of this Act are—

1	(1) to approve and implement the Free Trade
2	Agreement between the United States and Australia,
3	entered into under the authority of section 2103(b)
4	of the Bipartisan Trade Promotion Authority Act of
5	2002 (19 U.S.C. 3803(b));
6	(2) to strengthen and develop economic rela-
7	tions between the United States and Australia for
8	their mutual benefit;
9	(3) to establish free trade between the 2 nations
10	through the reduction and elimination of barriers to
11	trade in goods and services and to investment; and
12	(4) to lay the foundation for further coopera-
13	tion to expand and enhance the benefits of such
14	Agreement.
15	SEC. 3. DEFINITIONS.
16	In this Act:
17	(1) AGREEMENT.—The term "Agreement"
18	means the United States-Australia Free Trade
19	Agreement approved by Congress under section
20	101(a)(1).
21	(2) HTS.—The term "HTS" means the Har-
22	monized Tariff Schedule of the United States.
23	(3) Textile or apparel good.—The term
24	"textile or apparel good" means a good listed in the
25	Annex to the Agreement on Textiles and Clothing

- referred to in section 101(d)(4) of the Uruguay 1 2 Round Agreements Act (19 U.S.C. 3511(d)(4)).
- TITLE I—APPROVAL **AND** OF. 3
- GENERAL **PROVISIONS** RE-4
- LATING TO, THE AGREEMENT 5
- SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE
- 7 AGREEMENT.
- 8 (a) APPROVAL OF AGREEMENT AND STATEMENT OF
- Administrative Action.—Pursuant to section 2105 of
- the Bipartisan Trade Promotion Authority Act of 2002 10
- 11 (19 U.S.C. 3805) and section 151 of the Trade Act of
- 1974 (19 U.S.C. 2191), Congress approves— 12
- 13 (1) the United States-Australia Free Trade
- 14 Agreement entered into on May 18, 2004, with the
- 15 Government of Australia and submitted to Congress
- 16 on July 6, 2004; and
- 17 (2) the statement of administrative action pro-
- 18 posed to implement the Agreement that was sub-
- 19 mitted to Congress on July 6, 2004.
- 20 (b) Conditions for Entry Into Force of the
- 21 AGREEMENT.—At such time as the President determines
- that Australia has taken measures necessary to bring it
- into compliance with those provisions of the Agreement
- that are to take effect on the date on which the Agreement
- enters into force, the President is authorized to exchange

1	notes with the Government of Australia providing for the
2	entry into force, on or after January 1, 2005, of the
3	Agreement with respect to the United States.
4	SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED
5	STATES AND STATE LAW.
6	(a) Relationship of Agreement to United
7	STATES LAW.—
8	(1) United states law to prevail in con-
9	FLICT.—No provision of the Agreement, nor the ap-
10	plication of any such provision to any person or cir-
11	cumstance, which is inconsistent with any law of the
12	United States shall have effect.
13	(2) Construction.—Nothing in this Act shall
14	be construed—
15	(A) to amend or modify any law of the
16	United States, or
17	(B) to limit any authority conferred under
18	any law of the United States,
19	unless specifically provided for in this Act.
20	(b) Relationship of Agreement to State
21	Law.—
22	(1) Legal Challenge.—No State law, or the
23	application thereof, may be declared invalid as to
24	any person or circumstance on the ground that the
25	provision or application is inconsistent with the

1	Agreement, except in an action brought by the
2	United States for the purpose of declaring such law
3	or application invalid.
4	(2) Definition of state law.—For purposes
5	of this subsection, the term "State law" includes—
6	(A) any law of a political subdivision of a
7	State; and
8	(B) any State law regulating or taxing the
9	business of insurance.
10	(c) Effect of Agreement With Respect to Pri-
11	VATE REMEDIES.—No person other than the United
12	States—
13	(1) shall have any cause of action or defense
14	under the Agreement or by virtue of congressional
15	approval thereof; or
16	(2) may challenge, in any action brought under
17	any provision of law, any action or inaction by any
18	department, agency, or other instrumentality of the
19	United States, any State, or any political subdivision
20	of a State, on the ground that such action or inac-
21	tion is inconsistent with the Agreement.
22	SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF
23	ENTRY INTO FORCE AND INITIAL REGULA-
24	TIONS.
25	(a) Implementing Actions.—

1	(1) Proclamation authority.—After the
2	date of the enactment of this Act—
3	(A) the President may proclaim such ac-
4	tions, and
5	(B) other appropriate officers of the
6	United States Government may issue such reg-
7	ulations,
8	as may be necessary to ensure that any provision of
9	this Act, or amendment made by this Act, that takes
10	effect on the date the Agreement enters into force
11	is appropriately implemented on such date, but no
12	such proclamation or regulation may have an effec-
13	tive date earlier than the date on which the Agree-
14	ment enters into force.
15	(2) Effective date of certain proclaimed
16	ACTIONS.—Any action proclaimed by the President
17	under the authority of this Act that is not subject
18	to the consultation and layover provisions under sec-
19	tion 104, may not take effect before the 15th day
20	after the date on which the text of the proclamation
21	is published in the Federal Register.
22	(3) Waiver of 15-day restriction.—The 15-
23	day restriction in paragraph (2) on the taking effect
24	of proclaimed actions is waived to the extent that

the application of such restriction would prevent the

1	taking effect on the date the Agreement enters into
2	force of any action proclaimed under this section.
3	(b) Initial Regulations.—Initial regulations nec-
4	essary or appropriate to carry out the actions required by
5	or authorized under this Act or proposed in the statement
6	of administrative action submitted under section
7	101(a)(2) to implement the Agreement shall, to the max-
8	imum extent feasible, be issued within 1 year after the
9	date on which the Agreement enters into force. In the case
10	of any implementing action that takes effect on a date
11	after the date on which the Agreement enters into force,
12	initial regulations to carry out that action shall, to the
13	maximum extent feasible, be issued within 1 year after
14	such effective date.
15	SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,
16	AND EFFECTIVE DATE OF, PROCLAIMED AC-
17	TIONS.
18	If a provision of this Act provides that the implemen-
19	tation of an action by the President by proclamation is
20	subject to the consultation and layover requirements of
21	this section, such action may be proclaimed only if—
22	(1) the President has obtained advice regarding
23	the proposed action from—

1	(A) the appropriate advisory committees
2	established under section 135 of the Trade Act
3	of 1974 (19 U.S.C. 2155); and
4	(B) the United States International Trade
5	Commission;
6	(2) the President has submitted a report to the
7	Committee on Finance of the Senate and the Com-
8	mittee on Ways and Means of the House of Rep-
9	resentatives that sets forth—
10	(A) the action proposed to be proclaimed
11	and the reasons therefor; and
12	(B) the advice obtained under paragraph
13	(1);
14	(3) a period of 60 calendar days, beginning on
15	the first day on which the requirements set forth in
16	paragraphs (1) and (2) have been met has expired;
17	and
18	(4) the President has consulted with such Com-
19	mittees regarding the proposed action during the pe-
20	riod referred to in paragraph (3).
21	SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-
22	CEEDINGS.
23	(a) Establishment or Designation of Office.—
24	The President is authorized to establish or designate with-
25	in the Department of Commerce an office that shall be

- 1 responsible for providing administrative assistance to pan-
- 2 els established under chapter 21 of the Agreement. The
- 3 office may not be considered to be an agency for purposes
- 4 of section 552 of title 5, United States Code.
- 5 (b) AUTHORIZATION OF APPROPRIATIONS.—There
- 6 are authorized to be appropriated for each fiscal year after
- 7 fiscal year 2004 to the Department of Commerce such
- 8 sums as may be necessary for the establishment and oper-
- 9 ations of the office under subsection (a) and for the pay-
- 10 ment of the United States share of the expenses of panels
- 11 established under chapter 21 of the Agreement.
- 12 SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION.
- 13 (a) Effective Dates.—Except as provided in sub-
- 14 section (b), the provisions of this Act and the amendments
- 15 made by this Act take effect on the date on which the
- 16 Agreement enters into force.
- 17 (b) Exceptions.—Sections 1 through 3 and this
- 18 title take effect on the date of the enactment of this Act.
- 19 (c) TERMINATION OF THE AGREEMENT.—On the
- 20 date on which the Agreement terminates, the provisions
- 21 of this Act (other than this subsection) and the amend-
- 22 ments made by this Act shall cease to be effective.

1 TITLE II—CUSTOMS PROVISIONS

2	SEC. 201. TARIFF MODIFICATIONS.
3	(a) Tariff Modifications Provided for in the
4	AGREEMENT.—The President may proclaim—
5	(1) such modifications or continuation of any
6	duty,
7	(2) such continuation of duty-free or excise
8	treatment, or
9	(3) such additional duties,
10	as the President determines to be necessary or appropriate
11	to carry out or apply articles 2.3, 2.5, and 2.6, and Annex
12	2–B of the Agreement.
13	(b) OTHER TARIFF MODIFICATIONS.—Subject to the
14	consultation and layover provisions of section 104, the
15	President may proclaim—
16	(1) such modifications or continuation of any
17	duty,
18	(2) such modifications as the United States
19	may agree to with Australia regarding the staging of
20	any duty treatment set forth in Annex 2-B of the
21	Agreement,
22	(3) such continuation of duty-free or excise
23	treatment, or
24	(4) such additional duties,

1	as the President determines to be necessary or appropriate
2	to maintain the general level of reciprocal and mutually
3	advantageous concessions with respect to Australia pro-
4	vided for by the Agreement.
5	(c) Conversion to Ad Valorem Rates.—For pur-
6	poses of subsections (a) and (b), with respect to any good
7	for which the base rate in the Schedule of the United
8	States to Annex 2–B of the Agreement is a specific or
9	compound rate of duty, the President may substitute for
10	the base rate an ad valorem rate that the President deter-
11	mines to be equivalent to the base rate.
12	SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-
13	TURAL GOODS.
13 14	TURAL GOODS. (a) General Provisions.—
14	(a) General Provisions.—
14 15	(a) General Provisions.— (1) Applicability of subsection.—This sub-
14 15 16	(a) General Provisions.— (1) Applicability of subsection.—This subsection applies to additional duties assessed under
14 15 16 17	 (a) General Provisions.— (1) Applicability of subsection.—This subsection applies to additional duties assessed under subsections (b), (c), and (d).
14 15 16 17 18	 (a) General Provisions.— (1) Applicability of subsection.—This subsection applies to additional duties assessed under subsections (b), (c), and (d). (2) Applicable NTR (MFN) Rate of Duty.—
14 15 16 17 18	 (a) General Provisions.— (1) Applicability of subsection.—This subsection applies to additional duties assessed under subsections (b), (c), and (d). (2) Applicable NTR (MFN) rate of duty.— For purposes of subsections (b), (c), and (d), the
14 15 16 17 18 19 20	 (a) General Provisions.— (1) Applicability of subsection.—This subsection applies to additional duties assessed under subsections (b), (c), and (d). (2) Applicable NTR (MFN) rate of Duty.— For purposes of subsections (b), (c), and (d), the term "applicable NTR (MFN) rate of duty" means,
14 15 16 17 18 19 20 21	 (a) General Provisions.— (1) Applicability of subsection.—This subsection applies to additional duties assessed under subsections (b), (c), and (d). (2) Applicable NTR (MFN) rate of Duty.— For purposes of subsections (b), (c), and (d), the term "applicable NTR (MFN) rate of duty" means, with respect to a safeguard good, a rate of duty that
14 15 16 17 18 19 20 21	(a) General Provisions.— (1) Applicability of subsection.—This subsection applies to additional duties assessed under subsections (b), (c), and (d). (2) Applicable NTR (MFN) rate of duty.— For purposes of subsections (b), (c), and (d), the term "applicable NTR (MFN) rate of duty" means, with respect to a safeguard good, a rate of duty that is the lesser of—

1	for preferential treatment, at the time the addi-
2	tional duty is imposed under subsection (b), (c),
3	or (d), as the case may be; or
4	(B) the column 1 general rate of duty that
5	would have been imposed under the HTS on the
6	same safeguard good entered, without a claim
7	for preferential treatment, on December 31,
8	2004.
9	(3) Schedule rate of duty.—For purposes
10	of subsections (b) and (c), the term "schedule rate
11	of duty" means, with respect to a safeguard good,
12	the rate of duty for that good set out in the Sched-
13	ule of the United States to Annex 2–B of the Agree-
14	ment.
15	(4) Safeguard good.—In this subsection, the
16	term "safeguard good" means—
17	(A) a horticulture safeguard good de-
18	scribed subsection (b)(1)(B); or
19	(B) a beef safeguard good described in
20	subsection $(c)(1)$ or subsection $(d)(1)(A)$.
21	(5) Exceptions.—No additional duty shall be
22	assessed on a good under subsection (b), (c), or (d)
23	if, at the time of entry, the good is subject to import
24	relief under—
25	(A) subtitle A of title III of this Act: or

1	(B) chapter 1 of title II of the Trade Act
2	of 1974 (19 U.S.C. 2251 et seq.).
3	(6) Termination.—The assessment of an ad-
4	ditional duty on a good under subsection (b) or (c),
5	whichever is applicable, shall cease to apply to that
6	good on the date on which duty-free treatment must
7	be provided to that good under the Schedule of the
8	United States to Annex 2–B of the Agreement.
9	(7) Notice.—Not later than 60 days after the
10	date on which the Secretary of the Treasury assesses
11	an additional duty on a good under subsection (b),
12	(c), or (d), the Secretary shall notify the Govern-
13	ment of Australia in writing of such action and shall
14	provide to that Government data supporting the as-
15	sessment of the additional duty.
16	(b) Additional Duties on Horticulture Safe-
17	GUARD GOODS.—
18	(1) Definitions.—In this subsection:
19	(A) F.O.B.—The term "F.O.B." means
20	free on board, regardless of the mode of trans-
21	portation, at the point of direct shipment by the
22	seller to the buyer.
23	(B) Horticulture safeguard good.—
24	The term "horticulture safeguard good" means
25	a good—

1	(i) that qualifies as an originating
2	good under section 203;
3	(ii) that is included in the United
4	States Horticulture Safeguard List set
5	forth in Annex 3-A of the Agreement; and
6	(iii) for which a claim for preferential
7	treatment under the Agreement has been
8	made.
9	(C) Unit import price.—The "unit im-
10	port price" of a good means the price of the
11	good determined on the basis of the F.O.B. im-
12	port price of the good, expressed in either dol-
13	lars per kilogram or dollars per liter, whichever
14	unit of measure is indicated for the good in the
15	United States Horticulture Safeguard List set
16	forth in Annex 3–A of the Agreement.
17	(D) Trigger price.—The "trigger price"
18	for a good is the trigger price indicated for that
19	good in the United States Horticulture Safe-
20	guard List set forth in Annex 3-A of the
21	Agreement or any amendment thereto.
22	(2) Additional duties.—In addition to any
23	duty proclaimed under subsection (a) or (b) of sec-
24	tion 201, and subject to subsection (a) of this sec-
25	tion, the Secretary of the Treasury shall assess a

1	duty on a horticulture safeguard good, in the
2	amount determined under paragraph (3), if the Sec-
3	retary determines that the unit import price of the
4	good when it enters the United States is less than
5	the trigger price for that good.
6	(3) CALCULATION OF ADDITIONAL DUTY.—The
7	additional duty assessed under this subsection on a
8	horticulture safeguard good shall be an amount de-
9	termined in accordance with the following table:
	If the excess of the trigger price over The additional duty is an the unit import price is: amount equal to:
	Not more than 10 percent of the trigger price More than 10 percent but not more than 40 percent of the trigger price
	More than 40 percent but not more than 60 percent of the trigger price
10	(e) Additional Duties on Beef Safeguard
11	GOODS BASED ON QUANTITY OF IMPORTS.—
12	(1) Definition.—In this subsection, the term
13	"beef safeguard good" means a good—
14	(A) that qualifies as an originating good
15	under section 203;
16	(B) that is listed in paragraph 3 of Annex
17	I of the General Notes to the Schedule of the
18	United States to Annex 2–B of the Agreement;

1 (C) for which a claim for preferential 2 treatment under the Agreement has been made.

> (2) Additional Duties.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section and paragraphs (4) and (5) of this subsection, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (3), on a beef safeguard good imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of beef safeguard goods imported into the United States in that calendar year is equal to or greater than 110 percent of the volume set out for beef safeguard goods in the corresponding year in the table contained in paragraph 3(a) of Annex I of the General Notes to the Schedule of the United States to Annex 2-B of the Agreement. For purposes of this subsection, the years 1 through 19 set out in the table contained in paragraph 3(a) of such Annex I correspond to the calendar years 2005 through 2023.

> (3) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a beef safeguard good under this subsection shall be an amount equal to 75 percent

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1	of the excess of the applicable NTR (MFN) rate of
2	duty over the schedule rate of duty.
3	(4) Waiver.—
4	(A) IN GENERAL.—The United States
5	Trade Representative is authorized to waive the
6	application of this subsection, if the Trade Rep-
7	resentative determines that extraordinary mar-
8	ket conditions demonstrate that the waiver
9	would be in the national interest of the United
10	States, after the requirements of subparagraph
11	(B) are met.
12	(B) NOTICE AND CONSULTATIONS.—
13	Promptly after receiving a request for a waiver
14	of this subsection, the Trade Representative
15	shall notify the Committee on Ways and Means
16	of the House of Representatives and the Com-
17	mittee on Finance of the Senate, and may make
18	the determination provided for in subparagraph
19	(A) only after consulting with—
20	(i) appropriate private sector advisory
21	committees established under section 135
22	of the Trade Act of 1974 (19 U.S.C.
23	2155); and
24	(ii) the Committee on Ways and
25	Means of the House of Representatives

1	and the Committee on Finance of the Sen-
2	ate regarding—
3	(I) the reasons supporting the
4	determination to grant the waiver;
5	and
6	(II) the proposed scope and dura-
7	tion of the waiver.
8	(C) NOTIFICATION OF THE SEC-
9	RETARY OF THE TREASURY AND PUBLICA-
10	TION.—Upon granting a waiver under this
11	paragraph, the Trade Representative shall
12	promptly notify the Secretary of the Treas-
13	ury of the period in which the waiver will
14	be in effect, and shall publish notice of the
15	waiver in the Federal Register.
16	(5) Effective dates.—This subsection takes
17	effect on January 1, 2013, and shall not be effective
18	after December 31, 2022.
19	(d) Additional Duties on Beef Safeguard
20	GOODS BASED ON PRICE.—
21	(1) Definitions.—In this subsection:
22	(A) BEEF SAFEGUARD GOOD.—The term
23	"beef safeguard good" means a good—
24	(i) that qualifies as an originating
25	good under section 203;

1	(ii) that is classified under subheading
2	0201.10.50, 0201.20.80, 0201.30.80,
3	0202.10.50, 0202.20.80, or 0202.30.80 of
4	the HTS; and
5	(iii) for which a claim for preferential
6	treatment under the Agreement has been
7	made.
8	(B) CALENDAR QUARTER.—
9	(i) IN GENERAL.—The term "calendar
10	quarter" means any 3-month period begin-
11	ning on January 1, April 1, July 1, or Oc-
12	tober 1 of a calendar year.
13	(ii) First calendar quarter.—The
14	term "first calendar quarter" means the
15	calendar quarter beginning on January 1.
16	(iii) Second calendar quarter.—
17	The term "second calendar quarter"
18	means the calendar quarter beginning on
19	April 1.
20	(iv) Third calendar quarter.—
21	The term "third calendar quarter" means
22	the calendar quarter beginning on July 1.
23	(v) Fourth Calendar Quarter.—
24	The term "fourth calendar quarter" means

the calendar quarter beginning on October
1.

- (C) Monthly average index price' means the simple average, as determined by the Secretary of Agriculture, for a calendar month of the daily average index prices for Wholesale Boxed Beef Cut-Out Value Select 1–3 Central U.S. 600–750 lbs., or its equivalent, as such simple average is reported by the Agricultural Marketing Service of the Department of Agriculture in Report LM–XB459 or any equivalent report.
- (D) 24-MONTH TRIGGER PRICE.—The term "24-month trigger price" means, with respect to any calendar month, the average of the monthly average index prices for the 24 preceding calendar months, multiplied by 0.935.
- (2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section and paragraphs (4) through (6) of this subsection, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph

1	(3), on a beef safeguard good imported into the
2	United States if—
3	(A)(i) the good is imported in the first cal-
4	endar quarter, second calendar quarter, or third
5	calendar quarter of a calendar year; and
6	(ii) the monthly average index price, in any
7	2 calendar months of the preceding calendar
8	quarter, is less than the 24-month trigger price;
9	or
10	(B)(i) the good is imported in the fourth
11	calendar quarter of a calendar year; and
12	(ii)(I) the monthly average index price, in
13	any 2 calendar months of the preceding cal-
14	endar quarter, is less than the 24-month trigger
15	price; or
16	(II) the monthly average index price, in
17	any of the 4 calendar months preceding Janu-
18	ary 1 of the succeeding calendar year, is less
19	than the 24-month trigger price.
20	(3) CALCULATION OF ADDITIONAL DUTY.—The
21	additional duty on a beef safeguard good under this
22	subsection shall be an amount equal to 65 percent
23	of the applicable NTR (MFN) rate of duty for that
24	good.

- 1 (4) LIMITATION.—An additional duty shall be
 2 assessed under this subsection on a beef safeguard
 3 good imported into the United States in a calendar
 4 year only if, prior to the importation of that good,
 5 the total quantity of beef safeguard goods imported
 6 into the United States in that calendar year is equal
 7 to or greater than the sum of—
 - (A) the quantity of goods of Australia eligible to enter the United States in that year specified in Additional United States Note 3 to Chapter 2 of the HTS; and
 - (B)(i) in 2023, 70,420 metric tons; or
 - (ii) in 2024, and in each year thereafter, a quantity that is 0.6 percent greater than the quantity provided for in the preceding year under this subparagraph.

(5) Waiver.—

(A) In GENERAL.—The United States Trade Representative is authorized to waive the application of this subsection, if the Trade Representative determines that extraordinary market conditions demonstrate that the waiver would be in the national interest of the United States, after the requirements of subparagraph (B) are met.

1	(B) NOTICE AND CONSULTATIONS.—
2	Promptly after receiving a request for a waiver
3	of this subsection, the Trade Representative
4	shall notify the Committee on Ways and Means
5	of the House of Representatives and the Com-
6	mittee on Finance of the Senate, and may make
7	the determination provided for in subparagraph
8	(A) only after consulting with—
9	(i) appropriate private sector advisory
10	committees established under section 135
11	of the Trade Act of 1974 (19 U.S.C.
12	2155); and
13	(ii) the Committee on Ways and
14	Means of the House of Representatives
15	and the Committee on Finance of the Sen-
16	ate regarding—
17	(I) the reasons supporting the
18	determination to grant the waiver;
19	and
20	(II) the proposed scope and dura-
21	tion of the waiver.
22	(C) NOTIFICATION OF THE SEC-
23	RETARY OF THE TREASURY AND PUBLICA-
24	TION.—Upon granting a waiver under this
25	paragraph, the Trade Representative shall

1	promptly notify the Secretary of the Treas-
2	ury of the period in which the waiver will
3	be in effect, and shall publish notice of the
4	waiver in the Federal Register.
5	(6) Effective date.—This subsection takes
6	effect on January 1, 2023.
7	SEC. 203. RULES OF ORIGIN.
8	(a) Application and Interpretation.—In this
9	section:
10	(1) Tariff classification.—The basis for
11	any tariff classification is the HTS.
12	(2) Reference to hts.—Whenever in this
13	section there is a reference to a heading or sub-
14	heading, such reference shall be a reference to a
15	heading or subheading of the HTS.
16	(3) Cost or value.—Any cost or value re-
17	ferred to in this section shall be recorded and main-
18	tained in accordance with the generally accepted ac-
19	counting principles applicable in the territory of the
20	country in which the good is produced (whether Aus-
21	tralia or the United States).
22	(b) Originating Goods.—For purposes of this Act
23	and for purposes of implementing the preferential treat-
24	ment provided for under the Agreement, a good is an orig-
25	inating good if—

1	(1) the good is a good wholly obtained or pro-
2	duced entirely in the territory of Australia, the
3	United States, or both;
4	(2) the good—
5	(A) is produced entirely in the territory of
6	Australia, the United States, or both, and—
7	(i) each of the nonoriginating mate-
8	rials used in the production of the good
9	undergoes an applicable change in tariff
10	classification specified in Annex 4–A or
11	Annex 5–A of the Agreement;
12	(ii) the good otherwise satisfies any
13	applicable regional value-content require-
14	ment referred to in Annex 5-A of the
15	Agreement; or
16	(iii) the good meets any other require-
17	ments specified in Annex 4–A or Annex 5–
18	A of the Agreement; and
19	(B) the good satisfies all other applicable
20	requirements of this section;
21	(3) the good is produced entirely in the terri-
22	tory of Australia, the United States, or both, exclu-
23	sively from materials described in paragraph (1) or
24	(2); or

1	(4) the good otherwise qualifies as an origi-
2	nating good under this section.
3	(c) DE MINIMIS AMOUNTS OF NONORIGINATING MA-
4	TERIALS.—
5	(1) In general.—Except as provided in para-
6	graphs (2) and (3), a good that does not undergo a
7	change in tariff classification pursuant to Annex 5-
8	A of the Agreement is an originating good if—
9	(A) the value of all nonoriginating mate-
10	rials that—
11	(i) are used in the production of the
12	good, and
13	(ii) do not undergo the required
14	change in tariff classification,
15	does not exceed 10 percent of the adjusted
16	value of the good;
17	(B) the good meets all other applicable re-
18	quirements of this section; and
19	(C) the value of such nonoriginating mate-
20	rials is included in the value of nonoriginating
21	materials for any applicable regional value-con-
22	tent requirement for the good.
23	(2) Exceptions.—Paragraph (1) does not
24	apply to the following:

- 1 (A) A nonoriginating material provided for 2 in chapter 4 of the HTS or in subheading 3 1901.90 that is used in the production of a 4 good provided for in chapter 4 of the HTS. 5 (B) A nonoriginating material provided for 6 in chapter 4 of the HTS or in subheading 7 1901.90 that is used in the production of a good provided for in subheading 1901.10, 8 9 1901.20, or 1901.90, heading 2105, or sub-10 heading 2106.90, 2202.90, or 2309.90. 11 (C) A nonoriginating material provided for 12 in heading 0805 or any of subheadings 2009.11 13 through 2009.39 that is used in the production 14 of a good provided for in any of subheadings 15 2009.11 through 2009.39, or in subheading 16 2106.90 or 2202.90. 17 (D) A nonoriginating material provided for 18 in chapter 15 of the HTS that is used in the 19 production of a good provided for in any of 20 headings 1501.00.00 through 1508, or in head-21 ing 1512, 1514, or 1515. (E) A nonoriginating material provided for 22 23
 - (E) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

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- 1 (F) A nonoriginating material provided for 2 in chapter 17 of the HTS or heading 3 1805.00.00 that is used in the production of a 4 good provided for in subheading 1806.10.
 - (G) A nonoriginating material provided for in any of headings 2203 through 2208 that is used in the production of a good provided for in heading 2207 or 2208.
 - (H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(3) Textile and apparel goods.—

(A) In General.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that com-

- ponent is not more than 7 percent of the total weight of that component.
 - (B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Australia or the United States.
 - (C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term "component of the good that determines the tariff classification of the good" means all of the fibers in the yarn, fabric, or group of fibers.

(d) Accumulation.—

(1) ORIGINATING MATERIALS USED IN PRODUC-TION OF GOODS OF OTHER COUNTRY.—Originating materials from the territory of Australia or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of the other country.

1 (2) MULTIPLE PROCEDURES.—A good that is 2 produced in the territory of Australia, the United 3 States, or both, by 1 or more producers, is an origi-4 nating good if the good satisfies the requirements of 5 subsection (b) and all other applicable requirements 6 of this section.

(e) REGIONAL VALUE-CONTENT.—

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

(2) Build-down method.—

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

$$RVC = \frac{AV - VNM}{AV} \times 100$$

- 20 (B) Definitions.—In subparagraph (A):
- 21 (i) RVC.—The term "RVC" means 22 the regional value-content of the good, ex-23 pressed as a percentage.

1	(ii) AV.—The term "AV" means the
2	adjusted value of the good.
3	(iii) VNM.—The term "VNM" means
4	the value of nonoriginating materials that
5	are acquired and used by the producer in
6	the production of the good, but does not
7	include the value of a material that is self-
8	produced.
9	(3) Build-up method.—
10	(A) In general.—The regional value-con-
11	tent of a good may be calculated on the basis
12	of the following build-up method:
	$RVC = \frac{VOM}{AV} \times 100$
13	(B) Definitions.—In subparagraph (A):
14	(i) RVC.—The term "RVC" means
15	the regional value-content of the good, ex-
16	pressed as a percentage.
17	(ii) AV.—The term "AV" means the
18	adjusted value of the good.
19	(iii) VOM.—The term "VOM" means
20	the value of originating materials that are
21	acquired or self-produced, and used by the
22	producer in the production of the good.
23	(4) Special rule for certain automotive
24	GOODS.—

1 (A) IN GENERAL.—For purposes of sub2 section (b)(2), the regional value-content of an
3 automotive good referred to in Annex 5–A of
4 the Agreement shall be calculated by the im5 porter, exporter, or producer of the good, on the
6 basis of the following net cost method:

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

- (B) DEFINITIONS.—In subparagraph (A):
- (i) AUTOMOTIVE GOOD.—The term "automotive good" means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.
- (ii) RVC.—The term "RVC" means the regional value-content of the automotive good, expressed as a percentage.
- (iii) NC.—The term "NC" means the net cost of the automotive good.
- (iv) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

1	(C) Motor vehicles.—
2	(i) Basis of Calculation.—For
3	purposes of determining the regional value-
4	content under subparagraph (A) for an
5	automotive good that is a motor vehicle
6	provided for in any of headings 8701
7	through 8705, an importer, exporter, or
8	producer may average the amounts cal-
9	culated under the formula contained in
10	subparagraph (A), over the producer's fis-
11	cal year—
12	(I) with respect to all motor vehi-
13	cles in any one of the categories de-
14	scribed in clause (ii); or
15	(II) with respect to all motor ve-
16	hicles in any such category that are
17	exported to the territory of the United
18	States or Australia.
19	(ii) Categories.—A category is de-
20	scribed in this clause if it—
21	(I) is the same model line of
22	motor vehicles, is in the same class of
23	vehicles, and is produced in the same
24	plant in the territory of Australia or
25	the United States, as the good de-

1	scribed in clause (i) for which regional
2	value-content is being calculated;
3	(II) is the same class of motor
4	vehicles, and is produced in the same
5	plant in the territory of Australia or
6	the United States, as the good de-
7	scribed in clause (i) for which regional
8	value-content is being calculated; or
9	(III) is the same model line of
10	motor vehicles produced in either the
11	territory of Australia or the United
12	States, as the good described in clause
13	(i) for which regional value-content is
14	being calculated.
15	(D) OTHER AUTOMOTIVE GOODS.—For
16	purposes of determining the regional value-con-
17	tent under subparagraph (A) for automotive
18	goods provided for in any of subheadings
19	8407.31 through 8407.34, in subheading
20	8408.20, or in heading 8409, 8706, 8707, or
21	8708, that are produced in the same plant, an
22	importer, exporter, or producer may—
23	(i) average the amounts calculated
24	under the formula contained in subpara-
25	graph (A) over—

1	(I) the fiscal year of the motor
2	vehicle producer to whom the auto-
3	motive goods are sold,
4	(II) any quarter or month, or
5	(III) its own fiscal year,
6	if the goods were produced during the fis-
7	cal year, quarter, or month that is the
8	basis for the calculation;
9	(ii) determine the average referred to
10	in clause (i) separately for such goods sold
11	to one or more motor vehicle producers; or
12	(iii) make a separate determination
13	under clause (i) or (ii) for automotive
14	goods that are exported to the territory of
15	the United States or Australia.
16	(E) CALCULATING NET COST.—Consistent
17	with the provisions regarding allocation of costs
18	set out in generally accepted accounting prin-
19	ciples, the net cost of the automotive good
20	under subparagraph (B) shall be calculated
21	by—
22	(i) calculating the total cost incurred
23	with respect to all goods produced by the
24	producer of the automotive good, sub-
25	tracting any sales promotion, marketing

and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

- (ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or
- (iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

(f) Value of Materials.—

1	(1) In general.—For the purpose of calcu-
2	lating the regional value-content of a good under
3	subsection (e), and for purposes of applying the de
4	minimis rules under subsection (c), the value of a
5	material is—
6	(A) in the case of a material that is im-
7	ported by the producer of the good, the ad-
8	justed value of the material;
9	(B) in the case of a material acquired in
10	the territory in which the good is produced, the
11	value, determined in accordance with Articles 1
12	through 8, article 15, and the corresponding in-
13	terpretive notes of the Agreement on Implemen-
14	tation of Article VII of the General Agreement
15	on Tariffs and Trade 1994 referred to in sec-
16	tion 101(d)(8) of the Uruguay Round Agree-
17	ments Act, as set forth in regulations promul-
18	gated by the Secretary of the Treasury pro-
19	viding for the application of such Articles in the
20	absence of an importation; or
21	(C) in the case of a material that is self-
22	produced, the sum of—
23	(i) all expenses incurred in the pro-
24	duction of the material, including general
25	expenses; and

1	(ii) an amount for profit equivalent to
2	the profit added in the normal course of
3	trade.
4	(2) Further adjustments to the value of
5	MATERIALS.—
6	(A) Originating material.—The fol-
7	lowing expenses, if not included in the value of
8	an originating material calculated under para-
9	graph (1), may be added to the value of the
10	originating material:
11	(i) The costs of freight, insurance
12	packing, and all other costs incurred in
13	transporting the material within or be-
14	tween the territory of Australia, the United
15	States, or both, to the location of the pro-
16	ducer.
17	(ii) Duties, taxes, and customs broker-
18	age fees on the material paid in the terri-
19	tory of Australia, the United States, or
20	both, other than duties or taxes that are
21	waived, refunded, refundable, or otherwise
22	recoverable, including credit against duty
23	or tax paid or payable.
24	(iii) The cost of waste and spoilage re-
25	sulting from the use of the material in the

1	production of the good, less the value of
2	renewable scrap or byproducts.
3	(B) Nonoriginating material.—The
4	following expenses, if included in the value of a
5	nonoriginating material calculated under para-
6	graph (1), may be deducted from the value of
7	the nonoriginating material:
8	(i) The costs of freight, insurance,
9	packing, and all other costs incurred in
10	transporting the material within or be-
11	tween the territory of Australia, the United
12	States, or both, to the location of the pro-
13	ducer.
14	(ii) Duties, taxes, and customs broker-
15	age fees on the material paid in the terri-
16	tory of Australia, the United States, or
17	both, other than duties or taxes that are
18	waived, refunded, refundable, or otherwise
19	recoverable, including credit against duty
20	or tax paid or payable.
21	(iii) The cost of waste and spoilage re-
22	sulting from the use of the material in the
23	production of the good, less the value of
24	renewable scrap or byproducts.

1	(iv) The cost of processing incurred in
2	the territory of Australia, the United
3	States, or both, in the production of the
4	nonoriginating material.
5	(v) The cost of originating materials
6	used in the production of the nonorigi-
7	nating material in the territory of Aus-
8	tralia, the United States, or both.
9	(g) Accessories, Spare Parts, or Tools.—
10	(1) In general.—Subject to paragraph (2),
11	accessories, spare parts, or tools delivered with a
12	good that form part of the good's standard acces-
13	sories, spare parts, or tools shall—
14	(A) be treated as originating goods if the
15	good is an originating good; and
16	(B) be disregarded in determining whether
17	all the nonoriginating materials used in the pro-
18	duction of the good undergo the applicable
19	change in tariff classification set out in Annex
20	5–A of the Agreement.
21	(2) Conditions.—Paragraph (1) shall apply
22	only if—
23	(A) the accessories, spare parts, or tools
24	are not invoiced separately from the good;

1	(B) the quantities and value of the acces-
2	sories, spare parts, or tools are customary for
3	the good; and
4	(C) if the good is subject to a regional
5	value-content requirement, the value of the ac-
6	cessories, spare parts, or tools is taken into ac-
7	count as originating or nonoriginating mate-
8	rials, as the case may be, in calculating the re-
9	gional value-content of the good.
10	(h) Fungible Goods and Materials.—
11	(1) In general.—
12	(A) CLAIM FOR PREFERENTIAL TREAT-
13	MENT.—A person claiming that a fungible good
14	or fungible material is an originating good may
15	base the claim either on the physical segrega-
16	tion of the fungible good or fungible material or
17	by using an inventory management method with
18	respect to the fungible good or fungible mate-
19	rial.
20	(B) Inventory management method.—
21	In this subsection, the term "inventory manage-
22	ment method" means—
23	(i) averaging;
24	(ii) "last-in, first-out";
25	(iii) "first-in, first-out"; or

1	(iv) any other method—
2	(I) recognized in the generally
3	accepted accounting principles of the
4	country in which the production is
5	performed (whether Australia or the
6	United States); or
7	(II) otherwise accepted by that
8	country.
9	(2) Election of inventory method.—A
10	person selecting an inventory management method
11	under paragraph (1) for a particular fungible good
12	or fungible material shall continue to use that meth-
13	od for that fungible good or fungible material
14	throughout the fiscal year of that person.
15	(i) Packaging Materials and Containers for
16	RETAIL SALE.—Packaging materials and containers in
17	which a good is packaged for retail sale, if classified with
18	the good, shall be disregarded in determining whether all
19	the nonoriginating materials used in the production of the
20	good undergo the applicable change in tariff classification
21	set out in Annex 4-A or Annex 5-A of the Agreement,
22	and, if the good is subject to a regional value-content re-
23	quirement, the value of such packaging materials and con-
24	tainers shall be taken into account as originating or non-

- 1 originating materials, as the case may be, in calculating
- 2 the regional value-content of the good.
- 3 (j) Packing Materials and Containers for
- 4 Shipment.—Packing materials and containers for ship-
- 5 ment shall be disregarded in determining whether—
- 6 (1) the nonoriginating materials used in the
- 7 production of a good undergo the applicable change
- 8 in tariff classification set out in Annex 4–A or
- 9 Annex 5–A of the Agreement; and
- 10 (2) the good satisfies a regional value-content
- 11 requirement.
- 12 (k) Indirect Materials.—An indirect material
- 13 shall be treated as an originating material without regard
- 14 to where it is produced, and its value shall be the cost
- 15 registered in the accounting records of the producer of the
- 16 good.
- 17 (l) Third Country Operations.—A good that has
- 18 undergone production necessary to qualify as an origi-
- 19 nating good under subsection (b) shall not be considered
- 20 to be an originating good if, subsequent to that produc-
- 21 tion, the good undergoes further production or any other
- 22 operation outside the territory of Australia or the United
- 23 States, other than unloading, reloading, or any other oper-
- 24 ation necessary to preserve the good in good condition or

- 1 to transport the good to the territory of Australia or the
- 2 United States.
- 3 (m) Textile and Apparel Goods Classifiable
- 4 AS GOODS PUT UP IN SETS.—Notwithstanding the rules
- 5 set forth in Annex 4-A of the Agreement, textile or ap-
- 6 parel goods classifiable as goods put up in sets for retail
- 7 sale as provided for in General Rule of Interpretation 3
- 8 of the HTS shall not be considered to be originating goods
- 9 unless each of the goods in the set is an originating good
- 10 or the total value of the nonoriginating goods in the set
- 11 does not exceed 10 percent of the value of the set deter-
- 12 mined for purposes of assessing customs duties.
- 13 (n) Definitions.—In this section:
- 14 (1) Adjusted value.—The term "adjusted
- value" means the value determined under Articles 1
- through 8, Article 15, and the corresponding inter-
- 17 pretive notes of the Agreement on Implementation of
- 18 Article VII of the General Agreement on Tariffs and
- 19 Trade 1994 referred to in section 101(d)(8) of the
- 20 Uruguay Round Agreements Act, adjusted to ex-
- clude any costs, charges, or expenses incurred for
- transportation, insurance, and related services inci-
- dent to the international shipment of the good from
- 24 the country of exportation to the place of importa-
- 25 tion.

1 (2) Class of motor vehicles.—The term 2 "class of motor vehicles" means any one of the following categories of motor vehicles: 3 4 (A) Motor vehicles provided for in sub-5 heading 8701.20, 8704.10, 8704.22, 8704.23, 6 8704.32, or 8704.90, or heading 8705 or 8706, 7 or motor vehicles for the transport of 16 or 8 persons provided for in subheading 9 8702.10 or 8702.90. 10 (B) Motor vehicles provided for in subheading 11 8701.10 or any ofsubheadings 12 8701.30 through 8701.90. 13 (C) Motor vehicles for the transport of 15 14 or fewer persons provided for in subheading 15 8702.10 or 8702.90, or motor vehicles provided 16 for in subheading 8704.21 or 8704.31. 17 (D) Motor vehicles provided for in any of 18 subheadings 8703.21 through 8703.90. 19 FUNGIBLE GOOD OR FUNGIBLE MATE-20 RIAL.—The term "fungible good" or "fungible mate-21 rial" means a good or material, as the case may be, 22 that is interchangeable with another good or mate-23 rial for commercial purposes and the properties of

which are essentially identical to such other good or

material.

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- (4) GENERALLY ACCEPTED ACCOUNTING PRIN-1 2 CIPLES.—The term "generally accepted accounting 3 principles" means the recognized consensus or sub-4 stantial authoritative support in the territory of Aus-5 tralia or the United States, as the case may be, with 6 respect to the recording of revenues, expenses, costs, 7 assets, and liabilities, the disclosure of information. 8 and the preparation of financial statements. These 9 standards may encompass broad guidelines of gen-10 eral application as well as detailed standards, prac-11 tices, and procedures.
 - (5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF AUSTRALIA, THE UNITED STATES, OR BOTH.—The term "good wholly obtained or produced entirely in the territory of Australia, the United States, or both" means—
 - (A) a mineral good extracted in the territory of Australia, the United States, or both;
 - (B) a vegetable good, as such goods are provided for in the HTS, harvested in the territory of Australia, the United States, or both;
 - (C) a live animal born and raised in the territory of Australia, the United States, or both;

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1	(D) a good obtained from hunting, trap-
2	ping, fishing, or aquaculture conducted in the
3	territory of Australia, the United States, or
4	both;
5	(E) a good (fish, shellfish, and other ma-
6	rine life) taken from the sea by vessels reg-
7	istered or recorded with Australia or the United
8	States and flying the flag of that country;
9	(F) a good produced exclusively from prod-
10	ucts referred to in subparagraph (E) on board
11	factory ships registered or recorded with Aus-
12	tralia or the United States and flying the flag
13	of that country;
14	(G) a good taken by Australia or the
15	United States or a person of Australia or the
16	United States from the seabed or beneath the
17	seabed outside territorial waters, if Australia or
18	the United States has rights to exploit such
19	seabed;
20	(H) a good taken from outer space, if such
21	good is obtained by Australia or the United
22	States or a person of Australia or the United
23	States and not processed in the territory of a
24	country other than Australia or the United

States;

1	(I) waste and scrap derived from—
2	(i) production in the territory of Aus-
3	tralia, the United States, or both; or
4	(ii) used goods collected in the terri-
5	tory of Australia, the United States, or
6	both, if such goods are fit only for the re-
7	covery of raw materials;
8	(J) a recovered good derived in the terri-
9	tory of Australia or the United States from
10	goods that have passed their life expectancy, or
11	are no longer usable due to defects, and utilized
12	in the territory of that country in the produc-
13	tion of remanufactured goods; or
14	(K) a good produced in the territory of
15	Australia, the United States, or both, exclu-
16	sively—
17	(i) from goods referred to in any of
18	subparagraphs (A) through (I), or
19	(ii) from the derivatives of goods re-
20	ferred to in clause (i),
21	at any stage of production.
22	(6) Indirect material.—The term "indirect
23	material" means a good used in the production, test-
24	ing, or inspection of a good but not physically incor-
25	porated into the good, or a good used in the mainte-

1	nance of buildings or the operation of equipment as-
2	sociated with the production of a good, including—
3	(A) fuel and energy;
4	(B) tools, dies, and molds;
5	(C) spare parts and materials used in the
6	maintenance of equipment or buildings;
7	(D) lubricants, greases, compounding ma-
8	terials, and other materials used in production
9	or used to operate equipment or buildings;
10	(E) gloves, glasses, footwear, clothing,
11	safety equipment, and supplies;
12	(F) equipment, devices, and supplies used
13	for testing or inspecting the good;
14	(G) catalysts and solvents; and
15	(H) any other goods that are not incor-
16	porated into the good but the use of which in
17	the production of the good can reasonably be
18	demonstrated to be a part of that production.
19	(7) Material.—The term "material" means a
20	good that is used in the production of another good.
21	(8) Material that is self-produced.—The
22	term "material that is self-produced" means an orig-
23	inating material that is produced by a producer of
24	a good and used in the production of that good.

- 1 (9) MODEL LINE.—The term "model line"
 2 means a group of motor vehicles having the same
 3 platform or model name.
 - (10) Nonallowable interest costs.—The term "nonallowable interest costs" means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country (whether Australia or the United States).
 - (11) Nonoriginating material" means a material that does not qualify as originating under this section.
 - (12) Preferential treatment" means the customs duty rate, and the treatment under article 2.12 of the Agreement, that are applicable to an originating good pursuant to the Agreement.
 - (13) PRODUCER.—The term "producer" means a person who engages in the production of a good in the territory of Australia or the United States.
 - (14) PRODUCTION.—The term "production" means growing, raising, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

1	(15) Reasonably allocate.—The term "rea-
2	sonably allocate" means to apportion in a manner
3	that would be appropriate under generally accepted
4	accounting principles.
5	(16) Recovered goods.—The term "recov-
6	ered goods" means materials in the form of indi-
7	vidual parts that result from—
8	(A) the complete disassembly of goods
9	which have passed their life expectancy, or are
10	no longer usable due to defects, into individual
11	parts; and
12	(B) the cleaning, inspecting, or testing, or
13	other processing that is necessary for improve-
14	ment to sound working condition of such indi-
15	vidual parts.
16	(17) Remanufactured good.—The term "re-
17	manufactured good" means an industrial good that
18	is assembled in the territory of Australia or the
19	United States, that is classified under chapter 84,
20	85, or 87 of the HTS or heading 9026, 9031, or
21	9032, other than a good classified under heading
22	8418 or 8516 or any of headings 8701 through
23	8706, and that—
24	(A) is entirely or partially comprised of re-
25	covered goods;

1	(B) has a similar life expectancy to, and
2	meets the same performance standards as, a
3	like good that is new; and
4	(C) enjoys a factory warranty similar to a
5	like good that is new.
6	(18) Total cost.—The term "total cost"
7	means all product costs, period costs, and other
8	costs for a good incurred in the territory of Aus-
9	tralia, the United States, or both.
10	(19) USED.—The term "used" means used or
11	consumed in the production of goods.
12	(o) Presidential Proclamation Authority.—
13	(1) In general.—The President is authorized
14	to proclaim, as part of the HTS—
15	(A) the provisions set out in Annex 4–A
16	and Annex 5–A of the Agreement; and
17	(B) any additional subordinate category
18	necessary to carry out this title consistent with
19	the Agreement.
20	(2) Modifications.—
21	(A) IN GENERAL.—Subject to the consulta-
22	tion and layover provisions of section 104, the
23	President may proclaim modifications to the
24	provisions proclaimed under the authority of
25	paragraph (1)(A), other than provisions of

1	chapters 50 through 63 of the HTS, as in-
2	cluded in Annex 4–A of the Agreement.
3	(B) Additional proclamations.—Not-
4	withstanding subparagraph (A), and subject to
5	the consultation and layover provisions of sec-
6	tion 104, the President may proclaim—
7	(i) modifications to the provisions pro-
8	claimed under the authority of paragraph
9	(1)(A) as are necessary to implement an
10	agreement with Australia pursuant to arti-
11	cle 4.2.5 of the Agreement; and
12	(ii) before the end of the 1-year period
13	beginning on the date of the enactment of
14	this Act, modifications to correct any typo-
15	graphical, clerical, or other nonsubstantive
16	technical error regarding the provisions of
17	chapters 50 through 63 of the HTS, as in-
18	cluded in Annex 4–A of the Agreement.
19	SEC. 204. CUSTOMS USER FEES.
20	Section 13031(b) of the Consolidated Omnibus Budg-
21	et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is
22	amended by adding after paragraph (13) the following:
23	"(14) No fee may be charged under subsection (a)
24	(9) or (10) with respect to goods that qualify as origi-
25	nating goods under section 203 of the United States-Aus-

1	tralia Free Trade Agreement Implementation Act. Any
2	service for which an exemption from such fee is provided
3	by reason of this paragraph may not be funded with
4	money contained in the Customs User Fee Account.".
5	SEC. 205. DISCLOSURE OF INCORRECT INFORMATION.
6	Section 592(c) of the Tariff Act of 1930 (19 U.S.C.
7	1592(c)) is amended—
8	(1) by redesignating paragraph (8) as para-
9	graph (9); and
10	(2) by inserting after paragraph (7) the fol-
11	lowing new paragraph:
12	"(8) Prior disclosure regarding claims
13	UNDER THE UNITED STATES-AUSTRALIA FREE
14	TRADE AGREEMENT.—
15	"(A) IN GENERAL.—An importer shall not
16	be subject to penalties under subsection (a) for
17	making an incorrect claim that a good qualifies
18	as an originating good under section 203 of the
19	United States-Australia Free Trade Agreement
20	Implementation Act if the importer, in accord-
21	ance with regulations issued by the Secretary of
22	the Treasury, voluntarily and promptly makes a
23	corrected declaration and pays any duties
24	owing.

1	"(B) Time periods for making correc-
2	TIONS.—In the regulations referred to in sub-
3	paragraph (A), the Secretary of the Treasury is
4	authorized to prescribe time periods for making
5	a corrected declaration and paying duties owing
6	under subparagraph (A), if such periods are not
7	shorter than 1 year following the date on which
8	the importer makes the incorrect claim.".
9	SEC. 206. ENFORCEMENT RELATING TO TRADE IN TEXTILE
10	AND APPAREL GOODS.
11	(a) Action During Verification.—
12	(1) In General.—If the Secretary of the
13	Treasury requests the Government of Australia to
14	conduct a verification pursuant to article 4.3 of the
15	Agreement for purposes of making a determination
16	under paragraph (2), the President may direct the
17	Secretary to take appropriate action described in
18	subsection (b) while the verification is being con-
19	ducted.
20	(2) Determination.—A determination under this
21	paragraph is a determination—
22	(A) that an exporter or producer in Aus-
23	tralia is complying with applicable customs
24	laws, regulations, procedures, requirements, or

1	practices affecting trade in textile or apparel
2	goods; or
3	(B) that a claim that a textile or apparel
4	good exported or produced by such exporter or
5	producer—
6	(i) qualifies as an originating good
7	under section 203 of this Act; or
8	(ii) is a good of Australia,
9	is accurate.
10	(b) APPROPRIATE ACTION DESCRIBED.—Appropriate
11	action under subsection (a)(1) includes—
12	(1) suspension of liquidation of the entry of any
13	textile or apparel good exported or produced by the
14	person that is the subject of a verification under
15	subsection $(a)(1)$ regarding compliance described in
16	subsection (a)(2)(A), in a case in which the request
17	for verification was based on a reasonable suspicion
18	of unlawful activity related to such goods; and
19	(2) suspension of liquidation of the entry of a
20	textile or apparel good for which a claim has been
21	made that is the subject of a verification under sub-
22	section (a)(1) regarding a claim described in sub-
23	section $(a)(2)(B)$.
24	(e) Action When Information is Insuffi-
25	CIENT.—If the Secretary of the Treasury determines that

1	the information obtained within 12 months after making
2	a request for a verification under subsection (a)(1) is in-
3	sufficient to make a determination under subsection
4	(a)(2), the President may direct the Secretary to take ap-
5	propriate action described in subsection (d) until such
6	time as the Secretary receives information sufficient to
7	make a determination under subsection (a)(2) or until
8	such earlier date as the President may direct.
9	(d) Appropriate Action Described.—Appro-
10	priate action referred to in subsection (c) includes—
11	(1) publication of the name and address of the
12	person that is the subject of the verification;
13	(2) denial of preferential tariff treatment under
14	the Agreement to—
15	(A) any textile or apparel good exported or
16	produced by the person that is the subject of a
17	verification under subsection (a)(1) regarding
18	compliance described in subsection (a)(2)(A); or
19	(B) a textile or apparel good for which a
20	claim has been made that is the subject of a
21	verification under subsection (a)(1) regarding a
22	claim described in subsection (a)(2)(B); and
23	(3) denial of entry into the United States of—
24	(A) any textile or apparel good exported or
25	produced by the person that is the subject of a

1	verification under subsection $(a)(1)$ regarding
2	compliance described in subsection (a)(2)(A); or
3	(B) a textile or apparel good for which a
4	claim has been made that is the subject of a
5	verification under subsection (a)(1) regarding a
6	claim described in subsection (a)(2)(B).
7	SEC. 207. REGULATIONS.
8	(a) The Secretary of the Treasury shall prescribe
9	such regulations as may be necessary to carry out—
10	(1) subsections (a) through (n) of section 203
11	and section 204;
12	(2) amendments to existing law made by the
13	sections referred to in paragraph (1); and
14	(3) proclamations issued under section 203(o).
15	TITLE III—RELIEF FROM
16	IMPORTS
17	SEC. 301. DEFINITIONS.
18	As used in this title:
19	(1) Australian article.—The term "Aus-
20	tralian article" means an article that qualifies as an
21	originating good under section 203(b) of this Act.
22	(2) Australian textile or apparel arti-
23	CLE.—The term "Australian textile or apparel arti-
24	cle'' means an article—

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visional relief be provided as if the petition had been

- 1 filed under section 202(a) of the Trade Act of 1974
- 2 (19 U.S.C. 2252(a)).
- 3 (3) Critical circumstances.—Any allegation
- 4 that critical circumstances exist shall be included in
- 5 the petition.
- 6 (b) INVESTIGATION AND DETERMINATION.—Upon
- 7 the filing of a petition under subsection (a), the Commis-
- 8 sion, unless subsection (d) applies, shall promptly initiate
- 9 an investigation to determine whether, as a result of the
- 10 reduction or elimination of a duty provided for under the
- 11 Agreement, an Australian article is being imported into
- 12 the United States in such increased quantities, in absolute
- 13 terms or relative to domestic production, and under such
- 14 conditions that imports of the Australian article constitute
- 15 a substantial cause of serious injury or threat thereof to
- 16 the domestic industry producing an article that is like, or
- 17 directly competitive with, the imported article.
- 18 (c) Applicable Provisions.—The following provi-
- 19 sions of section 202 of the Trade Act of 1974 (19 U.S.C.
- 20 2252) apply with respect to any investigation initiated
- 21 under subsection (b):
- 22 (1) Paragraphs (1)(B) and (3) of subsection
- 23 (b).
- 24 (2) Subsection (c).
- 25 (3) Subsection (d).

- 1 (4) Subsection (i).
- 2 (d) Articles Exempt From Investigation.—No
- 3 investigation may be initiated under this section with re-
- 4 spect to any Australian article if, after the date on which
- 5 the Agreement enters into force, import relief has been
- 6 provided with respect to that Australian article under this
- 7 subtitle.

8 SEC. 312. COMMISSION ACTION ON PETITION.

- 9 (a) Determination.—Not later than 120 days (180
- 10 days if critical circumstances have been alleged) after the
- 11 date on which an investigation is initiated under section
- 12 311(b) with respect to a petition, the Commission shall
- 13 make the determination required under that section.
- 14 (b) APPLICABLE PROVISIONS.—For purposes of this
- 15 subtitle, the provisions of paragraphs (1), (2), and (3) of
- 16 section 330(d) of the Tariff Act of 1930 (19 U.S.C.
- 17 1330(d) (1), (2), and (3)) shall be applied with respect
- 18 to determinations and findings made under this section
- 19 as if such determinations and findings were made under
- 20 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).
- 21 (c) Additional Finding and Recommendation if
- 22 Determination Affirmative.—If the determination
- 23 made by the Commission under subsection (a) with respect
- 24 to imports of an article is affirmative, or if the President
- 25 may consider a determination of the Commission to be an

- 1 affirmative determination as provided for under paragraph
- 2 (1) of section 330(d) of the Tariff Act of 1930) (19 U.S.C.
- 3 1330(d)), the Commission shall find, and recommend to
- 4 the President in the report required under subsection (d),
- 5 the amount of import relief that is necessary to remedy
- 6 or prevent the injury found by the Commission in the de-
- 7 termination and to facilitate the efforts of the domestic
- 8 industry to make a positive adjustment to import competi-
- 9 tion. The import relief recommended by the Commission
- 10 under this subsection shall be limited to that described in
- 11 section 313(c). Only those members of the Commission
- 12 who voted in the affirmative under subsection (a) are eligi-
- 13 ble to vote on the proposed action to remedy or prevent
- 14 the injury found by the Commission. Members of the Com-
- 15 mission who did not vote in the affirmative may submit,
- 16 in the report required under subsection (d), separate views
- 17 regarding what action, if any, should be taken to remedy
- 18 or prevent the injury.
- 19 (d) REPORT TO PRESIDENT.—Not later than the
- 20 date that is 30 days after the date on which a determina-
- 21 tion is made under subsection (a) with respect to an inves-
- 22 tigation, the Commission shall submit to the President a
- 23 report that includes—

- 1 (1) the determination made under subsection 2 (a) and an explanation of the basis for the deter-3 mination;
- 4 (2) if the determination under subsection (a) is 5 affirmative, any findings and recommendations for 6 import relief made under subsection (c) and an ex-7 planation of the basis for each recommendation; and
- 8 (3) any dissenting or separate views by mem-9 bers of the Commission regarding the determination 10 and recommendation referred to in paragraphs (1) 11 and (2).
- 12 (e) Public Notice.—Upon submitting a report to
 13 the President under subsection (d), the Commission shall
 14 promptly make public such report (with the exception of
 15 information which the Commission determines to be con16 fidential) and shall cause a summary thereof to be pub-

18 SEC. 313. PROVISION OF RELIEF.

lished in the Federal Register.

19 (a) IN GENERAL.—Not later than the date that is 20 30 days after the date on which the President receives the 21 report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which 23 contains a determination under section 312(a) that the 24 President considers to be affirmative under paragraph (1) 25 of section 330(d) of the Tariff Act of 1930 (19 U.S.C.

1	1330(d)(1)), the President, subject to subsection (b), shall
2	provide relief from imports of the article that is the subject
3	of such determination to the extent that the President de-
4	termines necessary to remedy or prevent the injury found
5	by the Commission and to facilitate the efforts of the do-
6	mestic industry to make a positive adjustment to import
7	competition.
8	(b) Exception.—The President is not required to
9	provide import relief under this section if the President
10	determines that the provision of the import relief will not
11	provide greater economic and social benefits than costs.
12	(c) Nature of Relief.—
13	(1) In general.—The import relief (including
14	provisional relief) that the President is authorized to
15	provide under this section with respect to imports of
16	an article is as follows:
17	(A) The suspension of any further reduc-
18	tion provided for under Annex 2–B of the
19	Agreement in the duty imposed on such article.
20	(B) An increase in the rate of duty im-
21	posed on such article to a level that does not
22	exceed the lesser of—
23	(i) the column 1 general rate of duty
24	imposed under the HTS on like articles at
25	the time the import relief is provided; or

1	(ii) the column 1 general rate of duty
2	imposed under the HTS on like articles on
3	the day before the date on which the
4	Agreement enters into force.
5	(C) In the case of a duty applied on a sea-
6	sonal basis to such article, an increase in the
7	rate of duty imposed on the article to a level
8	that does not exceed the lesser of—
9	(i) the column 1 general rate of duty
10	imposed under the HTS on like articles for
11	the immediately preceding corresponding
12	season; or
13	(ii) the column 1 general rate of duty
14	imposed under the HTS on like articles on
15	the day before the date on which the
16	Agreement enters into force.
17	(2) Progressive Liberalization.—If the pe-
18	riod for which import relief is provided under this
19	section is greater than 1 year, the President shall
20	provide for the progressive liberalization (described
21	in article 9.2.7 of the Agreement) of such relief at
22	regular intervals during the period in which the re-
23	lief is in effect.
24	(d) Period of Relief.—

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

(2) Extension.—

- (A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—
 - (i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and
 - (ii) there is evidence that the industry is making a positive adjustment to import competition.
- (B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an in-

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vestigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

- (ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.
- (iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.
- (C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

1	(e) Rate After Termination of Import Re-
2	LIEF.—When import relief under this section is termi-
3	nated with respect to an article—
4	(1) the rate of duty on that article after such
5	termination and on or before December 31 of the
6	year in which such termination occurs shall be the
7	rate that, according to the Schedule of the United
8	States to Annex 2–B of the Agreement for the
9	staged elimination of the tariff, would have been in
10	effect 1 year after the provision of relief under sub-
11	section (a); and
12	(2) the rate of duty for that article after De-
13	cember 31 of the year in which termination occurs
14	shall be, at the discretion of the President, either—
15	(A) the applicable NTR (MFN) rate of
16	duty for that article set out in the Schedule of
17	the United States to Annex 2–B of the Agree-
18	ment; or
19	(B) the rate of duty resulting from the
20	elimination of the tariff in equal annual stages
21	ending on the date set out in the Schedule of
22	the United States to Annex 2–B of the Agree-
23	ment for the elimination of the tariff.

1 (f) Articles Exempt From Relief.—No import 2 relief may be provided under this section on any article 3 that— 4 (1) is subject to— (A) import relief under subtitle B; or 6 (B) an assessment of additional 7 under subsection (b), (c), or (d) of section 202; 8 or 9 (2) has been subject to import relief under this 10 subtitle after the date on which the Agreement en-11 ters into force. 12 SEC. 314. TERMINATION OF RELIEF AUTHORITY. 13 (a) General Rule.—Subject to subsection (b), no import relief may be provided under this subtitle after the 14 15 date that is 10 years after the date on which the Agreement enters into force. 16 17 (b) EXCEPTION.—If an article for which relief is pro-18 vided under this subtitle is an article for which the period for tariff elimination, set out in the Schedule of the United 19 20 States to Annex 2-B of the Agreement, is greater than 21 10 years, no relief under this subtitle may be provided for 22 that article after the date on which such period ends. 23 (c) Presidential Determination.—Import relief may be provided under this subtitle in the case of an Aus-

tralian article after the date on which such relief would,

- 1 but for this subsection, terminate under subsection (a) or
- 2 (b), if the President determines that Australia has con-
- 3 sented to such relief.
- 4 SEC. 315. COMPENSATION AUTHORITY.
- 5 For purposes of section 123 of the Trade Act of 1974
- 6 (19 U.S.C. 2133), any import relief provided by the Presi-
- 7 dent under section 313 shall be treated as action taken
- 8 under chapter 1 of title II of such Act.
- 9 SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.
- 10 Section 202(a)(8) of the Trade Act of 1974 (19
- 11 U.S.C. 2252(a)(8)) is amended in the first sentence—
- 12 (1) by striking "and"; and
- 13 (2) by inserting before the period at the end ",
- and title III of the United States-Australia Free
- 15 Trade Agreement Implementation Act".

Subtitle B—Textile and Apparel

17 Safeguard Measures

- 18 SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.
- 19 (a) In General.—A request under this subtitle for
- 20 the purpose of adjusting to the obligations of the United
- 21 States under the Agreement may be filed with the Presi-
- 22 dent by an interested party. Upon the filing of a request,
- 23 the President shall review the request to determine, from
- 24 information presented in the request, whether to com-
- 25 mence consideration of the request.

(b) Allegation of Critical Circumstances.—An
interested party filing a request under this section may—
(1) allege that critical circumstances exist such
that delay in the provision of relief would cause
damage that would be difficult to repair; and
(2) based on such allegation, request that relief
be provided on a provisional basis.
(c) Publication of Request.—If the President de-
termines that the request under subsection (a) provides
the information necessary for the request to be considered,
the President shall cause to be published in the Federal
Register a notice of commencement of consideration of the
request, and notice seeking public comments regarding the
request. The notice shall include a summary of the request
and the dates by which comments and rebuttals must be
received.
SEC. 322. DETERMINATION AND PROVISION OF RELIEF.
(a) Determination.—
(1) In general.—If a positive determination is
made under section 321(c), the President shall de-
termine whether, as a result of the reduction or
elimination of a duty under the Agreement, an Aus-
tralian textile or apparel article is being imported
into the United States in such increased quantities,

in absolute terms or relative to the domestic market

- for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.
 - (2) Serious damage.—In making a determination under paragraph (1), the President—
 - (A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and
 - (B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(b) Provision of Relief.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious

1	damage and to facilitate adjustment by the domestic
2	industry to import competition.
3	(2) Nature of relief.—The relief that the
4	President is authorized to provide under this sub-
5	section with respect to imports of an article is an in-
6	crease in the rate of duty imposed on the article to
7	a level that does not exceed the lesser of—
8	(A) the column 1 general rate of duty im-
9	posed under the HTS on like articles at the
10	time the import relief is provided; or
11	(B) the column 1 general rate of duty im-
12	posed under the HTS on like articles on the
13	day before the date on which the Agreement en-
14	ters into force.
15	(c) Critical Circumstances.—
16	(1) Presidential determination.—When a
17	request filed under section 321(a) contains an alle-
18	gation of critical circumstances and a request for
19	provisional relief under section 321(b), the President
20	shall, not later than 60 days after the request is
21	filed, determine, on the basis of available informa-
22	tion, whether—
23	(A) there is clear evidence that—
24	(i) imports from Australia have in-
25	creased as the result of the reduction or

1	elimination	of a	customs	duty	under	the
2	Agreement;	and				

- (ii) such imports are causing serious damage, or actual threat thereof, to the domestic industry producing an article like or directly competitive with the imported article; and
- (B) delay in taking action under this subtitle would cause damage to that industry that would be difficult to repair.
- (2) EXTENT OF PROVISIONAL RELIEF.—If the determinations under subparagraphs (A) and (B) of paragraph (1) are affirmative, the President shall determine the extent of provisional relief that is necessary to remedy or prevent the serious damage. The nature of the provisional relief available shall be the relief described in subsection (b)(2). Within 30 days after making affirmative determinations under subparagraphs (A) and (B) of paragraph (1), the President, if the President considers provisional relief to be warranted, shall provide, for a period not to exceed 200 days, such provisional relief that the President considers necessary to remedy or prevent the serious damage.

1	(3) Suspension of Liquidation.—If provi-
2	sional relief is provided under paragraph (2), the
3	President shall order the suspension of liquidation of
4	all imported articles subject to the affirmative deter-
5	minations under subparagraphs (A) and (B) of para-
6	graph (1) that are entered, or withdrawn from ware-
7	house for consumption, on or after the date of the
8	determinations.
9	(4) Termination of Provisional Relief.—
10	(A) IN GENERAL.—Any provisional relief
11	implemented under this subsection with respect
12	to an imported article shall terminate on the
13	day on which—
14	(i) the President makes a negative de-
15	termination under subsection (a) regarding
16	serious damage or actual threat thereof by
17	imports of such article;
18	(ii) action described in subsection (b)
19	takes effect with respect to such article;
20	(iii) a decision by the President not to
21	take any action under subsection (b) with
22	respect to such article becomes final; or
23	(iv) the President determines that, be-
24	cause of changed circumstances, such relief
25	is no longer warranted.

1 (B) SUSPENSION OF LIQUIDATION.—Any
2 suspension of liquidation ordered under para3 graph (3) with respect to an imported article
4 shall terminate on the day on which provisional
5 relief is terminated under subparagraph (A)

with respect to the article.

- (C) RATES OF DUTY.—If an increase in, or the imposition of, a duty that is provided under subsection (b) on an imported article is different from a duty increase or imposition that was provided for such an article under this subsection, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.
- (D) RATE OF DUTY IF PROVISIONAL RE-LIEF.—If provisional relief is provided under this subsection with respect to an imported article and neither a duty increase nor a duty imposition is provided under subsection (b) for such article, the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at the rate of duty that applied before the provisional relief was provided.

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1 SEC. 323. PERIOD OF RELIEF.

- 2 (a) In General.—Subject to subsection (b), the im-
- 3 port relief that the President provides under subsections
- 4 (b) and (c) of section 322 may not, in the aggregate, be
- 5 in effect for more than 2 years.
- 6 (b) Extension.—
- 7 (1) In General.—Subject to paragraph (2),
- 8 the President may extend the effective period of any
- 9 import relief provided under this subtitle for a pe-
- riod of not more than 2 years, if the President de-
- 11 termines that—
- 12 (A) the import relief continues to be nec-
- essary to remedy or prevent serious damage
- and to facilitate adjustment by the domestic in-
- dustry to import competition; and
- 16 (B) there is evidence that the industry is
- making a positive adjustment to import com-
- petition.
- 19 (2) Limitation.—Any relief provided under
- this subtitle, including any extensions thereof, may
- 21 not, in the aggregate, be in effect for more than 4
- vears.
- 23 SEC. 324. ARTICLES EXEMPT FROM RELIEF.
- The President may not provide import relief under
- 25 this subtitle with respect to any article if—

1	(1) import relief previously has been provided
2	under this subtitle with respect to that article; or
3	(2) the article is subject to import relief
4	under—
5	(A) subtitle A; or
6	(B) chapter 1 of title II of the Trade Act
7	of 1974 (19 U.S.C. 2251 et seq.).
8	SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.
9	When import relief under this subtitle is terminated
10	with respect to an article, the rate of duty on that article
11	shall be the rate that would have been in effect, but for
12	the provision of such relief, on the date the relief termi-
13	nates.
14	SEC. 326. TERMINATION OF RELIEF AUTHORITY.
15	No import relief may be provided under this subtitle
16	with respect to any article after the date that is 10 years
17	after the date on which duties on the article are eliminated
18	pursuant to the Agreement.
19	SEC. 327. COMPENSATION AUTHORITY.
20	For purposes of section 123 of the Trade Act of 1974
21	(19 U.S.C. 2133), any import relief provided by the Presi-
22	dent under this subtitle shall be treated as action taken

23 under chapter 1 of title II of such Act.

1 SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

- 2 The President may not release information which is
- 3 submitted in a proceeding under this subtitle and which
- 4 the President considers to be confidential business infor-
- 5 mation unless the party submitting the confidential busi-
- 6 ness information had notice, at the time of submission,
- 7 that such information would be released, or such party
- 8 subsequently consents to the release of the information.
- 9 To the extent a party submits confidential business infor-
- 10 mation to the President in a proceeding under this sub-
- 11 title, the party also shall submit a nonconfidential version
- 12 of the information, in which the confidential business in-
- 13 formation is summarized or, if necessary, deleted.

14 Subtitle C—Cases Under Title II of

the Trade Act of 1974

- 16 SEC. 331. FINDINGS AND ACTION ON GOODS FROM AUS-
- 17 TRALIA.
- 18 (a) Effect of Imports.—If, in any investigation
- 19 initiated under chapter 1 of title II of the Trade Act of
- 20 1974 (19 U.S.C. 2251 et seq.), the Commission makes an
- 21 affirmative determination (or a determination which the
- 22 President may treat as an affirmative determination under
- 23 such chapter by reason of section 330(d) of the Tariff Act
- 24 of 1930), the Commission shall also find (and report to
- 25 the President at the time such injury determination is sub-
- 26 mitted to the President) whether imports of the article

1	from Australia are a substantial cause of serious injury
2	or threat thereof.
3	(b) Presidential Determination Regarding
4	Australian Imports.—In determining the nature and
5	extent of action to be taken under chapter 1 of title II
6	of the Trade Act of 1974, the President shall determine
7	whether imports from Australia are a substantial cause
8	of the serious injury or threat thereof found by the Com-
9	mission and, if such determination is in the negative, may
10	exclude from such action imports from Australia.
11	TITLE IV—PROCUREMENT
12	SEC. 401. ELIGIBLE PRODUCTS.
13	Section 308(4)(A) of the Trade Agreements Act of
14	1979 (19 U.S.C. 2518(4)(A)) is amended—
15	(1) by striking "or" at the end of clause (i);
16	(2) by striking the period at the end of clause
17	(ii) and inserting "; or"; and
18	(3) by adding at the end the following new
19	clause:
20	"(iii) a party to a free trade agree-
21	ment that entered into force with respect
22	to the United States after December 31,
23	2003, and before January 2, 2005, a prod-
24	uct or service of that country or instru-
25	mentality which is covered under the free

1	trade	agreement	for	procurement	by	the
2	United	d States.".				

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